

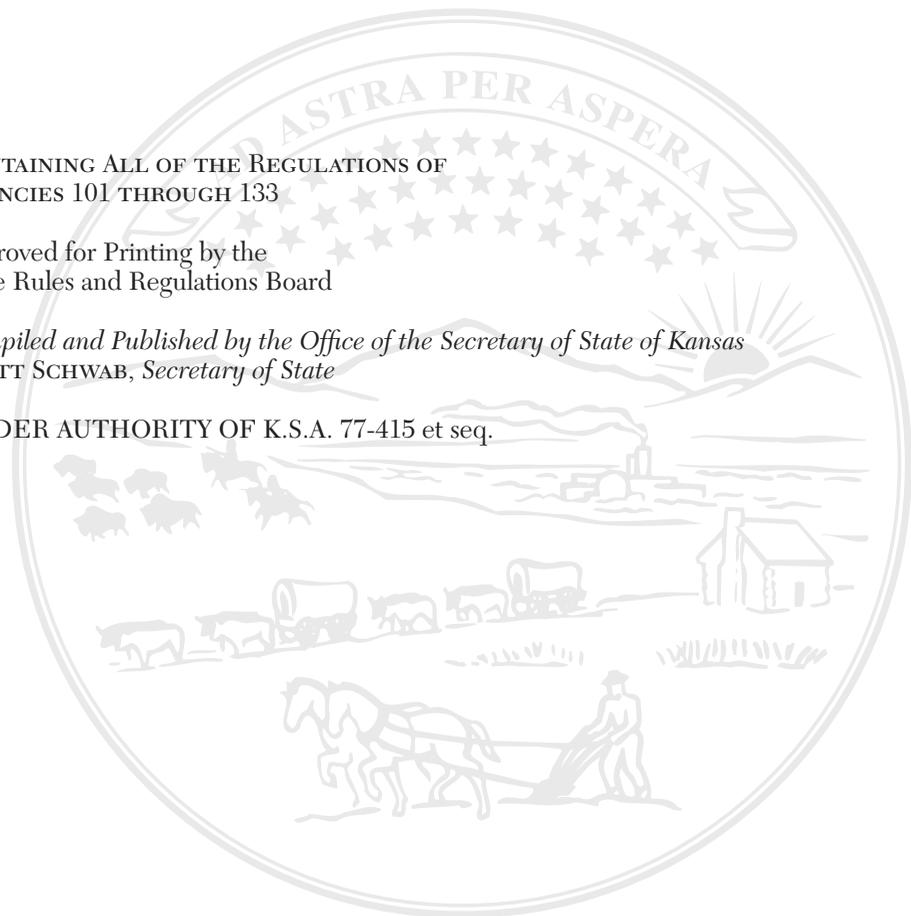
Kansas Administrative Regulations

CONTAINING ALL OF THE REGULATIONS OF
AGENCIES 101 THROUGH 133

Approved for Printing by the
State Rules and Regulations Board

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

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



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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 Scott Schwab, Secretary of State of and for the State of Kansas, pursuant to K.S.A. 77-429 have examined and compared this 2022 Volume 5 of the Kansas Administrative Regulations; and do hereby certify that this publication of rules and regulations contains all rules and regulations for agencies 101 through 133 approved for printing by the State Rules and Regulations Board and otherwise complies with K.S.A. 77-415 *et seq.* and acts amendatory thereof.

Done at Topeka, Kansas, this 15th day of September, 2022.


DEREK SCHMIDT,
Attorney General


SCOTT SCHWAB,
Secretary of State

[SEAL]

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

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SCOTT SCHWAB, *Secretary of State*

COMMENTARY

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

The 2022 Volumes contain rules and regulations filed before January 1, 2022. The volumes replace the 2009 Volumes and 2021 Supplement. Regulations filed on and after January 1, 2022, may be located by checking the Kansas Register, Kansas' official state newspaper. An index appears at the back of each Kansas Register and lists the volume and page number of the Register issue that contains the most recent version of the regulations filed after December 31, 2021.

To find the most recent version of a regulation:

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

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

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

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

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

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

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

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

SCOTT SCHWAB, *Secretary of State*

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**Editor's note only.*

Agency 101

Podiatry Board

Editor's Note:

Effective July 1, 1975, the State Podiatry Board of Examiners was abolished and its powers and duties transferred to the State Board of Healing Arts. Regulations of the Podiatry Board have been transferred to Agency 100. See K.A.R. 100-49-1 *et seq.*

Agency 102

Behavioral Sciences Regulatory Board

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- 102-1. CERTIFICATION OF PSYCHOLOGISTS.
- 102-2. LICENSING OF SOCIAL WORKERS.
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- 102-7. LICENSING OF ADDICTION COUNSELORS.
- 102-8. APPLIED BEHAVIOR ANALYSIS.

Article 1.—CERTIFICATION OF PSYCHOLOGISTS

102-1-1. Definitions. (a) “Academically eligible” means having a doctoral degree in psychology from an institution of higher education that meets the standards identified in K.A.R. 102-1-12.

(b) “Client” or “patient” means a person who meets either of the following criteria:

(1) Is a recipient of direct psychological services within a relationship that is initiated either by mutual consent of the person and a psychologist or according to law; or

(2) is a recipient of a psychological assessment or diagnosis for a third party.

(c) “Clinical psychological services” means the application by persons trained in psychology of established principles of learning, motivation, perception, thinking, and emotional relationships to problems of behavior adjustment, group relations, and behavior modification when those principles are applied through either or both of the following activities:

(1) Providing psychological assessment and therapeutic treatment to individuals or groups with the intent of modifying attitudes, emotions, and behaviors that are intellectually, physically, socially, or emotionally maladaptive; or

(2) performing any other clinical applications of psychological principles as approved by the board.

(d) “Consultation” means providing professional guidance, information, or advice without administrative or professional authority over or responsibility for the professional functioning of the recipient.

(e) “Continuing education” means programs or activities designed to enhance the psychologist’s level of knowledge, skill, and ability to practice psychology. These programs shall have content clearly related to the enhancement of psychology practice, values, and knowledge. Continuing education credits shall not be used as a substitute for basic professional education preparation as defined in K.A.R. 102-1-12.

(f) “Harmful dual relationship” means a professional relationship between a psychologist and a client, patient, student, or supervisee in which the objectivity or competency of the psychologist is impaired or compromised because of any of the following present or previous relationships:

- (1) Familial;
- (2) sexual;
- (3) social;
- (4) emotional;
- (5) financial;
- (6) supervisory; or
- (7) administrative.

(g) “Intern” or “resident” means a person who is actively enrolled in a program as defined by K.A.R. 102-1-12 and who is attaining the predoctoral supervised experience necessary for licensure as a psychologist.

(h) “Nonclinical, general psychological services” means the application by persons trained in psychology of established principles of learning, motivation, perception, thinking, and emotional relationships to problems of behavior adjustment, group relations, and behavior modification when those principles are applied through the following activities:

(1) Conducting applied research on problems relating to human behavior or program evaluation;

(2) providing consultation or psychological supervision;

(3) providing instruction in areas of psychology pertinent to the clinical practice of psychology;

(4) measuring and testing personality, intelligence, aptitudes, public opinion, attitudes, and skills; and

(5) other applications of nonclinical, general psychological principles as approved by the board.

(i) "Psychological assessment" means the use, in any manner, of established psychological tests, procedures, and techniques with the intent of diagnosing adjustment, functional, mental, vocational, or emotional problems or recommending treatment methods for persons having these problems.

(j) "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.

(k) "Supervision" means the formal relationship between the supervisor and supervisee that promotes the development of responsibility, skill, knowledge, appropriate attitudes, and ethical standards in the practice of psychology. Supervision shall include both general training supervision and individual clinical supervision.

(l) "General training supervision" means supervision of any of the following areas of practice:

(A) Consultation;

(B) psychological supervision of other mental health service providers;

(C) applied research or program evaluation;

(D) instruction in areas of psychology pertinent to the clinical practice of psychology; or

(E) other applications of psychological principles as approved by the board.

(2) "Individual clinical supervision" means supervision of the following areas of practice:

(A) Psychological assessment; and

(B) therapeutic treatment for individuals or groups with the intent of modifying attitudes, emotions, and behaviors that are intellectually, physically, socially, or emotionally maladaptive.

(m) "Termination," for purposes of unprofes-

sional conduct, means the end of the professional psychologist-client relationship or treatment for any of the following reasons:

(1) The mutual consent of the psychologist and the client or clients;

(2) the completion of treatment;

(3) dismissal of the psychologist or discontinuation of the relationship by the client or clients;

(4) dismissal of the client or clients by the psychologist; or

(5) the referral or transfer of the client to another professional with belief that treatment will continue.

(n) "Trimester credit hour" means a unit of academic credit received under an academic year consisting of three terms. A trimester credit hour is equivalent to a semester credit hour

(o) "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 either of the following purposes:

(1) To improperly influence or change a client's or supervisee's actions or decisions; or

(2) to exploit a client or supervisee for the financial gain, personal gratification, or advantage of the psychologist or a third party.

(p) "Unlicensed assistant" means a person who is employed by a person, association, partnership, or corporation furnishing psychological services to assist a licensed psychologist in providing psychological services and who is under the licensed psychologist's direct supervision.

(q) "Year of supervised experience" means a minimum of 1,800 clock hours of supervised experience that meets the requirements of K.A.R. 102-1-5. (Authorized by K.S.A. 2000 Supp. 74-7507 and K.S.A. 74-5314; implementing K.S.A. 2000 Supp. 74-5302, K.S.A. 2000 Supp. 74-5310, K.S.A. 74-5314, K.S.A. 2000 Supp. 74-5316, K.S.A. 2000 Supp. 74-5344, and K.S.A. 2000 Supp. 74-7507; effective May 1, 1982; amended May 1, 1984; amended, T-85-35, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended Aug. 4, 1995; amended Dec. 18, 1998; amended Jan. 4, 2002.)

102-1-2. (Authorized by and implementing K.S.A. 74-7507; effective May 1, 1982; revoked May 1, 1984.)

102-1-3. (Authorized by K.S.A. 74-7507, as amended by L. 1986, Ch. 299, Sec. 42; imple-

menting K.S.A. 74-5314, and K.S.A. 74-5317, as amended by L. 1986, Ch. 299, Sec. 19; effective May 1, 1982; amended May 1, 1984; amended, T-85-35, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; revoked Oct. 27, 2000.)

102-1-3a. Application for licensure by examination; application for temporary license.

(a)(1) Any person who has completed the required education and postgraduate supervised experience may apply for a license to practice psychology and for approval to take the psychology licensure examination. This person may also apply for a temporary license to practice psychology under supervision as specified in K.A.R. 102-1-5a, pending satisfactory passage of the psychology licensure examination, as specified in K.A.R. 102-1-4.

(2) Any person who has completed only the educational requirements may apply for a temporary license to practice psychology while attaining the required postdoctoral supervised experience.

(b) Each applicant shall request the license application forms from the executive director of the board and at the time of application shall meet the following requirements:

(1) Submit the following:

(A) The completed application form;

(B) the full payment of the license application fee specified in K.A.R. 102-1-13; and

(C) references on board-approved forms in accordance with subsection (d); and

(2) arrange for the applicant's transcripts covering all applicable graduate 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 shall additionally arrange for all official transcripts, supporting documentation, and, if applicable, the doctoral dissertation, to be translated and evaluated for degree equivalency by a source and in a manner that are acceptable to the board.

(c) Predoctoral supervised experience. If the applicant seeks credit for one year of predoctoral supervised experience, the applicant shall submit a completed, board-approved reference form from an officially designated director or chair of the predoctoral supervised experience program who has access to the applicant's supervisory records and can verify the applicant's supervised experience, supervision hours, and satisfactory completion of the predoctoral supervised experience program. Supervised experience for which

an applicant received an unsatisfactory rating from the applicant's supervisor and that has not been adequately remediated to provide the applicant with a final satisfactory rating at the time of completion of the supervised experience may, at the board's discretion, be credited toward the supervised experience requirement.

(d) Postdoctoral supervised experience. Each applicant who has completed the postdoctoral supervised experience requirement shall submit the name of each person who provided postdoctoral supervision and who can address the applicant's professional conduct, competence, postdoctoral supervised experience, and moral character. Additionally, the applicant shall submit a completed, board-approved reference from each person who provided postgraduate supervision to enable the board to verify and evaluate the extent and quality of the applicant's supervised postgraduate work experience. Supervised experience for which an applicant received an unsatisfactory rating from the applicant's supervisor and that has not been adequately remediated to provide the applicant with a final satisfactory rating at the time of completion of the supervised experience shall not be credited toward the supervised experience requirement.

(e) Temporary license procedure. An applicant who has neither completed the postdoctoral supervised experience requirement nor passed the required psychology licensure examination shall submit the following in addition to complying with subsection (b):

(1) A completed temporary license request form;

(2) verification of the setting in which the applicant intends to work towards completion of the postdoctoral supervised experience;

(3) the name and qualifications of the supervisor or supervisors providing supervision while under temporary license;

(4) upon receipt of notification of board approval for a temporary license, the temporary license fee specified in K.A.R. 102-1-13; and

(5) upon completion of the postgraduate supervised experience, the name of each licensed psychologist who provided postgraduate supervision and the applicable supervisory references specified in subsection (c).

(f) If the applicant qualifies for and obtains a temporary license, the applicant's application shall remain active until the temporary license or the renewed temporary license expires. If the applicant does not qualify for a renewal of the temporary license or if a qualifying applicant fails to

apply for and obtain a renewal of the temporary license, the application shall expire when the original temporary license expires. Upon expiration, the applicant may submit a new application, the required fee, and all supporting documents.

(g) A temporary license granted to an applicant for purposes of completing the supervised postgraduate work experience requirements may be renewed for one additional two-year period under an existing application. In order to qualify for a renewal of the temporary license, the applicant shall perform the following:

(1) Submit a written request for renewal of the temporary license;

(2) submit payment of the temporary license fee as specified in K.A.R. 102-1-13; and

(3) provide documentation on board-approved forms that demonstrates satisfactory progress toward the completion of the supervised postgraduate work experience requirements specified in K.A.R. 102-1-5a.

(h) In order to demonstrate satisfactory progress toward the completion of the supervised postgraduate work experience requirements set forth in K.S.A. 74-5316, and amendments thereto, and thus to qualify for renewal of the temporary license, each applicant shall have satisfactorily completed the following requirements within the preceding two years, as applicable:

(1) An applicant seeking to attain one year of postgraduate supervised experience (1,800 hours) shall have completed no fewer than 900 clock-hours of qualifying postgraduate supervised experience.

(2) An applicant seeking to attain two years of postgraduate supervised experience (3,600 hours) shall have completed no fewer than 1,800 clock-hours of qualifying postgraduate supervised experience.

(3) An applicant who has not completed postdoctoral supervised experience hours at the rate shown in paragraph (h)(1) or (2) due to exigent circumstances may submit to the board a written request for an extension. An exigent circumstance shall mean any condition caused by events beyond the person's control that are sufficiently extreme in nature to result in either of the following:

(A) The applicant's inability to complete the postgraduate supervised experience at the rate normally required; or

(B) the inadvisability of the applicant's completion of the postgraduate supervised experience at the rate normally required.

(i) Each applicant for a license to practice psychology shall be required to satisfactorily pass a nationally administered, standardized written examination approved by the board, as specified in K.A.R. 102-1-4.

(j) An applicant shall not be given a judgment on the applicant's eligibility for a temporary license or license until all application materials are received and all application procedures are completed.

(k) Upon receipt of notification from the board that all licensure eligibility requirements have been satisfied, the applicant shall submit the fee specified in K.A.R. 102-1-13 for the original period of licensure.

(l) If the applicant fails to obtain licensure or a temporary license, the applicant's application may remain active for up to one year. If the applicant has not met the qualifications or has not completed the application process by the end of one year, the application shall expire. Upon expiration, the applicant may submit a new application, the required fee, and all supporting documents. (Authorized by K.S.A. 74-5314, K.S.A. 74-5316, and K.S.A. 74-7507; implementing K.S.A. 74-5310, K.S.A. 74-5314, K.S.A. 74-5315, as amended by L. 2003, Ch. 129, Sec. 5, K.S.A. 74-5316, and K.S.A. 74-5317; effective Oct. 27, 2000; amended, T-102-7-1-03, July 1, 2003; amended Oct. 31, 2003.)

102-1-3b. Application for licensure based on reciprocity. (a) Each individual who wishes to be licensed as a psychologist based on reciprocity, as provided by K.S.A. 74-5315 and amendments thereto, shall submit an application for licensure in accordance with the provisions of this regulation.

(b) Each applicant for licensure as a psychologist 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 shall submit payment in full of the application for a license fee, as provided in K.A.R. 102-1-13.

(2) The applicant shall forward to the licensing agency for the jurisdiction in which the applicant is currently licensed, certified, or registered as a psychologist at the doctoral level a form provided by the board on which the licensing agency is to provide the following documentation:

(A) Verification that the applicant currently holds a valid license, registration, or certification

to practice psychology at the doctoral level that has been issued by the licensing agency;

(B) the date on which the applicant was initially licensed, registered, or certified by the licensing agency as a psychologist at the doctoral level 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 under the provisions of paragraph (a)(2) of K.S.A. 74-5315 and amendments thereto, the applicant shall ensure that documentation covering the five continuous years of licensure, registration, or certification as a psychologist at the doctoral level 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;

(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" means 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; and

(D) either verification that the standards in that jurisdiction for licensure, certification, or registration as a psychologist at the doctoral level are substantially equivalent to the standards in Kansas or verification that the applicant has earned a doctoral degree in psychology, the date on which the applicant earned the degree, and the name of the university or college granting the degree.

The completed form shall be returned to the board by the licensing agency and shall not be forwarded to the applicant.

(3) If the applicant is seeking licensure based on reciprocity under the provisions of paragraph (a)(2) of K.S.A. 74-5315, and amendments thereto, rather than on the basis that the standards for licensure, registration, or certification are substantially equivalent to the standards in Kansas for licensure as a psychologist at the doctoral level, the applicant shall ensure that following additional documentation is submitted:

(A) An attestation by the applicant that the applicant engaged in the professional practice of psychology at the doctoral level an average of at least 15 hours per week for nine months during each of the five years immediately preceding the

date of application for licensure based on reciprocity; and

(B) if the licensing agency does not provide verification that the applicant holds a doctoral degree in psychology, an original transcript sent directly from the university or college granting the degree that identifies all applicable graduate coursework and the date on which the applicant was granted a doctoral degree in psychology. (Authorized by K.S.A. 74-5315, as amended by L. 2003, Ch. 129, Sec. 5, and K.S.A. 74-7507; implementing K.S.A. 74-5315, as amended by L. 2003, Ch. 129, Sec. 5, K.S.A. 74-5310 and 74-5324; effective, T-102-7-1-03, July 1, 2003; effective Oct. 31, 2003.)

102-1-4. Examinations. (a) Prior to the issuance of a license, each applicant for licensure shall have passed an examination. The pass criterion score shall be 70 percent correct. Each applicant shall be notified of the results in writing.

(b) The standard examination shall be a written examination. A written examination may be waived and an oral examination procedure substituted when:

(1) A license has been revoked or suspended and re-licensure is requested; or

(2) an applicant is unable to take the written examination because one or more physical handicaps preclude completion of the written examination, or may severely affect the applicant's performance.

(c) For oral examinations, the board may contract collectively or individually with a panel of licensed psychologists to conduct the oral examination and make recommendations to the board, based on the performance evaluation of the applicant.

(d) Oral examinations shall include assessment of:

(1) Effectiveness and clarity of expression;

(2) knowledge and skills in the area in which the applicant is otherwise qualified to offer psychological services;

(3) knowledge and awareness of ethical issues and problems in the professional area of emphasis and for psychologists in general; and

(4) knowledge of general psychology.

(e) All oral examinations shall be recorded verbatim.

(f) The pass or fail decision shall be based on a review of the recommendation of the oral examining panel and review of the verbatim recordings, when necessary.

(g) Any applicant, other than an applicant for reinstatement of a revoked or suspended license, may be exempt from taking the written examination if:

(1) The applicant successfully passed the written portion of an examination taken in another jurisdiction at a level equal to or greater than the criterion pass score; or

(2) the applicant:

(A) has been continuously licensed or certified at the doctoral level since implementation of, or under the grandfathering provisions of, the certification or licensure law in the applicant's state;

(B) has been employed as a psychologist full-time at least for five years; and

(C) has never taken the examination. (Authorized by K.S.A. 74-7507; implementing K.S.A. 74-5310, K.S.A. 74-5311, and K.S.A. 74-7507 effective May 1, 1982; amended May 1, 1984; amended, T-85-35, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 30, 1995.)

102-1-5. (Authorized by K.S.A. 74-5314; implementing K.S.A. 74-5314 and K.S.A. 74-5317; effective May 1, 1982; amended May 1, 1984; amended, T-85-35, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1987; amended May 30, 1995; revoked Oct. 27, 2000.)

102-1-5a. Supervised experience and supervisor qualifications. (a) Each applicant for licensure as a psychologist shall demonstrate satisfactory completion of two years of supervised experience in the practice of psychology, one year of which may be predoctoral supervised experience and at least one year of which shall be postdoctoral supervised experience, unless the applicant meets the criteria in paragraph (b)(2).

(b) Predoctoral supervised experience.

(1) The year of predoctoral supervised experience shall meet the internship requirements specified in K.A.R. 102-1-12(b)(11).

(2) This year of predoctoral supervision may be completed on a postdoctoral basis if the applicant completes the predoctoral supervision in the course of successfully completing a program that meets both of the following requirements:

(A) Prepares the applicant to practice in an area of emphasis that is different than the area of emphasis the applicant originally completed at the time the applicant received the doctoral degree; and

(B) substantially complies with the program requirements of K.A.R. 102-1-12.

(c) Postdoctoral supervised experience. The postdoctoral supervised experience shall meet the following requirements:

(1) The supervised experience shall be attained in a public or private setting, institution, or organization that provides the supervisee with contact with other disciplines, the opportunity to utilize a variety of theories, and the opportunity to work with a broad range of populations and techniques.

(2) At least 900 hours per year of supervised experience shall be spent providing clinical psychological services.

(3) At least 180 hours per year of supervised experience shall be spent providing general or non-clinical psychological services.

(4) The supervised clinical experience shall be consistent with the supervisee's educational background and with the area of emphasis in which the applicant intends to offer services to the public. At least one-half of the supervisee's general training experience shall be relevant to the supervisee's emphasis area, which may include clinical psychology, counseling psychology, school psychology, industrial psychology, or organizational psychology.

(d) Supervisor qualifications. Each supervisor of a person who is obtaining the supervised experience required to become licensed as a psychologist shall meet the following criteria:

(1) If providing general training supervision, be a licensed or certified provider of a health-related service at the time the supervision occurred or, if the experience occurs in a state or jurisdiction without a provision for licensing or certifying that health-related profession, have attained the appropriate degree or training in the topic area in which supervision is provided;

(2) if providing supervision for the predoctoral supervised experience, be licensed at the doctoral level in psychology;

(3) if providing supervision for the postdoctoral supervised experience, have at least two years of experience that includes the clinical practice of psychology after the date of licensure at the doctoral level in psychology;

(4) meet at least one of the following conditions:

(i) Be a staff member of the practice setting or have an understanding of the practice setting's organization and administrative policies and procedures; or

(ii) be vested by the agency with authority over the supervisee's professional contacts with each of the supervisee's clients or patients. This authority

shall be focused on the supervisee's skills as well as the welfare of those clients or patients whose treatment the supervisor is reviewing;

(5) if the supervisor is not employed by the public or private institution or agency that employs the supervisee, ensure that the scope of the supervisor's own responsibility and authority in that practice setting has been clearly and expressly defined;

(6) not have a familial or harmful dual relationship with the supervisee;

(7) not be under sanction from a disciplinary proceeding, unless this prohibition is waived by the board for good cause shown by the proposed supervisor; and

(8) use forms supplied by the board and submit information that is sufficiently detailed regarding the supervisee's application for psychology licensure to enable the board to evaluate the extent and quality of the supervisee's supervised experience.

(e) Supervised experience requirements.

(1) For predoctoral psychology experience settings, the supervisor shall provide one hour of individual clinical supervision for every 10 hours during which the supervisee has direct patient or client contact.

(2) For postdoctoral supervised experience settings, the supervisor shall provide one hour of individual clinical supervision for every 20 hours during which the supervisee has direct patient or client contact.

(3) The supervisor, in addition to meeting the requirements listed in subsection (d), shall perform the following:

(A) Provide individual supervision by meeting in person with the supervisee. When meeting in person is not practical due to an emergency, geographic distance, or other exigent circumstances, the supervisor may meet with the supervisee by interactive video or other electronic or telephonic means of communication. The supervisor and supervisee may use any electronic or telephonic means of communication that protects the confidentiality of their supervision. The use of these means of communication shall not exceed one out of every four supervisory sessions;

(B) be available to the supervisee at the points of decision making regarding the diagnosis and treatment of clients or patients;

(C) conduct supervision as a process that is distinct from providing personal therapy, didactic instruction, or consultation;

(D) in conjunction with the supervisee, review and evaluate the psychological services delivered and procedures used;

(E) ensure that each client or patient knows that the supervisee is practicing psychology under supervision;

(F) be available to the supervisee for emergency consultation and intervention; and

(G) maintain documentation of the supervision that details each type of the psychological services and procedures in which the supervisee engages and the supervisee's competence in each.

(f) Supervisee requirements. Each person attaining the supervised experience necessary for licensure as a psychologist shall meet the following criteria:

(1) Fully participate in the supervisory process in a responsible manner; and

(2) inform, in writing, each client or patient for whom the supervisee is practicing psychology of the name of and the means to contact the supervisor. (Authorized by K.S.A. 2005 Supp. 74-7507; implementing K.S.A. 74-5310 and 74-5317; effective Oct. 27, 2000; amended March 10, 2006.)

102-1-6. Licensure action by the board.

(a) Each applicant shall be licensed when the applicant has met all qualifications for licensure.

(b) Licensure of an applicant shall require a majority vote of the board.

(c) Any member of the board who has a conflict of interest shall disqualify himself or herself from voting. This disqualification shall not affect the existence of a quorum.

(d) Licensure action by the board shall be reported in the board minutes with a listing of the relevant sections of the law under which the candidate qualified. If the board denies an application, the reasons for the denial shall be reported.

(e) Each denied applicant shall be informed in writing of the reasons for the applicant's denial and of the applicant's right to a hearing. Action of the board shall be considered completed when the notification has been received by the applicant. Any applicant may request a hearing or reconsideration of the application by submitting a written statement, detailing the basis for the request, with the executive secretary within 30 days of receipt of the notification. The applicant may submit additional material in the request for reconsideration. If a request for a hearing or reconsideration is not made within the 30 day period, the application shall expire. (Authorized by K.S.A.

74-7507, as amended by L. 1986, Ch. 299, Sec. 42; implementing K.S.A. 74-5310, as amended by L. 1986, Ch. 299, Sec. 15; effective May 1, 1982; amended May 1, 1984; amended May 1, 1987.)

102-1-7. (Authorized by K.S.A. 1987 Supp. 74-7507; implementing K.S.A. 1987 Supp. 74-5310, as amended by L. 1988, Ch. 243, Sec. 15, K.S.A. 1987 Supp. 74-5333; effective May 1, 1982; amended May 1, 1984; amended May 1, 1987; amended July 24, 1989; revoked June 8, 2007.)

102-1-8. Renewal and reinstatement. (a) To be considered for license renewal pursuant to K.S.A. 74-5319 and amendments thereto, each licensed psychologist shall submit the following to the board:

(1) The completed renewal form provided by the board;

(2) the renewal fee required by K.S.A. 74-5319 and amendments thereto, as set forth in K.A.R. 102-1-13(a)(3); and

(3) evidence satisfactory to the board that the psychologist has completed the required number of continuing education hours as specified in K.A.R. 102-1-15.

(b) To be considered for reinstatement of a revoked psychology license for reasons other than incapacity of the psychologist, the applicant shall submit the following items to the board:

(1) The completed reinstatement form provided by the board;

(2) the reinstatement fee equal to the renewal fee as set forth in K.A.R. 102-1-13(a)(3);

(3) if the applicant is required to take an examination, the examination fee as set forth in K.A.R. 102-1-13(a)(4);

(4) proof satisfactory to the board of compliance with any term specified by an order of the board as a condition of reinstatement of the license;

(5) any materials, information, evaluation or examination reports, or other documentation that the board may request that will enable it to satisfactorily evaluate and determine whether or not the license should be reinstated. In determining whether or not the license should be reinstated, factors including the following shall be considered by the board:

(A) The extent to which the individual presently merits the public trust;

(B) the individual's demonstrated understanding of the wrongful conduct that resulted in the license revocation. This understanding may be

demonstrated either by successfully completing an oral interview with the board or by preparing a professional paper that is reviewed and approved by the board or the board's designee;

(C) the extent of the individual's remediation and rehabilitation in regard to the wrongful conduct 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 competence in psychological knowledge and skills;

(6) verification acceptable to the board that the applicant has completed, during the immediate 24-month period, the required number of continuing education hours as specified in K.A.R. 102-1-15; and

(7) evidence satisfactory to the board that the applicant has not practiced independently as or held that individual out to the public as being a psychologist.

(c) To be considered for renewal of an expired psychology license, the applicant shall submit the following items to the board:

(1) The completed renewal form provided by the board;

(2) the renewal fee as set forth in K.A.R. 102-1-13(a)(3);

(3) the late renewal fee equal to the renewal fee as set forth in K.A.R. 102-1-13(a)(3);

(4) if the applicant has been credentialed in a state other than Kansas, verification of the status of the applicant's credential in that state;

(5) verification acceptable to the board that the applicant has completed, during the immediate 24-month period, the required number of continuing education hours as specified in K.A.R. 102-1-15; and

(6) evidence satisfactory to the board that, after November 1 following the expiration of the license, the applicant has not practiced independently as or held out that individual as a psychologist. (Authorized by K.S.A. 74-7507; implementing K.S.A. 74-5318, K.S.A. 74-5319, K.S.A. 74-5339, K.S.A. 74-7507, K.S.A. 74-5320, and K.S.A. 74-5321; effective May 1, 1982; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended Dec. 18, 1998; amended July 11, 2003.)

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.)

102-1-9. (Authorized by and implementing K.S.A. 74-5315 and 74-5316; effective May 1, 1982; revoked May 1, 1984.)

102-1-10. (Authorized by K.S.A. 74-7507; implementing K.S.A. 74-7507 and K.S.A. 74-5342; effective May 1, 1982; amended May 1, 1984; amended, T-85-35, Dec. 10, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended Aug. 4, 1995; revoked Jan. 4, 2002.)

102-1-10a. Unprofessional conduct. Each of the following shall be considered unprofessional conduct:

(a) Practicing psychology in an incompetent manner, which shall include the following acts:

(1) Misrepresenting professional competency by offering to perform services that are inconsistent with the licensee's education, training, or experience;

(2) performing professional services that are inconsistent with the licensee's education, training, or experience; and

(3) without just cause, failing to provide psychological services that the licensee is required to provide under the terms of a contract;

(b) practicing with impaired judgment or objectivity, which shall include the following acts:

(1) Using alcohol or other substances to the extent that it impairs the psychologist's ability to competently engage in the practice of psychology; and

(2) failing to recognize, seek intervention, and make arrangements for the care of clients if one's own personal problems, emotional 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;

(c) engaging in harmful dual relationships, which shall include the following acts:

(1) Making sexual advances toward or engaging in physical intimacies or sexual activities with either of the following:

(A) Any person who is a client; or

(B) any person that the licensee knows who has a significant relationship with the client, supervisee, or student;

(2) failing to inform the client or patient of any financial interests that might accrue to the licensed psychologist for referral to any other service or for the sale, promotion, or use of any tests, books, electronic media, or apparatus; and

(3) exercising undue influence over any client;

(d) making sexual advances toward or engaging in physical intimacies or sexual activities with, or exercising undue influence over any person who, within the past 24 months, has been a client;

(e) failing to obtain informed consent, which shall include the following acts:

(1) Failing to obtain and document, in a timely manner, informed consent from the client or legally authorized representative for clinical psychological services before the provision of any of these services except in an emergency situation. This informed consent shall include a description of the possible effects of treatment or procedures when there are known risks to the client or patient;

(2) failing to provide clients or patients with a description of what the client or patient may expect in the way of tests, consultation, reports, fees, billing, and collection; and

(3) failing to inform clients or patients when a proposed treatment or procedure is experimental;

(f) ignoring client welfare, which shall include the following acts:

(1) Failing to provide copies of reports or records to a licensed healthcare provider authorized by the client following the licensee's receipt of a formal written request, unless the release of

that information is restricted or exempted by law or by these regulations, or the disclosure of the information would be injurious to the welfare of the client;

(2) failing to inform the client or patient that the client or patient is entitled to the same services from a public agency if the licensed psychologist is employed by that public agency and also offers services privately;

(3) engaging in behavior that is abusive or demeaning to a client, student, or supervisee;

(4) soliciting or agreeing to provide services to prospective clients or patients who are already receiving mental health services elsewhere without openly discussing issues of disruption of continuity of care with the prospective client or patient, or with other legally authorized persons who represent the client or patient, and when appropriate, consulting with the other service provider about the likely effect of a change of providers on the client's general welfare;

(5) failing to take each of the following steps before termination for whatever reason, unless precluded by the patient's or client's relocation or noncompliance with the treatment regimen:

(A) Discuss the patient's or client's views and needs;

(B) provide appropriate pretermination counseling;

(C) suggest alternative service providers, as appropriate; and

(D) take other reasonable steps to facilitate the transfer of responsibility to another provider if the patient or client needs one immediately;

(6) failing to arrange for another psychologist or other appropriately trained mental health professional to be available to handle clinical emergencies if the psychologist anticipates being unavailable for a significant amount of time;

(7) failing to be available for the timely handling of clinical emergencies after having agreed to provide coverage for another psychologist;

(8) failing to terminate a professional relationship if it becomes reasonably clear that the patient or client no longer needs the service, is not benefiting from continued service, or is being harmed by continued service;

(9) failing to delegate to employees, supervisees, and research assistants only those responsibilities that these persons can reasonably be expected to perform competently on the basis of their education, training, or experience, either independently or with the level of supervision being provided;

(10) failing to provide training and supervision to employees or supervisees and to take reasonable steps to see that these persons perform services responsibly, competently, and ethically; and

(11) continuing to use or order tests, procedures, or treatment, or to use treatment facilities or services not warranted by the client's or patient's condition;

(g) failing to protect confidentiality, which shall include the following acts:

(1) Failing to inform each client, supervisee, or student of the limits of client confidentiality, the purposes for which the information may be obtained, and the manner in which it may be used;

(2) revealing any information regarding a client or failing to protect information contained in a client's records, unless at least one of these conditions is met:

(A) Disclosure is required or permitted by law;

(B) failure to disclose the information presents a clear and present danger to the health and safety of an individual or the public;

(C) the psychologist is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of psychology, in which case disclosure shall be limited to that action; or

(D) the patient has signed a written release that authorizes the psychologist to release information to a specific person or persons identified in the release; and

(3) failing to obtain written, informed consent from each client or the client's legal representative or representatives or from any other participant before performing either of the following actions:

(A) Electronically recording sessions with the client, or other participants, including audio and video recordings; or

(B) permitting third-party observation of the activities of the client or participant;

(h) misrepresenting the services offered or provided, which shall include the following acts:

(1) Failing to inform a client if services are provided or delivered under supervision;

(2) making claims of professional superiority that cannot be substantiated;

(3) guaranteeing that satisfaction or a cure will result from the performance of professional services;

(4) knowingly engaging in fraudulent or misleading advertising; and

(5) taking credit for work not personally performed;

(i) engaging in improprieties with respect to fees and billing statements, which shall include the following acts:

(1) Exploiting clients or payers with respect to fees;

(2) misrepresenting one's fees;

(3) failing to inform a patient or client who fails to pay for services as agreed that collection procedures may be implemented, including the possibility that a collection agency may be used or legal measures may be taken; and

(4) filing claims for services that were not rendered;

(j) improperly using assessment procedures, which shall include the following acts:

(1) Basing assessment, intervention, or recommendations on test results and instruments that are inappropriate to the current purpose or to the patient characteristics;

(2) failing to identify situations in which particular assessment techniques or norms may not be applicable or failing to make adjustments in administration or interpretation because of relevant factors, including gender, age, race, and other pertinent factors;

(3) failing to indicate significant limitations to the accuracy of the assessment findings;

(4) failing to inform individuals or groups at the outset of an assessment that the psychologist is precluded by law or by organizational role from providing information about results and conclusions of the assessment;

(5) endorsing, filing, or submitting psychological assessments, recommendations, reports, or diagnostic statements on the basis of information and techniques that are insufficient to substantiate those findings;

(6) releasing raw test results or raw data either to persons who are not qualified by virtue of education, training, or supervision to use that information or in a manner that is inappropriate to the needs of the patient or client; and

(7) allowing, endorsing, or supporting persons who are not qualified by virtue of education, training, or supervision to administer or interpret psychological assessment techniques;

(k) violating applicable law, which shall include the following acts:

(1) Impersonating another person holding a license issued by this or any other board;

(2) claiming or using any method of treatment or diagnostic technique that the licensed psychologist refuses to divulge to the board;

(3) refusing to cooperate in a timely manner with the board's investigation of complaints lodged against an applicant or a psychologist licensed by the board. Any psychologist taking longer than 30 days to provide requested information shall have the burden of demonstrating that the psychologist has acted in a timely manner; and

(4) being convicted of a crime resulting from or relating to the licensee's professional practice of psychology;

(1) aiding an illegal practice, which shall include the following acts:

(1) Knowingly allowing another person to use one's license;

(2) knowingly aiding or abetting anyone who is not credentialed by the board to represent that individual as a person credentialed by the board;

(3) furthering the licensure or registration application of another person who is known or reasonably believed to be unqualified in respect to character, education, or other relevant eligibility requirements;

(4) making a materially false statement or failing to disclose a material fact in an application for licensure or renewal of licensure; and

(5) failing to notify the board, within a reasonable period of time, that any of the following conditions apply to the psychologist or that the psychologist has knowledge, not obtained in the context of confidentiality, that any of the following conditions apply to another professional regulated by the board:

(A) A licensee has had a license, certificate, permit, registration, or other certificate, registration, or license in psychology or in the field of behavioral sciences, granted by any state or jurisdiction, that has been limited, restricted, suspended, or revoked;

(B) a licensee has been subject to disciplinary action by a licensing or certifying authority or professional association;

(C) a licensee has been terminated or suspended from employment for some form of misfeasance, malfeasance, or nonfeasance;

(D) a licensee has been convicted of a felony; or

(E) a licensee has practiced in violation of the laws or regulations regulating the profession;

A psychologist taking longer than 30 days to notify the board shall have the burden of demonstrating that the psychologist acted within a reasonable period of time;

(m) failing to maintain and retain records as outlined in K.A.R. 102-1-20;

(n) improperly engaging in research with human subjects, which shall include the following acts:

(1) Failing to consider carefully the possible consequences for human beings participating in the research;

(2) failing to protect each participant from unwarranted physical and mental harm;

(3) failing to ascertain that the consent of the participant is voluntary and informed; and

(4) failing to preserve the privacy and protect the anonymity of the subjects within the terms of informed consent;

(o) engaging in improprieties with respect to forensic practice, which shall include the following acts:

(1) When conducting a forensic examination, failing to inform the examinee of the purpose of the examination and the difference between a forensic examination and a therapeutic relationship;

(2) in the course of giving expert testimony in a legal proceeding, performing a psychological assessment in a biased, nonobjective, or unfair manner or without adequate substantiation of the findings;

(3) failing to conduct forensic examinations in conformance with established scientific and professional standards; and

(4) if a prior professional relationship with a party to legal proceeding precludes objectivity, failing to report this prior relationship and to clarify in both written report and actual testimony the possible impact of this prior relationship on the resulting conclusions and recommendations; and

(p) engaging in improprieties with respect to supervision, which shall include the following acts:

(1) Failing to provide supervision in compliance with subsection (d) of K.A.R. 102-1-5a;

(2) failing to provide supervision to a person working towards licensure as a clinical psychotherapist in compliance with KAR 102-4-7a; and

(3) failing to provide regular, periodic, written supervisory feedback to the supervisee. (Authorized by and implementing K.S.A. 74-7507 and K.S.A. 74-5324; effective Jan. 4, 2002; amended Jan. 9, 2004.)

102-1-11. Supervision of unlicensed assistants. (a) To utilize unlicensed assistants for psychological services, the licensed psychologist shall:

(1) Provide direct and continuing administrative and professional supervision to the unlicensed assistant;

(2) be vested with administrative control over the functioning of unlicensed assistants to maintain ultimate responsibility for the welfare of every client or patient;

(3) have sufficient contact with all clients or patients in order to plan effective and appropriate service and define procedures. The licensed psychologist shall also be available to the patient or client for emergency consultation and intervention;

(4) provide the unlicensed assistant with only work assignments which are commensurate with the skills of that assistant;

(5) plan all procedures to be used by the unlicensed assistant and inform the assistant of those plans;

(6) provide space for unlicensed assistants in the same physical setting as themselves, unless otherwise approved and authorized by the board;

(7) make all public announcements of fees and services. The licensed psychologist shall be solely responsible for all correspondence with other professionals;

(8) set and collect all fees;

(9) countersign all requests for payments for services performed by the unlicensed assistant. By so doing a psychologist shall be deemed to have established a supervisory relationship pursuant to this section;

(10) have not more than three full-time unlicensed assistants in the licensed psychologist's employ, if the licensed psychologist is in independent practice;

(11) establish and maintain a level of supervisory contact sufficient to insure the welfare of clients or patients seen by the unlicensed assistant and provide the board with documentation attesting to that level of supervision for board review and approval;

(12) notify the board within 45 days of those individuals who are serving as unlicensed assistants. This notification shall be on forms approved by the board and shall include the name, the education of, and duties assigned to each unlicensed assistant;

(13) be responsible for all psychological services performed by the unlicensed assistant, and be solely responsible for interpretation of psychological assessments on all patients or clients; and

(14) not be under a supervisory agreement with the board. This provision may be waived by the board upon application for review by the proposed supervisor.

(b) An ongoing record of supervision shall be maintained which details the type of activities in which the unlicensed assistant is engaged, and the level of competence in each. This record shall be available for review by the board.

(c) Persons receiving supervision while obtaining pre-doctoral or post-doctoral professional experience in an exempt agency are not required to be registered by the supervising licensed psychologist. (Authorized by and implementing K.S.A. 74-5314, and K.S.A. 74-5344, as amended by L. 1986, Ch. 299, Sec. 40; effective May 1, 1982; amended May 1, 1984; amended May 1, 1987.)

102-1-12. Educational requirements. (a) Definitions.

(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 physical proximity and 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) A graduate applicant for psychology licensure shall be deemed to have received a doctoral degree based on a program of studies in content primarily psychological as set forth in K.S.A. 74-5310, and amendments thereto, or the substantial equivalent of this program in both subject matter and extent of training, if at the time the applicant graduated from the program, this doctoral degree program was accredited by the American

psychological association. If the applicant began the program after March 10, 2006, the accredited program shall require that at least 24 semester credit hours in the substantive areas identified in paragraph (b)(13)(C), or the equivalent number of quarter or trimester credit hours, be completed while the applicant is in residence. If not so accredited, the doctoral degree program from which the applicant was granted the degree shall meet all of the following criteria:

(1) The doctoral program is offered by an institution of higher education that is regionally accredited by an accrediting agency substantially equivalent to those agencies that accredit the universities in Kansas.

(2) The program offers doctoral education and training in psychology, one goal of which is to prepare students for the practice of psychology.

(3) The program stands as a recognized, coherent organizational entity within a university or college.

(4) There is a clear administrative authority with primary responsibility within the program for the substantive content areas as set forth in paragraph (b)(13) and for the emphasis areas of psychology.

(5) The program is an established, organized, and comprehensive sequence of study designed by administrators who are responsible for the program to provide an integrated educational experience in psychology.

(6) There is an identifiable, full-time, professional faculty whose members hold earned graduate degrees in psychology, and the person responsible for directing the program is licensed or academically eligible at the doctoral level to engage in the practice of psychology.

(7) The ratio of students to core faculty members does not exceed 15 students to one core faculty member.

(8) The student's major advisor is a member of the psychology faculty.

(9) The program has an identifiable body of students who are matriculated in the program for a degree.

(10) The program publicly states an explicit philosophy of training by which it intends to prepare students for the practice of psychology. The program's philosophy, educational model, and curriculum plan shall be substantially consistent with the mission and goals of the program's sponsor institution and shall be consistent with the following principles of the discipline:

(A) Psychological practice is based on the science of psychology, which, in turn, is influenced by the professional practice of psychology.

(B) Training for practice is sequential, cumulative, graded in complexity, and designed to prepare students for further organized training.

(11) The program, except for industrial and organizational psychology programs, requires an internship that meets the following requirements:

(A) Consists of at least 1,800 hours over one year of full-time training or two consecutive years of half-time training;

(B) accepts as interns only applicants enrolled in a doctoral program as defined in this subsection or in a program that meets the requirements of paragraph (b)(2) of K.A.R. 102-1-5a;

(C) has a clearly designated doctoral-level staff psychologist who is responsible for the integrity and quality of the training program. This person shall be licensed, certified, or registered in the jurisdiction in which the program exists to engage in the practice of psychology and shall be present at the training facility for a minimum of 20 hours per week;

(D) provides training and supervision in a wide range of professional activities, including diagnosis, remediation techniques, interdisciplinary relationships, and consultation, and provides experience with a population of clients or patients presenting a diverse set of problems and backgrounds;

(E) is taken after the completion of all graduate courses other than those designated for writing the dissertation, including both the required graduate coursework emphasizing the practice of psychology and the preinternship training requirements;

(F) provides the intern or resident with a minimum of four hours of general training supervision for every 40 hours of training experience. At least one hour of individual clinical supervision shall be provided for every 10 hours during which the supervisee has direct patient or client contact;

(G) provides the majority of supervision by licensed, doctoral-level psychologists;

(H) exists 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 psychologists;

(I) identifies interns as being in training and not as staff members;

(J) has a training staff that consists of at least two doctoral-level psychologists who serve on a full-time basis as individual clinical supervisors and who are licensed, certified, or registered as psychologists in the jurisdiction in which the program exists;

(K) is an integrated and formally organized training experience, not an after-the-fact tabulation of experience; and

(L) provides at least two hours per week in didactic activities, including case conferences, seminars, in-service training, and grand rounds.

(12) Before awarding the doctoral degree, the program requires each student to complete a minimum of three full-time academic years of graduate study, or the equivalent, and to complete an internship that meets the requirements of paragraph (b) (11). At least two of the three academic training years, or the equivalent, shall be completed at the institution from which the doctoral degree is granted, and at least two consecutive semesters, or the equivalent number of quarters or trimesters, shall be completed while the student is in residence at the same institution. The program's coursework shall also include the skill courses appropriate for the applicant's major or area of emphasis.

(13) The program has and implements a clear and coherent curriculum plan that provides the means whereby all students can acquire and demonstrate substantial understanding of and competency in the current body of knowledge in the following three substantive areas:

(A) The breadth of scientific psychology, its history of thought and development, its research methods, and its applications. Each student shall have completed a one-semester course consisting of three semester credit hours, or the equivalent number of quarter or trimester credit hours, in each of the following six areas:

(i) Biological aspects of behavior, including clinical neuropsychology and the biological foundations of psychopathology;

(ii) cognitive and affective aspects of behavior, including theories of perception, human learning and memory, cognitive development, and theories and research in human learning;

(iii) social aspects of behavior, including social psychology, advanced social psychology, and social psychology theories, research, and clinical applications;

(iv) the history and systems of psychology, including the history of psychology and theories of personality;

(v) psychological measurement, including an introduction to mathematical methods in psychology, educational measurement methods in psychological research, and research methods in clinical psychology; and

(vi) research methodology and techniques of data analysis, including statistical methods in psychology, research design in education, multivariate analysis, and multivariate statistical methods;

(B) the scientific, methodological, and theoretical foundations of practice. Each student shall have completed a one-semester course consisting of three semester credit hours, or the equivalent number of quarter or trimester credit hours, in each of the following four areas:

(i) Individual differences in behavior, including the basis and nature of individuality, intelligence and cognition, and cross-cultural counseling;

(ii) human development, including advanced child behavior and development, behavioral analysis of child development, the psychology of the adult personality, gerontology, and counseling with adults;

(iii) dysfunctional behavior or psychopathology, including advanced psychopathology; and

(iv) professional, ethical, legal, and quality assurance principles and standards, including professional, legal, and ethical problems in clinical psychology and legal, ethical, and professional issues in counseling; and

(C) the methods of diagnosing or defining problems through psychological assessment and measurement and the strategies and techniques of therapeutic intervention or remediation. A minimum of 24 semester credit hours in this substantive area, or the equivalent number of quarter or trimester credit hours, shall be completed by the student while the student is in residence and shall be distributed between the following two areas:

(i) Nine semester credit hours in assessment, or the equivalent number of quarter or trimester credit hours. Assessment courses shall include theories and methods of assessment and diagnosis, including intelligence testing, behavioral and personality assessment in children, theory and construction of personality tests, and techniques of psychodiagnostic assessment; and

(ii) 15 semester credit hours, or the equivalent number of quarter or trimester credit hours, in techniques of therapeutic interventions and effective therapeutic intervention, consultation, and supervision, including counseling and interviewing skills, theories of group counseling, psychological

clinical services, psychotherapy, group therapeutic techniques, and psychotherapy with families.

(14) The program requires at least 90 semester credit hours, or the equivalent number of quarter or trimester credit hours, of formal graduate study in the psychology program. At least 60 of these semester credit hours, or the equivalent number of quarter or trimester credit hours, shall be distributed among the content areas specified in paragraph (b)(13).

(15) At least 60 semester credit hours of the coursework for the doctoral program, or the equivalent number of quarter or trimester hours, are clearly designated on the transcript as graduate-level courses in the program, exclusive of practicum, internship, and dissertation credits. The number of credits received through extension programs shall not exceed 10 semester credit hours or the equivalent number of quarter or trimester credit hours. The number of postdoctoral credit hours from a regionally accredited university or college taken to meet licensure requirements shall not exceed 10 semester credit hours or the equivalent number of quarter or trimester credit hours.

(16) When the program has an applied emphasis, which may include clinical psychology, counseling psychology, or school psychology, the training shall also include a minimum of at least two semesters of a coordinated practicum. The practicum in the application of skills related to the areas of emphasis shall be performed in a setting that is preapproved by the appropriate administrative authorities of the program.

(17) The program advertises in official documents, including course catalogues and announcements, the program standards and descriptions and the admission requirements of the program.

(18) The program has admission requirements that are, in part or in full, based on objective, standardized achievement tests and measures.

(19) The program includes an ongoing, objective review and evaluation of student learning and progress, and the program reports this evaluation in the official transcript.

(20) The program includes a comprehensive examination or an equivalent assessment approved by the board of the applicant's knowledge and progress within the training program, and the program requires that the applicant pass this requirement before awarding the doctoral degree.

(21) As a part of the graduation requirements, each student is required to initiate, prepare, conduct, and report original research or an equivalent

project as determined by the program. This original research or equivalent project shall not be substituted for successful completion of the comprehensive examination required under paragraph (b)(20).

(22) The institution offering the graduate program has a library and equipment and resources available that are adequate for the size of the student body and the scope of the program offered, including suitable scientific and practicum facilities. (Authorized by K.S.A. 2007 Supp. 74-7507; implementing K.S.A. 74-5310; effective May 1, 1982; amended May 1, 1984; amended, T-85-35, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended Dec. 18, 1998; amended Oct. 27, 2000; amended March 10, 2006; amended, T-102-4-24-07, April 24, 2007; amended April 11, 2008.)

102-1-13. Fees. (a) Each applicant for licensure as a psychologist shall pay the appropriate fee as follows:

- (1) Application for a license, \$175;
- (2) original license, \$50;
- (3) renewal, \$150;
- (4) duplicate license, \$20;
- (5) temporary license, \$100;
- (6) temporary license renewal fee, \$100;
- (7) temporary, 15-day permit for an out-of-state licensed independent psychologist, \$200; or
- (8) temporary, 15-day permit for an out-of-state licensed independent psychologist extension, \$200.

(b) Each applicant for a license renewal after its expiration date shall pay an additional fee of \$150, as well as the renewal fee of \$150.

(c) Each applicant for reinstatement of a license that has been revoked by the board shall pay a fee of \$200.

(d) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 74-5316, K.S.A. 74-5316a, K.S.A. 74-5318, K.S.A. 74-5339, and K.S.A. 74-7507; implementing K.S.A. 74-5310, K.S.A. 74-5310a, K.S.A. 74-5315, K.S.A. 74-5316, K.S.A. 74-5316a, K.S.A. 74-5318, and K.S.A. 74-5339; effective May 1, 1984; amended, T-85-35, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1987; amended, T-102-5-1-90, May 1, 1990; amended June 11, 1990; amended, T-102-11-29-90, Nov. 29, 1990; amended Jan. 21, 1991; amended Aug. 23, 1993; amended Aug. 4, 1995; amended Oct. 24, 1997; amended July 1, 2005; amended, T-102-7-2-07, July 2, 2007; amended Nov. 30, 2007; amended, T-102-6-26-09, June 26, 2009; amended Oct. 9, 2009; amended March 8, 2019.)

102-1-14. Psychological group service. Agencies, associations, or other groups providing psychological services shall include the name or names of the licensed psychologist or psychologists providing or supervising the services on psychological reports, insurance forms, or other official documents and advertisements. (Authorized by K.S.A. 74-7507, as amended by L. 1986, Ch. 299, Sec. 42; implementing K.S.A. 74-5302, as amended by L. 1986, Ch. 299, Sec. 14; effective May 1, 1982; amended May 1, 1984; amended May 1, 1987.)

102-1-15. Continuing education. (a) Each applicant for renewal of licensure shall have earned 50 continuing education hours in the two years preceding an application for renewal. The required number of continuing education hours shall be prorated for periods of renewal that are less than the full two years, using the ratio of one-third of the continuing education hours for each six months since the date of licensure or most recent renewal. Continuing education hours for each type of continuing education activity as specified below in subsection (d) shall be prorated accordingly for those persons whose periods of renewal are less than the full two years. Each person who is licensed within six months of the current expiration period shall be exempt from the continuing education requirement for that person's first renewal period.

(b) The content of each continuing education activity shall be clearly related to the enhancement of psychology practice, values, skills, or knowledge.

(c) During each two-year renewal cycle and as part of the required continuing education hours, each licensed psychologist shall complete at least three continuing education hours of training on professional ethics and at least six continuing education hours related to diagnosis and treatment of mental disorders. These hours shall be obtained from any of the activities specified in paragraphs (d)(1), (d)(2), (d)(4), and (d)(6) of this regulation.

(d) Acceptable continuing education activities, whether taken within the state or outside the state, shall include the following:

(1) Attendance at workshops, seminars, and presentations that are sponsored, accredited, or conducted by educational institutions, professional associations, or private institutions. These activities shall be sponsored, accredited, or conducted by educational institutions, professional associa-

tions, or private institutions that are nationally or regionally accredited for training. Activities conducted by agencies, groups, or individuals that do not meet the requirements of national or regional accreditation shall be acceptable, if the content is clearly related to the enhancement of psychology skills, values, and knowledge. Actual contact hours, excluding breaks and lunch, shall be credited. A maximum of 50 continuing education hours shall be allowed;

(2) the first-time preparation and initial presentation of courses, workshops, or other formal training activities, for which a maximum of 15 continuing education hours shall be allowed;

(3) documented completion of a self-study program. A maximum of 12 continuing education hours shall be allowed;

(4) documented completion of a self-study program with a posttest that is conducted by a continuing education provider as described in paragraph (d)(1). A maximum of 40 continuing education hours shall be allowed;

(5) publication and professional presentation. Fifteen continuing education hours may be claimed for the publication or professional presentation of each scientific or professional paper or book chapter authored by the applicant. A maximum of 45 continuing education hours shall be allowed;

(6) completion of an academic course, for which a maximum of 15 continuing education hours shall be allowed for each academic semester credit hour;

(7) providing supervision as defined in K.A.R. 102-1-1, for which a maximum of 15 continuing education hours shall be allowed;

(8) receiving supervision as defined in K.A.R. 102-1-1, except in connection with any disciplinary action, for which a maximum of 15 continuing education hours shall be allowed;

(9) initial preparation for a specialty board examination, for which a maximum of 25 continuing education hours shall be allowed;

(10) participation in quality care, client or patient diagnosis review conferences, treatment utilization reviews, peer review, case consultation with another licensed psychologist, or other quality assurance committees or activities, for which a maximum of 15 continuing education hours shall be allowed;

(11) participation, including holding office, in any professional organization related to the applicant's professional activities, if the organization's

activities are clearly related to the enhancement of psychology or mental health practice, values, skills, or knowledge. A maximum of 12 continuing education hours shall be allowed; and

(12) receiving personal psychotherapy that is provided by a licensed or certified mental health provider and is a part of a designated training program. A maximum of 20 continuing education hours shall be allowed.

(e) Each licensed psychologist shall be responsible for maintaining personal continuing education records. Each licensee shall submit to the board the licensee's personal records of participation in continuing education activities if requested by the board.

(f) In determining whether or not a claimed continuing education activity will be allowed, the licensed psychologist may be required by the board to demonstrate that the content was clearly related to psychology or to verify that psychologist's participation in any claimed or reported activity. If a psychologist fails to comply with this requirement, the claimed credit may be disallowed by the board.

(g) Any applicant who submits continuing education documentation that fails to meet the required 50 continuing education hours may request an extension from the board. The request shall include the applicant's reason for requesting an extension and a plan outlining the manner in which the applicant intends to complete the continuing education requirements. For good cause shown, the applicant may be granted an extension, which shall not exceed six months. (Authorized by and implementing K.S.A. 74-7507; effective May 1, 1984; amended, T-85-35, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended July 24, 1989; amended Oct. 27, 2000; amended July 11, 2003.)

102-1-16. Use of computerized psychological tests. (a) To utilize computers in any aspect of psychological testing, the licensed psychologist shall:

(1) conform to the professional standards for testing, as adopted by the American Psychological Association in the Standards for Educational and Psychological Tests, 1985, which is hereby adopted by reference;

(2) specifically consider each of the following issues in testing each client:

(A) whether a particular test is appropriate for a particular client;

(B) whether the computerized version of a test is appropriate for use by a particular client;

(C) the evaluation, validity and reliability of the decision rules underlying interpretive statements and their supporting research;

(D) whether the integration of findings is correct; and

(E) whether the conclusions and recommendations are appropriate.

(3) not use the results of a computerized test in decision-making about clients or make such results part of official client records unless such results are signed by the licensed psychologist utilizing the test;

(4) be involved in a direct, supervisory, or consultative relationship to the client or to those persons using test findings for decision-making regarding the client;

(5) assume the same degree of responsibility for the validity and reliability of interpretive statements and soundness of inferences, judgments, and recommendations based on computer-generated test results as would be assured if the psychologist had personally examined the client; and

(6) make an explicit statement on the report as to whether the psychologist has seen or examined the client in person. (Authorized by and implementing K.S.A. 74-7507, as amended by L. 1986, Ch. 299, Sec. 42; effective, T-85-35, Dec. 19, 1984; effective May 1, 1985; amended May 1, 1987.)

102-1-17. Licensee consult with physician when determining symptoms of mental disorders. (a) "Consult," as used in K.S.A. 74-5302 and amendments thereto, shall be defined as contact made by the licensee with the appropriate medical professional indicated in subsection (b), for the purpose of promoting a collaborative approach to the client's care. This contact may or may not be intended to accomplish confirmation of diagnosis. The timing of this action by the licensee shall be managed in a way that enhances the progress of assessment, diagnosis, and treatment. This consult may or may not be completed in the initial session of service delivery.

(b) The consult with a client's physician or psychiatrist may occur through documented face-to-face contact, documented telephonic contact, or other documented communication by the licensee with the physician, the physician's assistant, or designated nursing staff. When initiating this contact, the licensee shall not be responsible for the

medical professional's response or for the client's compliance with any related intervention made by the medical professional.

(c) If a licensee is practicing in a setting or contract arrangement that involves a person licensed to practice medicine and surgery for review of mental health treatment, a physician consult may be completed through medical involvement completed in accordance with the established procedure of the setting or contract arrangement.

(d) If a licensee is practicing in a licensed community mental health center or its affiliate, or other agency of the state or licensed by the state for providing mental health, rehabilitative, or correctional services, a physician consult shall not be required beyond the procedures for medical involvement as established by the qualifying agency.

(e) In order to maintain patient confidentiality and informed consent, the licensee shall obtain either a written consent to consult with the patient's physician or a written waiver declining the consultation.

(f) Independent diagnosis may be achieved by the licensee consulting with another mental health practitioner in order to establish a diagnosis. (Authorized by K.S.A. 1999 Supp. 74-7507; implementing K.S.A. 74-5302, as amended by L. 1999, Ch. 117, Sec. 25; effective Oct. 27, 2000.)

102-1-18. Designation of referral source for use in the diagnosis and treatment of mental disorders. The "diagnostic and statistical manual of mental disorders," fifth edition, published by the American psychiatric association, shall be designated as the manual to diagnose and treat mental disorders. (Authorized by K.S.A. 74-5302 and K.S.A. 74-7507; implementing K.S.A. 74-5302; effective Oct. 27, 2000; amended April 22, 2005; amended March 15, 2019.)

102-1-19. Services rendered to individuals located in this state. Except as authorized by K.S.A. 74-5316, K.S.A. 74-5344, and K.S.A. 74-5345, and amendments thereto, each person, regardless of the person's location, who engages in either of the following activities shall be deemed to be engaged in the practice of psychology in this state and shall be required to have a license, issued by the board, to practice psychology as a licensed psychologist:

(a) performs any act included in subsection (a) of K.S.A. 74-5302, and amendments thereto, on or for one or more individuals located in this state; or

(b) represents oneself to be a psychologist available to perform any act included in subsection (a) of K.S.A. 74-5302, and amendments thereto, on or for one or more individuals located in this state. (Authorized by K.S.A. 1999 Supp. 74-7507; implementing K.S.A. 74-5340; effective May 11, 2001.)

102-1-20. Unprofessional conduct regarding recordkeeping. (a) Failure of a psychologist to comply with the recordkeeping requirements established in this regulation shall constitute unprofessional conduct.

(b) Content of psychological records. Each licensed psychologist shall maintain a record for each client or patient that accurately reflects the licensee's contact with the client or patient and the results of the psychological service 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. The record may be maintained in a variety of media, if reasonable steps are taken to maintain confidentiality, accessibility, and durability. Each record shall be completed in a timely manner and shall include the following information for each client or patient who is a recipient of clinical psychological services:

- (1) Adequate identifying data;
- (2) the date or dates of services the licensee or the licensee's supervisee provided;
- (3) the type or types of services the licensee or the licensee's supervisee provided;
- (4) initial assessment, conclusions, and recommendations;
- (5) a plan for service delivery or case disposition;
- (6) clinical notes of each session; and
- (7) sufficient detail to permit planning for continuity that would enable another psychologist to take over the delivery of services.

(c) Retention of records. If a licensee is the owner or custodian of client or patient records, the licensee shall retain a complete record for the following time periods, unless otherwise provided by law:

- (1) At least five years after the date of termination of one or more contacts with an adult; and
- (2) for a client or patient 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 age of majority; or
 - (B) five years after the date of termination of the contact or contacts with the minor. (Authorized by and implementing K.S.A. 74-5324 and K.S.A. 2000 Supp. 74-7507; effective Jan. 4, 2002.)

Article 2.—LICENSING OF SOCIAL WORKERS

102-2-1. (Authorized by and implementing K.S.A. 74-7507; effective May 1, 1982; revoked, T-85-36, Dec. 19, 1984; revoked May 1, 1985.)

102-2-1a. Definitions. (a) "Approved-provider status" means that the provider has been approved by the board to provide any continuing education program. Approved-provider status may be granted for a one-year probationary period to new applicants. After completion of the probationary year, approved providers may reapply for approval every three years.

(b) "Client" means an individual, a family, or a group that receives social work services.

(c) "Client-therapist relationship" means a professional relationship in which an LMSW or LCSW is engaged in the diagnosis and treatment of a mental disorder of the client.

(d) "Clinical practicum" means a formal component of the academic curriculum in a graduate level social work educational program that engages the student in supervised clinical social work practice including direct client contact and that provides opportunities to apply classroom learning to actual practice situations in the field setting.

(e) "Clinical social work practice" means the professional application of social work theory and methods to the treatment and prevention of psychosocial problems, disability, or impairment, including emotional and mental disorders. Clinical social work shall include the following:

- (1) Assessment;
- (2) diagnosis;
- (3) treatment, including psychotherapy and counseling;
- (4) client-centered advocacy;
- (5) consultation;
- (6) evaluation; and
- (7) interventions directed to interpersonal interactions, intrapsychic dynamics, and life support and management issues.

(f) "Clinical supervision training plan" means a formal, written contract between a supervisor and a supervisee that establishes the supervisory framework for postgraduate clinical experience and the expectations and responsibilities of the supervisor and the supervisee.

(g) "Consult," as used in K.S.A. 65-6306 and K.S.A. 65-6319, and amendments thereto, means a contact made by the licensee with the appropri-

ate medical professional for the purpose of promoting a collaborative approach to the client's care and informing the medical professional of the client's symptoms, but not for the purpose of confirming the diagnosis. The timing of any consult by the licensee shall be managed in a way that enhances the progress of assessment, diagnosis, and treatment, and shall not be required to be completed in the initial session of service delivery.

(h) "Continuing education" means a formally organized learning experience that has education as its explicit, principal intent and that is oriented toward the enhancement of social work practice, values, skills, knowledge, and ethics.

(i) "Direct client contact" means a service to a client system 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.

(j) "Dual relationship" means a professional relationship with a client, student or supervisee in which the objectivity of the licensee is impaired or compromised because of any of the following present or previous relationships:

- (1) Familial;
- (2) sexual;
- (3) social;
- (4) emotional;
- (5) financial;
- (6) supervisory; or
- (7) administrative.

(k) "Extenuating circumstances" means conditions caused by unexpected events beyond the person's control.

(l) "LBSW" means a licensed baccalaureate social worker.

(m) "LMSW" means a licensed master social worker.

(n) "LSCSW" means a licensed specialist clinical social worker.

(o) "Malfeasance" means the performance of an act that a licensee should not perform.

(p) "Merits the public trust" means that an applicant or licensee possesses the high standard of good moral character and fitness required to practice social work as demonstrated by the following personal qualities:

- (1) Good judgement;
- (2) integrity;
- (3) honesty;
- (4) fairness;
- (5) credibility;

(6) reliability;

(7) respect for others;

(8) respect for the laws of the state and the nation;

(9) self-discipline;

(10) self-evaluation;

(11) initiative; and

(12) commitment to the social work profession values and ethics.

(q) "Misfeasance" means the improper performance of a lawful act by a licensee.

(r) "Nonfeasance" means the omission of an act that a licensee should perform.

(s) "Practice setting" means the public or private social work delivery system within which social work is practiced or social work services are delivered.

(t) "Practicum" means a formal component of the academic curriculum in the social work educational program that engages the student in supervised social work practice and provides opportunities to apply classroom learning to actual practice situations in the field setting.

(u) "Prior-approved continuing education" means any of the following forms of continuing education:

(1) Any single-program material that has been submitted by a provider to the board, approved by the board, and assigned a continuing education number;

(2) any program offered by a provider with approved-provider status; or

(3) academic social work courses audited or taken for credit.

(v) "Private, independent practice of social work" means the unsupervised provision of social work services as a self-employed person, a member of a partnership, a member of a professional corporation, or a member of a group, and not as a salaried employee of a person or a public or private agency, organization, institution, or other entity.

(w) "Retroactively approved continuing education" means material submitted for continuing education credit by the licensee after attending the workshop, conference, seminar, or other offering and that is reviewed and subsequently approved by the board.

(x) "Single-program provider status" means that the provider has been granted approval to offer a specific continuing education program.

(y) "Social work consultation" means a voluntary professional relationship in which the consultant offers advice and expertise that the consultee

can either accept or reject and in which the objectives and requirements of social work supervision as defined in K.A.R. 102-2-1a(aa) and K.A.R. 102-2-8 are lacking. Social work consultation shall not be substituted for supervision.

(z) “Social work practice specialty” means a postgraduate practice with emphasis upon a specific, identifiable field of practice.

(aa) “Social work supervision” means a formal professional relationship between the supervisor and supervisee that promotes the development of responsibility, skill, knowledge, attitudes, and ethical standards in the practice of social work.

(bb) “Termination of a client relationship” means the end of the professional relationship resulting from any of the following:

(1) The mutual consent of the social worker and the client;

(2) the completion of therapeutic or casework services;

(3) dismissal of the social worker by the client;

(4) dismissal of the client by the social worker; or

(5) the transfer of the client to another professional for active therapy or casework services with the belief services will continue.

(cc)(1) “Under the direction” means the formal relationship between the individual providing direction and the licensee in which both of the following conditions are met:

(A) The directing individual provides the licensee, commensurate with the welfare of the client and the education, training, and experience of the licensee with the following:

(i) Professional monitoring and oversight of the social work services provided by the licensee;

(ii) regular and periodic evaluation of treatment provided to clients by the licensee; and

(iii) verification that direction was provided to the licensee.

(B) The licensee receiving direction provides the following to the board, with each license renewal:

(i) The name, identifying information, and type of licensee of the directing individual;

(ii) a description of the work setting and the social work services provided under direction; and

(iii) documentation that direction was provided including dates, location, and length of time as verified by the directing individual.

(2) A licensed master social worker who is practicing clinical social work under supervision as specified in K.A.R. 102-2-8(d) shall be deemed to be practicing under direction.

(dd) “Undue influence” means misusing one’s professional position of confidence, trust, or authority, or taking advantage of the vulnerability, weakness, infirmity, or distress of a client, supervisee, or student for either of the following purposes:

(1) To improperly influence or change the actions or decisions of a client, supervisee, or student; or

(2) to exploit a client, supervisee, or student for the financial gain, personal gratification, or advantage of the social worker or a third party. (Authorized by and implementing K.S.A. 1999 Supp. 74-7507; effective, T-85-36, Dec. 19, 1984; effective May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended April 3, 1989; amended Feb. 25, 1991; amended Aug. 4, 2000.)

102-2-2. (Authorized by and implementing K.S.A. 74-7507; effective May 1, 1982; revoked, T-85-36, Dec. 19, 1984; revoked May 1, 1985.)

102-2-2a. Application for licensure. (a) Each applicant for licensure as a social worker shall request license application forms from the director of the board and shall indicate the level of license desired.

(b) Each applicant for a baccalaureate social work license or a master social work license shall submit the completed application materials to the board and complete the following application procedures:

(1) Submit the full payment of the license application fee as provided in K.A.R. 102-2-3;

(2) submit, on board-approved forms, two professional references. Each individual submitting a reference shall meet all of the following conditions:

(A) Is not related to the applicant;

(B) is licensed, or academically eligible for licensure, as a social worker at or above the applicant’s intended level of licensure. Under extenuating circumstances, references from individuals other than social workers may be accepted by the board; and

(C) can address the applicant’s professional conduct, competence, and merit of the public trust;

(3) submit, on a board-approved form, a third professional reference from an individual who meets all of the following conditions:

(A) Is not related to the applicant; and

(B) except as provided in paragraphs (b)(3)(B)(i) and (b)(3)(B)(ii), has served as the applicant’s social work field education program supervisor.

(i) If the field education program supervisor is unavailable, the director of the field education

program or any person who has knowledge of the applicant's field education program experience based on the applicant's field education program records shall submit the reference.

(ii) If the applicant's field education program supervisor is not licensed or academically eligible for licensure at or above the applicant's intended level of licensure, the applicant shall submit a reference from the faculty field liaison for the applicant's social work field education program in addition to the reference from the social work field education program supervisor;

(4) arrange for the applicant's academic social work transcript or other official proof that the applicant has received the required degree and completed a qualified social work program in accordance with K.A.R. 102-2-6 to be provided directly to the board by the academic institution. 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

(5) demonstrate satisfactory completion of educational requirements as specified in K.A.R. 102-2-6.

(c) Each applicant for a specialist clinical social work license shall submit the completed application materials to the board and complete the following application procedures:

(1) Submit the full payment of the license application fee as provided in K.A.R. 102-2-3;

(2) submit, on board-approved forms, two professional references. Each individual submitting a reference shall meet all of the following conditions:

(A) Is not related to the applicant;

(B) is licensed, or academically eligible for licensure, as a licensed specialist clinical social worker. Under extenuating circumstances, references from individuals other than social workers may be accepted by the board; and

(C) can address the applicant's professional conduct, competence, and merit of the public trust;

(3) submit, on a board-approved form, a third professional reference from an individual who meets all of the following conditions:

(A) Is not related to the applicant; and

(B) served in one of the following roles:

(i) served as the applicant's employment supervisor at the worksite for the applicant's supervised postgraduate work experience; or

(ii) served as the applicant's employment supervisor during the applicant's most recent employment in a position requiring social work licensure;

(4) submit the supervisory attestation form and other supportive documentation on board-approved forms as required by K.A.R. 102-2-12;

(5) if not previously provided, arrange for the applicant's academic social work transcript or other official proof that the applicant has received the required degree and competed a qualified social work program to be provided directly to the board by the academic institution. 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) demonstrate satisfactory completion of graduate educational requirements as specified in K.A.R. 102-2-6 and K.A.R. 102-2-12.

(d) The examination required for licensure as a social worker may be waived only as provided in K.A.R. 102-2-9.

(e) Any applicant who is determined by the board to meet the requirements of K.S.A. 65-6309, 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 provided in K.A.R. 102-2-2. Except as provided in subsection (f), the temporary license shall remain in effect for six months.

(f) Any applicant whose six-month temporary license is due to expire may request that the temporary license remain in effect for a period of time not to exceed an additional 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 temporary license 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.

(g)(1) If either of the following conditions applies to an applicant, the applicant's application shall expire one year from the date on which it was submitted to the board or on the date on which the applicant's temporary license expires, whichever date is later, except as provided by paragraph (g)(2):

(A) The applicant has not met the qualifications.

(B) The applicant has not submitted a complete application.

(2) Any applicant whose application will expire under paragraph (g)(1) may request that the application be kept open for a period of time not to exceed an additional 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.

(3) Upon expiration of an application, the applicant may submit a new application, fee, and all supporting documents.

(h) An applicant or prospective 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.

(i) For purposes of this regulation, the term "extenuating circumstances" means 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 timeframes established by this regulation or K.S.A. 65-6309, and amendments thereto; or

(2) the inadvisability of requiring the applicant to comply with the requirements of this regulation within the timeframes established by this regulation and K.S.A. 65-6309, and amendments thereto. (Authorized by K.S.A. 2005 Supp. 74-7507 and K.S.A. 65-6314; implementing K.S.A. 65-6306, K.S.A. 2005 Supp. 65-6309, as amended by 2006 SB 470, §2, and K.S.A. 65-6314; 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, T-102-7-5-06, July 5, 2006; amended Oct. 27, 2006.)

102-2-2b. Application for licensure based on reciprocity. (a) Each individual who wishes to be licensed as an LSCSW based on reciprocity, as provided by K.S.A. 65-6309 and amendments thereto, shall submit an application for licensure in accordance with the provisions of this regulation.

(b) Each applicant for licensure as an LSCSW 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 shall submit payment in full of the application for a license fee, as provided in K.A.R. 102-2-3.

(2) The applicant shall forward to the licensing agency for the state in which the applicant is currently licensed as to practice social work at the clinical level a form provided by the board on which the licensing agency is to provide the following documentation:

(A) Verification that the applicant currently holds a valid license to practice social work at the clinical level issued by the licensing agency;

(B) the date on which the applicant was initially licensed to practice social work at the clinical level by the licensing agency and a complete history of each subsequent renewal, reinstatement, and lapse in licensure. If an applicant is seeking licensure based on reciprocity under the provisions of paragraph (b)(2) of K.S.A. 65-6309 and amendments thereto, the applicant shall ensure that the documentation covering the five continuous years of licensure to practice social work at the clinical level that immediately precede the date of application is submitted to the board by the licensing agency for each state in which the applicant was licensed during that five-year period. If the applicant has not passed a national clinical examination approved by the board, the applicant shall ensure that documentation covering the 10 continuous years of licensure that immediately precede the date of application is submitted to the board by the licensing agency for each state in which the applicant was licensed during that 10-year period;

(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" means 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; and

(D) either verification that the standards for licensure to practice social work at the clinical level in that state are substantially equivalent to the standards in Kansas or verification that the applicant has earned a master's or doctoral degree

in social work from an accredited graduate social work program, the date on which the applicant earned the degree, and the name of the university or college granting the degree.

The completed form shall be returned to the board by the licensing agency and shall not be forwarded to the applicant.

(3) If the applicant is seeking licensure based on reciprocity under the provisions of paragraph (b) (2) of K.S.A. 65-6309, and amendments thereto, rather than on the basis that the standards for licensure to practice social work at the clinical level are substantially equivalent to the standards for licensure as an LSCSW in Kansas, the applicant shall ensure that following additional documentation is submitted:

(A) An attestation by the applicant that the applicant engaged in the professional practice of social work at the clinical level an average of at least 15 hours per week for nine months during each of the five years immediately preceding the date of application for licensure based on reciprocity; and

(B) if the licensing agency does not provide verification that the applicant holds a master's or doctoral degree in social work from an accredited graduate social work program, an original transcript sent directly from the university or college granting the degree that identifies all applicable graduate coursework and the date on which the applicant was granted a master's or doctoral degree in social work.

(c) In addition to complying with the requirements of subsection (b), each applicant for licensure as an LSCSW shall demonstrate competence to diagnose and treat mental disorders by submitting the following forms of documentation:

(1) If the applicant has passed a national clinical examination approved by the board, 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; and

(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 per week during nine months or more of each year, in a community mental health center or its affiliate, a state mental hospital, or another

employment setting in which the applicant engaged in clinical practice that included diagnosis or treatment of mental disorders; or

(B) an attestation by the applicant that the applicant engaged in a minimum of three years of independent clinical practice that included diagnosis or treatment of mental 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 a minimum of three years. (Authorized by K.S.A. 65-6309, as amended by L. 2003, Ch. 129, Sec. 3, and K.S.A. 74-7507; implementing K.S.A. 65-6309, as amended by L. 2003, Ch. 129, Sec. 3, K.S.A. 65-6311 and 65-6314; effective, T-102-7-1-03, July 1, 2003; effective Oct. 31, 2003.)

102-2-2c. Applicants for LBSW or LMSW license; waiver of examination requirement on the basis of reciprocity.

(a) Each applicant for licensure as an LBSW or LMSW who wishes to be exempted from the requirement for an examination based on reciprocity, as provided by K.S.A. 65-6309 and amendments thereto, shall submit an application for licensure in accordance with the provisions of this regulation.

(b) Each applicant for licensure as an LBSW or LMSW shall request from the board the application forms for licensure without examination based on reciprocity. 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 shall submit payment in full of the application for a license fee, as provided in K.A.R. 102-2-3.

(2) The applicant shall forward a form provided by the board to the licensing agency for the state in which the applicant is currently licensed or registered to practice social work at the level of an LBSW or LMSW. The licensing agency shall provide the following documentation on the form:

(A) Verification that the applicant currently holds a valid license or registration to practice social work at the level of an LBSW or an LMSW issued by the licensing agency;

(B) the date on which the applicant was initially licensed or registered to practice social work at the level of an LBSW or LMSW by the licensing

agency and a complete history of each subsequent renewal, reinstatement, and lapse in licensure or registration;

(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” means 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; and

(D) verification that the requirements for licensure or registration to practice social work at the level of an LBSW or LMSW in that state are substantially the same requirements as the requirements in Kansas.

The completed form shall be returned to the board by the licensing agency and shall not be forwarded to the applicant.

(c) In addition to complying with the requirements of subsection (b), each applicant shall submit verification from either the licensing agency or the testing service that the applicant passed an examination similar to the examination required under K.A.R. 102-2-9, including the applicant’s score on the exam and the passing score established for the exam. (Authorized by K.S.A. 65-6309, as amended by L. 2003, Ch. 129, Sec. 3, and K.S.A. 74-7507; implementing K.S.A. 65-6309, as amended by L. 2003, Ch. 129, Sec. 3, K.S.A. 65-6311 and 65-6314; effective, T-102-7-1-03, July 1, 2003; effective Oct. 31, 2003.)

102-2-3. Fees. (a) Each applicant for a new social work license shall pay the appropriate application fee as follows:

(1) Licensed baccalaureate social worker (LBSW): \$50;

(2) licensed master social worker (LMSW): \$50;

(3) licensed specialist clinical social worker (LSCSW): \$50;

(4) temporary license fee: \$50;

(5) temporary, 15-day permit for an out-of-state licensed independent clinical social worker: \$200; and

(6) temporary, 15-day permit for an out-of-state licensed independent clinical social worker extension: \$200.

(b) Each applicant for a new social work license shall pay the appropriate original license fee as follows:

(1) Licensed baccalaureate social worker (LBSW): \$100;

(2) licensed master social worker (LMSW): \$150; and

(3) licensed specialist clinical social worker (LSCSW): \$150.

(c) Each applicant for license renewal shall pay the applicable fee as follows:

(1) Licensed associate social worker (LASW): \$50;

(2) licensed baccalaureate social worker (LBSW): \$50;

(3) licensed master social worker (LMSW): \$75; and

(4) licensed specialist clinical social worker (LSCSW): \$100.

(d) Each applicant for license reinstatement after the date of its expiration shall pay, in addition to the renewal fee, the applicable penalty fee as follows:

(1) Licensed associate social worker (LASW): \$50;

(2) licensed baccalaureate social worker (LBSW): \$50;

(3) licensed master social worker (LMSW): \$75; and

(4) licensed specialist clinical social worker (LSCSW): \$100.

(e) The fee for a replacement license shall be \$20, and the fee for a replacement wallet card license shall be \$2.

(f) Each provider of continuing education programs shall pay the applicable fee as follows:

(1) One-year, provisional approved provider application fee: \$100;

(2) three-year approved provider renewal fee: \$250; and

(3) single-program provider fee: \$50.

(g) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 65-6309a, 65-6314, and 74-7507; implementing K.S.A. 65-6309a, 65-6313, and 65-6314; effective May 1, 1982; amended, T-86-20, July 1, 1985; amended May 1, 1986; amended, T-87-10, July 1, 1986; amended May 1, 1987; amended, T-102-10-17-89, Oct. 17, 1989; amended, T-102-11-29-90, Nov. 29, 1990; amended Jan. 21, 1991; amended June 12, 1995; amended Aug. 4, 1995; amended Aug. 4, 2000; amended March 8, 2002; amended July 1, 2005; amended, T-102-7-2-07, July 2, 2007; amended Nov. 30, 2007; amended April 2, 2010; amended March 8, 2019.)

102-2-4. (Authorized by and implementing K.S.A. 74-7507; effective May 1, 1982; revoked, T-85-36, Dec. 19, 1984; revoked May 1, 1985.)

102-2-4a. Continuing education for licensees. (a) During each two-year renewal period, each licensee shall complete 40 units of documented and board-approved continuing education oriented to the enhancement of a social worker's practice, values, ethics, skills, or knowledge during each two-year renewal period. Continuing education units accumulated in excess of the 40-unit requirement shall not be carried over to the next renewal period.

(b) As part of the 40 continuing education units required for each renewal cycle, each applicant for renewal or reinstatement of a license shall complete a program on professional ethics consisting of not less than a total of three units. Each ethics program shall meet the following requirements:

(1) Fall within one of the types of continuing education experiences listed in subsection (e), except for those identified in paragraphs (e)(5), (6), (7), (8), (12), and (13);

(2) focus on ethical issues of the behavioral sciences; and

(3) be clearly related to the enhancement of social work practice, values, skills, and knowledge.

(c) Beginning January 1, 2002, as part of the 40 continuing education units required for each renewal cycle, each applicant for renewal or reinstatement of a license as a master social worker or a specialist clinical social worker shall complete not less than a total of six units of continuing education related to the diagnosis and treatment of mental disorders. The continuing education units shall meet the following requirements:

(1) Fall within one of the types of continuing education experiences listed in subsection (e), except for those identified in paragraphs (e)(5), (6), (7), (8), (12), and (13); and

(2) relate to the diagnosis and treatment of mental disorders consistent with the principles and values of the social work profession.

(d) One unit shall consist of a minimum of 50 minutes of classroom instruction between instructor and participant or a minimum of an actual hour of other types of acceptable continuing education experiences listed in subsection (e).

(e) Acceptable continuing education, as defined in K.A.R. 102-2-1a and whether taken within the state or outside the state, shall include the following types of experiences:

(1) An academic social work course or an academic course oriented to the enhancement of social work 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 40;

(2) an academic social work course, or an academic course oriented to the enhancement of a social worker's practice, values, ethics, skills, or knowledge, that is audited. Continuing education credit shall be computed on the basis of the actual contact time that the licensee spends attending the course, up to a maximum of 15 hours for each academic credit hour. The maximum number of allowable continuing education hours shall be 40;

(3) a program, seminar, institute, workshop, or minicourse. The maximum number of allowable continuing education hours shall be 40;

(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 40;

(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 10;

(6) a cross-disciplinary offering in medicine, law, the behavioral sciences, a foreign or sign language, a computer science, professional or technical writing, business administration, management sciences, or other disciplines if the offering is clearly related to the enhancement of social work practice, values, ethics, skills, or knowledge. The maximum number of allowable continuing education hours shall be 10;

(7) a self-directed learning project approved by the board. The maximum number of allowable continuing education hours shall be 10;

(8) supervision of undergraduate and graduate practicum students or specialty applicants. Continuing education credit for this supervision shall not exceed four continuing education hours per semester. The maximum number of allowable continuing education hours shall be 16;

(9) a program presented by an approved program provider. The maximum number of allowable continuing education hours shall be 40;

(10) a single program approved by the board. The maximum number of allowable continuing education hours shall be 40;

(11) the first-time preparation and presentation of a social work course, seminar, institute, or workshop, or the substantial revision and presentation of a social work course, seminar, institute, or workshop. Ten hours may be given for each initial preparation and presentation and for each substantial revision. The maximum number of allowable continuing education hours shall be 20;

(12) the preparation of a professional social work article published for the first time in a recognized 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;

(13) participation in a professional organization or appointment to the board of directors of a professional organization, if the goals of the organization or board are clearly related to the enhancement of social work practice, skills, values, and knowledge. The maximum number of allowable continuing education hours shall be 12 and shall not exceed six continuing education hours per year.

(f) Approval shall not be granted for any of the following:

(1) Identical programs if the programs are completed within the same license renewal period;

(2) first aid, CPR, infection control, or occupational health and safety courses;

(3) in-service training if the training is for job orientation or on-the-job training, or is specific to the employing agency; or

(4) any activity for which the licensee cannot demonstrate that the program's goals and objectives reasonably appear to enhance the licensee's social work practice, knowledge, values, skills, or ethics.

(g) Each licensee shall maintain individual continuing education records. Continuing education records shall document the licensee's attendance as required by K.A.R. 102-2-5. In addition to the specific submission requirements set forth in K.A.R. 102-2-11, any licensee may be required to submit these records to the board before the license renewal. (Authorized by K.S.A. 74-7507; implementing K.S.A. 65-6313 and 74-7507; ef-

fective, T-85-36, Dec. 19, 1984; effective May 1, 1985; amended May 1, 1986; amended Feb. 25, 1991; amended Oct. 24, 1997; amended Aug. 4, 2000; amended July 11, 2003.)

102-2-4b. Continuing education approval for providers. (a) Each application to become an approved provider, as defined in K.A.R. 102-2-1a(a), or a single-program provider, as defined in K.A.R. 102-2-1a(x), shall be submitted on forms provided by the board and shall include the non-refundable fee prescribed in K.A.R. 102-2-3.

(b) Approved providers.

(1) Each applicant for approved-provider status shall submit the application form and application fee for approved-provider status at least three months before the first scheduled program.

(2) Each applicant for approved-provider status shall submit an organizational plan that includes a written statement of purpose documenting that social work practice, values, skills, and knowledge are the bases for the provider's educational goals and objectives and administrative procedures.

(3) Each approved provider shall designate a person who meets the educational requirements for licensure to be responsible for the development of the program.

(4) Each approved provider shall develop these systems:

(A) A system for maintaining records for a period of at least three years; and

(B) A system for selection and evaluation of instructors, participant performance requirements, and provision of accessible and adequate space.

(5) Each approved provider shall maintain for at least three years a summary of each individual program offered that documents the following information:

(A) The relationship of the program to the enhancement of social work practice, values, skills, or knowledge;

(B) the learning objectives for the program and the relationship between the program content and the objectives;

(C) the licensing levels for which the program is designed and any program prerequisites;

(D) the relationship of the format and presentation methods to the learning objectives and the content, and the size and composition of the participant group;

(E) the qualifications of the instructor in the subject matter;

(F) the means of program evaluation;

(G) the program agenda. The agenda shall clearly indicate all coffee and lunch breaks; and

(H) the dates the program was given.

(6) Upon board approval of the application and payment of the initial application fee, a provider shall be provisionally approved for one year.

(7) At least 60 days before the end of the year of provisional approved-provider status and at least 60 days before the end of each succeeding three-year period of approved-provider status, each approved provider seeking renewal shall submit an application to the board. Each application for renewal of approved-provider status shall include the documentation required in paragraph (b)(5) for each program offered during that period of approved-provider status. Upon a determination by the board that the approved provider has provided sufficient documentation as specified in paragraph (b)(5) and upon payment of the approved-provider renewal fee established in K.A.R. 102-2-3, approved-provider status shall be granted for a new three-year period.

(8) Any approved provider may be evaluated and monitored by the board by random contact of social work participants attending programs sponsored by the approved provider.

(9) Approved-provider status may be withdrawn by the board if the provider violates this regulation or if quality programs are not maintained to the board's satisfaction.

(c) Single-program providers.

(1) Each applicant for single-program provider status shall submit a separate single-program provider application form and fee for each continuing education activity or each continuing education activity date for which single-program provider status is requested.

(2) The applicant shall submit each application for single-program provider status on a board-approved form that includes a description of the following items:

(A) The relationship of the program to the enhancement of social work practice, values, skills, or knowledge;

(B) the learning objectives for the program and the relationship between the program content and the objectives;

(C) the licensing levels for which the program is designed and any program prerequisites;

(D) the relationship of the format and presentation methods to the learning objectives and the content, and the size and composition of the participant group;

(E) the qualifications of the instructor in the subject matter;

(F) the means of program evaluation;

(G) the program agenda. The agenda shall clearly indicate all coffee and lunch breaks; and

(H) the date or dates the program is to be given.

(3) Each applicant shall submit the required application fee with the completed single-program provider application. If the completed single-program provider application form is not received in the board office at least 30 days before the scheduled continuing education activity, the application may not be processed or approved by the board.

(4) Single-program provider status may be withdrawn by the board if the provider violates this regulation or if the quality of the program is not satisfactory to the board.

(d) Each single-program provider and approved provider shall maintain a record of each social worker's attendance for a period of at least three years.

(e) Each single-program provider and approved provider shall provide each social work participant with verification of the participant's attendance. This verification shall be on forms approved by the board. (Authorized by and implementing K.S.A. 2000 Supp. 74-7507 and 65-6314; effective, T-85-36, Dec. 19, 1984; effective May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended Oct. 24, 1997; amended March 8, 2002.)

102-2-5. Documentation for continuing education. A copy of any of the following signed forms of documentation shall be accepted as proof of completion of a continuing education program:

(a) A course grade for an academic credit course;

(b) a statement of hours attended for an audited academic course;

(c) a statement of attendance from the provider of an institute, symposium, workshop, or seminar;

(d) the article or book chapter, and verification of publication or written presentation at a professional meeting. These materials shall be submitted to the board for evaluation and certification of the number of hours of credit to be allowed;

(e) the academic course syllabus and verification that the course was presented;

(f) a letter from the board giving approval for retroactively approved continuing education credit;

(g) written verification from the university practicum instructor that the licensee provided supervision of undergraduate or graduate students;

(h) supervisory documents, pursuant to K.A.R. 102-2-12, for supervision of specialty license applicants;

(i) the self-directed learning project, submitted on board-approved forms. This material shall be submitted to the board for evaluation and certification of the number of units of credit to be allowed;

(j) a description of the media format, content title, presenter or sponsor, content description, run time, and activity date when videotapes, audiotapes, computerized interactive learning modules, or telecasts were utilized for continuing education purposes; or

(k) a letter of appointment to the board of the professional organization, or a letter from the chairperson of the board of the professional organization outlining the licensee's participation in the organization. (Authorized by and implementing K.S.A. 1999 Supp. 74-7507; effective May 1, 1982; amended, T-85-36, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1987; amended Oct. 24, 1997; amended Aug. 4, 2000.)

102-2-6. Program approval. (a) Definitions. 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) To be recognized and approved by the board, an undergraduate or graduate social work program shall be accredited by the council on social work education or shall be in substantial compliance with all of the following standards:

(1) The program shall have a curriculum plan that has been or will be fully implemented during the current academic year.

(2) The program shall have graduated a class of students or shall graduate a class of students during the current academic year.

(3) The social work program shall meet the following conditions:

(A) Have autonomy with respect to an identified budget and an established governance and administrative structure;

(B) have responsibility for participation in personnel recruitment, retention, promotion, and tenure decisions;

(C) have support staff assigned to the program; and

(D) have other necessary resources and authority required for the achievement of specified program objectives.

(4) The program shall have a field education program that is clearly incorporated as an integral component of the curriculum and the social work degree requirements. The field education program shall engage the student in supervised social work practice and experiential opportunities that apply classroom learning in the field setting.

(5) The program shall have a clear plan for the organization, implementation, and evaluation of the class and field curricula.

(6) The program shall have social work faculty advisors who are sufficiently knowledgeable about the social work program and who are available to advise social work students.

(7) The program's written policies shall make explicit the criteria for evaluation of student academic and field performance.

(8) The program's written policies shall include procedures for the termination of student participation in the professional social work degree program, and each student shall be informed of these termination procedures.

(9) The social work program shall be contained within a college or university that is regionally accredited.

(10) No less than 50% of the required program coursework shall be completed "in residence" at

one institution, and the field education program shall be completed at the same institution.

(c) In addition to the standards in subsection (b) of this regulation, each undergraduate social work program that is not accredited by the council on social work education shall meet all of the following standards:

(1) The program shall specify in the university or college course catalog that its primary educational objective is preparation for beginning professional social work practice.

(2) The program coursework shall be identified and described in the course catalog of the university or college.

(3) The program shall have a designated director whose educational credentials include either a baccalaureate or a graduate degree in social work and who holds a full-time appointment in the educational institution.

(4) Each program faculty member who teaches the content on social work practice and each program faculty member who coordinates the field education program shall fulfill these requirements:

- (A) Hold a graduate degree in social work; and
- (B) have had two or more years of professional social work practice experience.

(5) The core faculty shall be responsible for essential program functions, including the following duties:

(A) Regular design, modification, approval, implementation, and evaluation of the program curriculum and educational policies;

(B) systematic and continual evaluation of program results in view of the specified objectives of the program;

(C) teaching of social work practice courses and other social work courses;

(D) coordination of field education program experiences and provision of instruction for the field education program; and

(E) establishment and maintenance of program integrity and attainment of program visibility.

(6) The program director shall have primary responsibility for the coordination and educational leadership of the program and shall be provided with the time and financial resources needed to fulfill those responsibilities.

(7) The program shall have a minimum of two full-time, core faculty members whose primary assignment is to the program.

(8) The field education program provided as part of the program shall consist of a minimum of 400 clock hours successfully completed in the

field setting. Except as provided by paragraph (b) (3)(ii) of K.A.R. 102-2-2a, each student participating in the field education program shall be directly supervised by an individual either licensed or academically eligible for licensure in social work in the jurisdiction in which the supervised field education program is completed.

(d) In addition to the standards of subsection (b) of this regulation, each graduate social work education program that is not accredited by the council on social work education shall meet all of the following standards:

(1) The program shall be an integral part of an educational institution that is institutionally accredited to award the master's or doctoral degree in social work.

(2) The program shall specify in the university or college course catalog that it prepares graduate students for advanced social work practice.

(3) The educational level for which accreditation has been received shall be specified in any program documents referring to accreditation.

(4) The program shall have a full-time dean or director as its chief executive officer.

(5) The graduate program shall offer, as its basic program design, two full-time academic years of professional education that leads to a graduate degree in social work. A minimum of one academic year of the program shall be in full-time status, as defined by the educational institution.

(6) Each program faculty member who teaches the content on social work practice and each program faculty member who coordinates the field education program shall fulfill these requirements:

- (A) Hold a master's degree in social work;
- (B) have had post-master's professional social work practice experience; and

(C) be qualified for licensure to practice social work in the state of Kansas.

(7) The program faculty shall have responsibility for curriculum design, modification, approval, and implementation and for systematic, continual evaluation of the program.

(8) The faculty shall be responsible for educational policy in matters of admission, advising, retention, and graduation of students.

(9) The faculty shall be responsible for continual and systematic guidance of students through the professional educational program.

(e) Upon request of the board, each school shall present documentation to the board that it has satisfactorily met the standards of subsection

(b) and the standards of either subsection (c) or (d), as applicable. (Authorized by K.S.A. 2005 Supp. 74-7507 and K.S.A. 65-6306; implementing K.S.A. 65-6306; effective May 1, 1982; amended May 1, 1987; amended Oct. 24, 1997; amended Oct. 27, 2006.)

102-2-7. Unprofessional conduct. Any of the following acts by a licensee or an applicant for a social work license shall constitute unprofessional conduct:

(a) Obtaining or attempting to obtain a license for oneself or another by means of fraud, bribery, deceit, misrepresentation, or concealment of a material fact;

(b) except when the information has been obtained in the context of a confidential relationship, failing to notify the board, within a reasonable period of time, that any of the following conditions apply to any person regulated by the board or applying for a license or registration, including oneself:

(1) 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 convicted of a felony; or

(5) has practiced the licensee's or registrant's profession in violation of the laws or regulations regulating the profession;

(c) knowingly allowing another individual to use one's license;

(d) impersonating another individual holding a license or registration issued by this or any other board;

(e) having been convicted of a crime resulting from or relating to the licensee's professional practice of social work;

(f) furthering the licensure or registration application of another person who is known to be unqualified with respect to character, education, or other relevant eligibility requirements;

(g) knowingly aiding or abetting anyone who is not credentialed by the board to represent that individual as a person who is credentialed by the board;

(h) 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;

(i) failing or refusing to cooperate in a timely manner with any request from the board for a response, information that is not obtained in the context of a confidential relationship, 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 acted in a timely manner;

(j) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, and experience and with accepted professional standards for social work;

(k) treating any client, student, or supervisee in a cruel manner;

(l) discriminating against any client, student, or supervisee on the basis of color, race, gender, religion, national origin, or disability;

(m) failing to advise and explain to each client the respective rights, responsibilities, and duties involved in the social work relationship;

(n) failing to provide each client with a description of what the client can expect in the way of services, consultation, reports, fees, billing, therapeutic regimen, or schedule, or failing to reasonably comply with these descriptions;

(o) failing to provide each client with a description of the possible effects of the proposed treatment when there are clear and known risks to the client;

(p) failing to inform each client or supervisee of any financial interests that might accrue to the licensee from referral to any other service or from the use of any tests, books, or apparatus;

(q) failing to inform each client that the client is entitled to the same services from a public agency if the licensee is employed by that public agency and also offers services privately;

(r) failing to inform each client, supervisee, or student of the limits of client confidentiality, the

purposes for which information is obtained, and the manner in which the information may be used;

(s) revealing information, a confidence, or secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records, except when at least one of these conditions is met:

(1) Disclosure is required or permitted by law;

(2) failure to disclose the information presents a clear and present danger to the health or safety of an individual or the public; or

(3) the licensee is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of social work, in which case disclosure is limited to that action;

(t) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of these 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 party, except as required or permitted by law;

(u) failing to protect the confidences of, secrets of, or information concerning other persons when providing a client with access to that client's records;

(v) failing to exercise due diligence in protecting information regarding and the confidences and secrets of the client from disclosure by other persons in one's work or practice setting;

(w) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(x) using alcohol or illegally using any controlled substance while performing the duties or services of a licensee;

(y) making sexual advances toward or engaging in physical intimacies or sexual activities with one's client, supervisee, or student;

(z) making sexual advances toward, engaging in physical intimacies or sexual activities with, or exercising undue influence over any person who, within the past 24 months, has been one's client;

(aa) exercising undue influence over any client, supervisee, or student, including promoting sales of services or goods, in a manner that will exploit the client, supervisee, or student for the financial gain, personal gratification, or advantage of oneself or a third party;

(bb) 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 the referral of the client or patient or in connection with the performance of professional services;

(cc) permitting any person to share in the fees for professional services, other than a partner, employee, an associate in a professional firm, or a consultant authorized to practice social work;

(dd) soliciting or assuming professional responsibility for clients of another agency or colleague without informing and attempting to coordinate continuity of client services with that agency or colleague;

(ee) making claims of professional superiority that one cannot substantiate;

(ff) guaranteeing that satisfaction or a cure will result from the performance of professional services;

(gg) claiming or using any secret or special method of treatment or techniques that one refuses to divulge to the board;

(hh) continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the condition, best interests, or preferences of the client;

(ii) if the social worker is the owner of the records, failing to maintain for each client a record that conforms to the following minimal standards:

(1) Contains adequate identification of the client;

(2) indicates the client's initial reason for seeking the licensee's services;

(3) contains pertinent and significant information concerning the client's condition;

(4) summarizes the intervention, treatment, tests, procedures, and services that were obtained, performed, ordered, or recommended and the findings and results of each;

(5) documents the client's progress during the course of intervention or treatment provided by the licensee;

(6) is legible;

(7) contains only those terms and abbreviations that are comprehensible to similar professional practitioners;

(8) indicates the date and nature of any professional service that was provided; and

(9) describes the manner and process by which the professional relationship terminated;

(jj) taking credit for work not performed personally, whether by giving inaccurate or misleading

ing information or by failing to disclose accurate or material information;

(kk) if engaged in research, failing to fulfill these requirements:

(1) Consider carefully the possible consequences for human beings participating in the research;

(2) protect each participant from unwarranted physical and mental harm;

(3) ascertain that the consent of each participant is voluntary and informed; and

(4) preserve the privacy and protect the anonymity of each subject of the research within the terms of informed consent;

(ll) making or filing a report that one knows to be distorted, erroneous, incomplete, or misleading;

(mm) failing to notify the client promptly when termination or interruption of service to the client is anticipated;

(nn) 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;

(oo) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;

(pp) failing to terminate the social work services when it is apparent that the relationship no longer serves the client's needs or best interests;

(qq) if the licensee is the owner or custodian of client records, failing to retain those records for at least two years after the date of termination of the professional relationship, unless otherwise provided by law;

(rr) failing to exercise adequate supervision over anyone with whom the licensee has a supervisory or directory relationship;

(ss) failing to inform a client if social work services are provided or delivered under supervision or direction;

(tt) engaging in a dual relationship with a client, supervisee, or student;

(uu) failing to inform the proper authorities in accordance with K.S.A. 38-2223, and amendments thereto, that one knows or has reason to believe that a client has been involved in harming or has harmed a child, whether by physical, mental, or emotional abuse or neglect or by sexual abuse;

(vv) failing to inform the proper authorities in accordance with K.S.A. 39-1402, and amendments thereto, that one knows or has reason to believe that any of the following circumstances

apply to a resident, as defined by K.S.A. 39-1401 and amendments thereto:

(1) Has been or is being abused, neglected, or exploited;

(2) is in a condition that is the result of abuse, neglect, or exploitation; or

(3) is in need of protective services;

(ww) failing to inform the proper authorities in accordance with K.S.A. 39-1431, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to an adult, as defined in K.S.A. 39-1430 and amendments thereto,:

(1) Is being or has been abused, neglected, or exploited;

(2) is in a condition that is the result of abuse, neglect, or exploitation; or

(3) is in need of protective services;

(xx) practicing social work in an incompetent manner;

(yy) practicing social work after one's license expires;

(zz) using without a license, or continuing to use after the expiration of a license, any title or abbreviation prescribed by the board for use only by persons currently holding that type or class of license;

(aaa) violating any provision of K.S.A. 65-6301 et seq., and amendments thereto, or any regulation adopted under that act;

(bbb) except as permitted by K.S.A. 65-6319 and amendments thereto, providing or offering to provide direction or supervision over individuals performing diagnoses and treatment of mental disorders;

(ccc) except as permitted by K.S.A. 65-6306 and K.S.A. 65-6319 and amendments thereto, engaging in the diagnosis and treatment of mental disorders; or

(ddd) engaging in independent private practice if not authorized by law. (Authorized by and implementing K.S.A. 2007 Supp. 65-6311 and K.S.A. 2007 Supp. 74-7507; effective May 1, 1982; amended, T-85-36, Dec. 19, 1984; amended May 1, 1985; amended, T-86-39, Dec. 11, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Feb. 25, 1991; amended Aug. 4, 2000; amended Jan. 9, 2004; amended Dec. 19, 2008.)

102-2-8. Supervision. (a) Supervision of nonlicensed social work service providers who participate in the delivery of social work services.

(1) Social work consultation shall not meet the supervision requirements for any nonlicensed social work service provider.

(2) Each licensee supervising one or more nonlicensed individuals who participate in the delivery of social work services shall specifically delineate the duties of each non-licensed individual and provide a level of supervision that is consistent with the training and ability of the nonlicensed social work service provider.

(3) Each licensee supervising one or more nonlicensed persons who participate in the delivery of social work services shall develop a written agreement. The agreement shall consist of specific goals and objectives, the means to attain the goals, and the manner in which the goals relate to the overall objective for supervision of the nonlicensed social work service provider. The licensee shall maintain the following documentation associated with the written agreement:

(A) A copy of the written agreement signed by both the licensee and the nonlicensed person;

(B) a summary of the types of clients and situations dealt with at each supervisory session;

(C) a written explanation of the relationship of the goals and objectives of supervision to each supervisory session; and

(D) the length of time spent in each supervisory session.

(4) The supervisor shall provide no fewer than four hours of supervision per month for each supervisee.

(5) The supervisor shall not have a dual relationship with the supervisee.

(b) Supervision of nonlicensed student social work service providers.

(1) Social work consultation shall not meet the supervision requirements for any nonlicensed student social work service provider.

(2) Each licensee supervising one or more nonlicensed students in the delivery of social work services shall specifically delineate each student's duties and provide a level of supervision consistent with the training and ability of each student.

(3) Each licensee supervising one or more nonlicensed students who participate in the delivery of social work services shall develop a written agreement for each student that is consistent with the requirements of the student's academic social work program.

(4) The supervisor shall not have a dual relationship with the supervisee.

(c) Supervision of holders of temporary social work licenses.

(1) Social work consultation shall not meet the supervision requirements for any holder of a temporary social work license.

(2) Each licensee supervising one or more individuals who hold a temporary social work licensure permit shall specifically delineate the duties of each temporary license holder and provide a level of supervision consistent with the training and ability of each individual.

(3) Each licensee supervising a temporary social work license holder and that individual shall develop a written agreement. This agreement shall consist of specific goals and objectives, the means to attain the goals, and the manner in which the goals relate to the overall objective for supervision of that person. The licensee shall maintain the following documentation associated with the written agreement:

(A) A copy of the written agreement signed by both the licensee and the temporary social work license holder;

(B) a summary of the types of clients and situations dealt with at each supervisory session;

(C) a written explanation of the relationship of the goals and objectives of supervision to each supervisory session; and

(D) the length of time spent in each supervisory session.

(4) A minimum of one hour of supervision shall be provided for each 40 hours of service delivery.

(5) The supervisor shall not have a dual relationship with the supervisee.

(d) Supervision of persons engaged in private practice or persons seeking licensure as a specialist clinical social worker.

(1) A licensed specialist clinical social worker shall supervise the practice or delivery of social work services by the following persons:

(A) Any licensee who is attaining the two years of supervised experience required for licensure as a specialist clinical social worker; and

(B) any licensee who is not a licensed specialist clinical social worker and who is engaged in private practice.

(2) Any person attaining the supervised experience required for licensure as a specialist clinical social worker may be supervised by a social worker who is licensed as a clinical social worker authorized to engage in the private, independent practice of social work in another state and who is otherwise qualified.

(3) Supervisor qualifications. To qualify as a supervisor, a licensed specialist clinical social worker shall fulfill these requirements:

(A) Have practiced as a specialist clinical social worker, in a position that included assessment, diagnoses, and psychotherapy, for two years beyond the date of clinical licensure. This requirement shall apply to each individual commencing a new supervisory relationship on or after April 15, 2009;

(B) have, in full or in part, professional responsibility for the supervisee's practice of social work or delivery of social work services;

(C) not have a dual relationship with the supervisee;

(D) not be under sanction from a disciplinary proceeding, unless this prohibition is waived by the board for good cause shown by the proposed supervisor;

(E) have knowledge of and experience with the supervisee's client population;

(F) have knowledge of and experience with the methods of practice that the supervisee employs;

(G) have an understanding of the organization and administrative policies and procedures of the supervisee's practice setting; and

(H) be a member of the staff for that practice setting or meet the requirements of paragraph (d) (4).

(4) If a qualified supervisor is not available from among staff in the supervisee's practice setting, the supervisee may secure an otherwise qualified supervisor outside of the practice setting if all of the following conditions are met:

(A) The supervisor has a complete understanding of the practice setting's mission, policy, and procedures.

(B) The extent of the supervisor's responsibility for the supervisee is clearly defined with respect to client cases to be supervised, the supervisor's role in personnel evaluation within the practice setting, and other aspects of the clinical supervision training plan.

(C) The responsibility for payment for supervision is clearly defined.

(D) If the supervisee pays the supervisor directly for the supervision, the supervisor maintains responsibility to the client and to the practice setting.

(E) The parameters of client confidentiality are clearly defined and agreed to by the client.

(5) Supervisory duties. Each social work practice supervisor shall perform these duties:

(A) Meet in person or by videoconferencing

according to K.A.R. 102-2-12(c)(4) with the supervisee for clinical supervision throughout the postgraduate supervised professional experience at a ratio of a minimum of one hour of clinical supervision for every 20 hours of direct, face-to-face client contact, with a maximum of two hours of supervision allowed for each 20 hours of clinical social work practice to be counted toward licensure requirements;

(B) meet with not more than four supervisees at a time in the supervisory meetings;

(C) provide oversight, guidance, and direction of the supervisee's practice of social work or delivery of social work services by assessing and evaluating the supervisee's performance;

(D) conduct supervision as a process distinct from personal therapy, didactic instruction, or social work consultation;

(E) ensure that the scope of the supervisor's own responsibility and authority in the practice setting has been clearly and expressly defined;

(F) provide documentation of supervisory qualifications to the supervisee;

(G) periodically evaluate the supervisee's role, use of a theoretical base, and use of social work principles;

(H) provide supervision in accordance with the written clinical supervision training plan;

(I) maintain documentation of supervision;

(J) provide the documentation required by the board upon a supervisee's application for licensure in sufficient detail to enable the board to evaluate the extent and quality of the supervisee's supervised experience;

(K) provide a level of supervision that is consistent with the education, training, experience, and ability of the supervisee; and

(L) ensure that each client knows that the supervisee is practicing social work or participating in the delivery of social work services under supervision.

(6) Clinical supervision training plan. Each supervisor and supervisee shall develop and co-sign a written clinical supervision training plan at the beginning of the supervisory relationship. The supervisee shall submit an official position description and the training plan to the board and shall receive board approval of the plan before any supervised professional experience hours for clinical licensure can begin to accrue. This plan shall clearly define and delineate the following items:

(A) The supervisory context, which shall include the purpose of supervision;

(B) a summary of the types of clients with whom and the situations in which the supervisee will typically work, as evidenced by the supervisee's official position description;

(C) a plan that describes the supervision goals and objectives, the means to attain and evaluate progress towards the goals, and the manner in which the goals relate to the overall objective of supervision;

(D) the format and schedule for supervision;

(E) the supervisor's responsibilities;

(F) the supervisee's responsibilities;

(G) the plans for both the supervisee's and supervisor's documentation of the date, length, method, content, and format of each supervisory meeting and the supervisee's progress toward the learning goals;

(H) the plans for documenting the 4,000 hours of postgraduate supervised clinical social work experience, which shall include specifically documenting the 1,500 hours of direct client contact providing psychotherapy and assessment;

(I) the plan for notifying clients of the following information:

(i) The fact that the supervisee is practicing social work or participating in the delivery of social work services under supervision;

(ii) the limits of client confidentiality within the supervisory process; and

(iii) the name, address, and telephone number of the supervisor or other person with administrative authority over the supervisee;

(J) a plan to address and remedy circumstances in which there is a conflict between the supervisor and the supervisee;

(K) the date on which the supervisor and supervisee entered into the clinical supervision training plan, the time frame that the plan is intended to encompass, and the process for termination of the supervisory relationship by either party;

(L) the steps for amending or renegotiating the clinical supervision training plan, if warranted, including written notification of these changes to the board office as provided in paragraph (d)(7); and

(M) a statement identifying the person who is responsible for payment, the terms of payment, and the mutual obligations and rights of each party with respect to compensation, if there is any compensation for supervisory services.

(7) Revision of the clinical supervision training plan. All changes to the clinical supervision training plan shall be submitted by the supervisee to the board for its approval. The changes shall be

submitted no more than 45 days after the date on which the changes took effect. If the supervisee fails to submit the changes to the board within that 45-day period, no supervised hours of practice shall be accrued or credited for any practice, beginning on the date the changes took effect through the date on which the changes to the plan are approved by the board. (Authorized by K.S.A. 2007 Supp. 74-7507; implementing K.S.A. 65-6303, 65-6306, 65-6308, K.S.A. 2007 Supp. 65-6309 and 74-7507; effective, T-85-36, Dec. 19, 1984; effective May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended Feb. 25, 1991; amended Oct. 24, 1997; amended Aug. 4, 2000; amended Aug. 13, 2004; amended April 22, 2005; amended Feb. 13, 2009.)

102-2-9. Examinations. (a) Each applicant for licensure by the board shall take an examination approved by the board. The pass criterion score shall be as follows:

(1) At the criterion reference cutoff score for those applicants who take the board-approved, national standardized examination; or

(2) at one standard deviation below the national mean for those applicants who took the examination offered by the educational testing service or the professional examination testing service.

(b) An applicant shall not be authorized to register for an examination until the applicant is within four months of anticipated completion of the applicable academic degree requirements.

(c) Waiver of examination. The written examination requirement may be waived for any applicant, other than an applicant for reinstatement of a revoked or suspended license, if the applicant passed a board-approved, national standardized examination at a level equal to or greater than the pass criterion score.

(d) Each applicant for licensure who fails the examination, or who fails to sit for an exam for which the applicant has registered, shall submit the fee required by K.A.R. 102-2-3 for each subsequent examination for which the applicant has registered. (Authorized by K.S.A. 74-7507; implementing K.S.A. 65-6306 and 74-7507; effective, T-85-36, Dec. 19, 1984; effective May 1, 1985; amended, T-86-39, Dec. 11, 1985; amended May 1, 1986; amended Oct. 24, 1997; amended July 11, 2003.)

102-2-10. (Authorized by K.S.A. 74-7507, as amended by L. 1996, Ch. 153, Sec. 43; implementing K.S.A. 1995 Supp. 65-6311 and K.S.A.

65-6313; effective, T-85-36, Dec. 19, 1984; effective May 1, 1985; amended May 1, 1987; amended Oct. 24, 1997; revoked June 8, 2007.)

102-2-11. Renewal and reinstatement.

(a) To be considered for license renewal, each licensee shall submit the completed renewal application forms, the supporting continuing education documents, and the renewal fee as prescribed in K.A.R. 102-2-3 to the board.

(b) At the time of renewal, each licensee shall submit a continuing education reporting form listing the required number of units of continuing education completed as required in K.A.R. 102-2-4a and K.A.R. 102-2-5.

(c) At the time of renewal, each applicant for renewal or reinstatement of a license shall submit, in a format approved by the board, evidence of having completed the required ethics training program.

(d) As part of the required continuing education, each applicant for renewal or reinstatement of a licensee as a licensed master social worker or a licensed specialist clinical social worker, shall submit, in a format approved by the board, evidence of having completed the required continuing education units related to the diagnosis and treatment of mental disorders.

(e) If the licensee does not submit a completed application for renewal in a timely manner, including all supporting documents and the required fee, the license may be reinstated after the board receives the following:

- (1) A completed reinstatement application;
- (2) the required renewal fee, plus a penalty equal to the renewal fee; and
- (3) proof satisfactory to the board of compliance with the continuing education requirements.

(f) Each licensee who fails to renew the license in a timely manner and who thereafter applies for license reinstatement shall indicate whether or not the individual has practiced in Kansas as a social worker or has held forth as performing the services of a social worker after expiration of the license and, if so, under what circumstances. (Authorized by K.S.A. 74-7507; implementing K.S.A. 65-6311, K.S.A. 65-6313, K.S.A. 65-6314, and K.S.A. 65-6317; effective, T-85-36, Dec. 19, 1984; effective May 1, 1985; amended, T-86-39, Dec. 11, 1985; amended May 1, 1986; amended May 1, 1987; amended Oct. 24, 1997; amended Aug. 4, 2000; amended July 11, 2003.)

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.)

102-2-13. Licensee consult with physician when determining symptoms of mental disorders. (a) Each licensed specialist clinical social worker or licensed master social worker who has a client with symptoms of a mental disorder shall, upon the signed consent of the client, consult with the client's physician or psychiatrist, except when a client requests in writing that consultation with a physician be waived.

(b) The consult with a client's physician or psychiatrist may occur through face-to-face contact, telephonic contact, or correspondence by the licensee with the physician, the physician's assistant, or designated nursing staff. When initiating this contact, the licensee shall not be responsible for the medical professional's response, or for the client's compliance with any related intervention made by the medical professional.

(c) If a licensee is practicing in a setting or contract arrangement that involves a person licensed to practice medicine and surgery for review of mental health treatment, a physician consult may be completed through medical involvement

completed in accordance with the established procedure of the setting or with the contract arrangement.

(d) If a licensee is practicing in a licensed community mental health center or its affiliate, an agency of the state, or an agency licensed by the state to provide mental health, rehabilitative, or correctional services, a physician consult shall not be required beyond the procedures for medical involvement as established by the qualifying agency.

(e) If a licensee is offering services that do not include diagnosis and treatment of a mental disorder, a physician consult shall not be required.

(f) If a client requests in writing that consultation with a physician be waived, a physician consultation shall not be required if the waiver signed by the client is included in the client's record. (Authorized by K.S.A. 1999 Supp. 74-7507; implementing K.S.A. 1999 Supp. 65-6306, as amended by L. 1999, Ch. 117, Sec. 12; effective Aug. 4, 2000.)

102-2-14. Designation of referral source for use in the diagnosis and treatment of mental disorders. The "diagnostic and statistical manual of mental disorders," fifth edition, published by the American psychiatric association, shall be designated as the manual to diagnose and treat mental disorders. (Authorized by K.S.A. 65-6306, K.S.A. 65-6319, and K.S.A. 74-7507; implementing K.S.A. 65-6306 and 65-6319; effective Aug. 4, 2000; amended April 22, 2005; amended March 15, 2019.)

102-2-15. Services rendered to individuals located in this state. Except as authorized by K.S.A. 65-6303, and amendments thereto, each person, regardless of the person's location, who engages in either of the following activities shall be deemed to be engaged in social work practice in this state and shall be required to have a license, issued by the board, to practice social work as a LBSW, a LMSW, or a LSCSW, as appropriate:

(a) performs any act included in subsection (b) of K.S.A. 65-6302, and amendments thereto, on or for one or more individuals located in this state; or

(b) represents oneself to be a social worker available to perform any act included in subsection (b) of K.S.A. 65-6302, and amendments thereto, on or for one or more individuals located in this state. (Authorized by K.S.A. 2000 Supp. 74-7507; implementing K.S.A. 65-6303, 65-6307 and K.S.A. 2000 Supp. 65-6308; effective May 11, 2001.)

Article 3.—PROFESSIONAL COUNSELORS; FEES

102-3-1. (Authorized by and implementing K.S.A. 1989 Supp. 74-7507; effective, T-102-6-13-88, June 13, 1988; effective, T-102-10-17-89, Oct. 17, 1989; effective Feb. 25, 1991; revoked Dec. 19, 1997.)

102-3-1a. Definitions. (a) “Academic equivalent of a semester hour,” as used in K.A.R. 102-3-3a, means the prorated, proportionate credit for formal academic coursework when the coursework is completed on the basis of trimester or quarter hours rather than semester hours.

(b) “Board” means the behavioral sciences regulatory board.

(c) “Client” means a person who is a direct recipient of professional counseling services.

(d) “Client contact” means face-to-face interaction between the counselor and client or clients.

(e) “Clinical professional counselor practice” means the professional application of professional counseling theory and methods to the treatment and prevention of psychosocial dysfunction, disability, or impairment, including behavioral, emotional, and mental disorders. Clinical professional counseling shall include the following:

- (1) Assessment;
- (2) diagnosis of mental disorders;
- (3) planning and treatment, which may include psychotherapy and counseling;
- (4) treatment intervention directed to interpersonal interactions, intrapsychic dynamics, and life management issues;
- (5) consultation; and
- (6) evaluation, referral, and collaboration.

(f) “Clinical supervision training plan” means 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) “Consultation” means a voluntary, professional relationship in which the consultant offers the consultee’s best advice and expertise that the consultee can either accept or reject and in which the objectives and requirements of supervision as established in K.A.R. 102-3-7a are lacking. Professional counseling consultation shall not be substituted for supervision.

(h) “Continuing education” means formally organized programs or activities that are designed to and have content intended to enhance the profes-

sional counselor’s or clinical professional counselor’s knowledge, skill, values, ethics, and ability to practice as a professional counselor or as a clinical professional counselor.

(i) “Dual relationship” means a professional relationship in which the objectivity or competency of the licensee is impaired or compromised because of any of the following present or previous relationships with the client or supervisee:

- (1) Familial;
- (2) sexual;
- (3) emotional; or
- (4) financial.

(j) “Extenuating circumstances” means any condition that is caused by any unexpected event that is beyond the individual’s control.

(k) “Job orientation” or “on-the-job training” means a training program or presentation of information that is so specific to a particular job or employment position that it bears no generalization to any other work setting.

(l) “Malfeasance” means doing an act that a licensee should not do.

(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 professional 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 professional 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) “One year of professional experience” means a total of 2,000 clock hours of postgraduate supervised experience in professional counseling.

(q) “Practice setting” means any public or private counseling service agency or delivery system within which professional counseling is practiced or professional counseling services are delivered.

(r) “Practicum” or “internship” means a formal component of an academic curriculum in the professional counseling program that engages the student in supervised, professional counseling practice and provides opportunities to apply classroom learning to actual practice situations in a field setting.

(s) “Professional counseling supervision” means a formal relationship between the supervisor and supervisee that promotes the development of responsibility, skill, knowledge, attitudes, and ethical standards in the practice of professional counseling.

(t) “Prior-approved continuing education” means any of the following forms of continuing education:

(1) Any single-program material that has been submitted by a provider to the board, approved by the board, and assigned a continuing education number;

(2) any program offered by a provider with approved-provider status; or

(3) academic counseling courses audited or taken for credit.

(u) “Semester hour,” as used in K.A.R. 102-3-3a, means a minimum of 13 clock hours of formal didactic classroom instruction that occurred over the course of an academic semester and for which the applicant received formal graduate academic credit.

(v) “Termination of the professional counseling relationship” means the end of the professional relationship resulting from any of the following:

(1) The mutual consent of the counselor and the client;

(2) the completion of counseling services;

(3) dismissal of the counselor by the client;

(4) dismissal of the client by the counselor; or

(5) the transfer of the client to another professional for active treatment or therapy with the belief that treatment will continue.

(w) “Under the direction” means the formal relationship between the individual providing direction and the licensed professional counselor in which both of the following conditions are met:

(1) The directing individual provides the licensee, commensurate with the welfare of the client and the education, training, and experience of the licensee, with the following:

(A) Professional monitoring and oversight of the professional counseling services provided by the licensee;

(B) regular and periodic evaluation of treatment provided to clients by the licensee; and

(C) verification that direction was provided to the licensee.

(2) The licensee receiving direction provides the board with the following for each license renewal:

(A) The name, identifying information, and type of license of the directing individual;

(B) a description of the work setting and the professional counseling services conducted under direction; and

(C) documentation that direction was given, including dates, location, and length of time as verified by the directing individual.

(x) “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 either of the following reasons:

(1) To improperly influence or change the actions or decisions of a client or supervisee; or

(2) to exploit a client or supervisee for the counselor’s or a third party’s financial gain, personal gratification, or advantage. (Authorized by and implementing K.S.A. 1999 Supp. 74-7507; effective Dec. 19, 1997; amended Aug. 4, 2000.)

102-3-2. Fees. (a) Each applicant for licensure as a professional counselor or clinical professional counselor shall pay the appropriate fee or fees as follows:

(1) Application for a professional counselor license, \$50;

(2) application for a clinical professional counselor license, \$50;

(3) original professional counselor license, \$150;

(4) original license fee for a clinical professional counselor, \$150;

(5) renewal of a professional counselor license, \$100;

(6) renewal of a clinical professional counselor license, \$125;

(7) replacement of a professional counselor or a clinical professional counselor wall certificate, \$20;

(8) reinstatement of a professional counselor license that has been suspended or revoked, \$100;

(9) reinstatement of a clinical professional counselor license that has been suspended or revoked, \$125;

(10) temporary professional counselor license, \$50;

(11) temporary, 15-day permit for an out-of-state licensed independent clinical professional counselor, \$200; or

(12) temporary, 15-day permit for an out-of-state licensed independent clinical professional counselor extension, \$200.

(b) Each applicant for renewal of a professional counselor license after its expiration date shall pay the reinstatement fee in addition to the late renewal penalty fee of \$100.

(c) Each applicant for renewal of a clinical professional counselor license after its expiration date shall pay the reinstatement fee in addition to the late renewal penalty fee of \$125.

(d) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 65-5807a, 65-5808, and 74-7507; implementing K.S.A. 65-5804a, 65-5807a, and 65-5808; effective, T-88-45, Nov. 10, 1987; amended, T-102-11-29-90, Nov. 29, 1990; amended Jan. 21, 1991; amended Aug. 4, 1995; amended Oct. 24, 1997; amended Aug. 4, 2000; amended July 1, 2005; amended, T-102-7-2-07, July 2, 2007; amended Nov. 30, 2007; amended March 8, 2019.)

102-3-3. (Authorized by K.S.A. 1989 Supp. 74-7507; implementing K.S.A. 1989 Supp. 65-5804; effective, T-102-6-13-88, June 13, 1988; effective, T-102-10-17-89, Oct. 17, 1989; effective Feb. 25, 1991; revoked Dec. 19, 1997.)

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 doctor-

al 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.)

102-3-4. (Authorized by K.S.A. 1989 Supp. 74-7507; implementing K.S.A. 1989 Supp. 65-5805; effective, T-102-6-13-88, June 13, 1988; effective, T-102-10-17-89, Oct. 17, 1989; effective Feb. 25, 1991; revoked Dec. 19, 1997.)

102-3-4a. Applications for licensure. (a) Each applicant for licensure as a professional counselor or clinical professional counselor shall

request the appropriate licensure application forms from the director of the board.

(b) Each applicant for licensure as a professional counselor shall submit the completed application materials to the board and complete the following application procedures:

(1) Submit the full payment of the licensure application fee as provided in K.A.R. 102-3-2;

(2) submit, on board-approved forms, references from three individuals, one of whom shall have provided direct clinical supervision of the applicant's graduate program practicum or internship. If this individual is unavailable, the graduate program director or any person who has knowledge of the applicant's practicum or internship experience on the basis of the applicant's practicum or internship records shall submit the reference. Except as specified below in paragraph (b)(2)(C), each individual submitting a reference shall meet all of the following conditions:

(A) Is not related to the applicant;

(B) can address the applicant's professional conduct, competence, and merit of the public trust; and

(C) is authorized by law to practice professional counseling or to practice in a related field. However, this paragraph shall not apply to the individual specified above in paragraph (b)(2) who submits the reference if the supervisor of the practicum or internship is unavailable;

(3) arrange for the applicant's transcripts covering all applicable graduate 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

(4) demonstrate satisfactory completion of graduate educational requirements as specified in K.S.A. 65-5804a, and amendments thereto, and in K.A.R. 102-3-3a.

(c) Each applicant for licensure as a clinical professional counselor shall submit the completed application materials to the board and complete the following application procedures:

(1) Submit the full payment of the licensure application fee as provided in K.A.R. 102-3-2;

(2) demonstrate that the applicant is licensed by the board as a professional counselor or meets all requirements for licensure as a professional counselor;

(3) if not previously provided to the board, submit, on board-approved forms, references from three individuals, one of whom shall have provided direct clinical supervision of the applicant's graduate program practicum, internship, or postgraduate work experience. If the individual who provided the clinical supervision is unavailable, the graduate program director or any person who has knowledge of the applicant's practicum, internship, or postgraduate work experience on the basis of the applicant's records shall submit the reference. At least one reference shall be from a licensed clinical professional counselor. Each individual submitting a reference shall meet all of the following conditions:

(A) Is not related to the applicant; and

(B) can address the applicant's professional conduct, competence, and merit of the public trust;

(4) if not previously provided to the board, arrange for the applicant's transcripts covering all applicable graduate 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;

(5) for persons earning a degree in professional counseling before July 1, 2003, demonstrate satisfactory completion of educational requirements as specified in K.S.A. 65-5804a, and amendments thereto, and in K.A.R. 102-3-3a, if this documentation has not been provided to the board previously;

(6) for any applicant earning a degree in professional counseling on or after July 1, 2003, demonstrate completion of graduate education requirements as specified in K.S.A. 65-5804a, and amendments thereto, and in K.A.R. 102-3-3a. If an applicant who earns a degree in professional counseling on or after July 1, 2003 has not completed the 350 hours of clinical practice required by K.S.A. 65-5804a(c)(1), and amendments thereto, as a part of a graduate-level practicum or internship, the applicant may complete this requirement through 350 hours of postgraduate, supervised experience as set out in K.A.R. 102-3-7a, in addition to the 4,000 hours of postgraduate, supervised experience required by K.S.A. 65-5804a(c)(1); and

(7) submit an attestation from the clinical supervisor that the applicant has satisfactorily com-

pleted the postgraduate supervised professional experience requirements in accordance with a clinical supervision training plan approved by the board as specified in K.A.R. 102-3-7a.

(d) The following provisions shall apply to each applicant for licensure as a professional counselor and to each applicant for licensure as a clinical professional counselor:

(1) Upon the board's determination that the applicant has met the applicable educational requirements, each applicant shall pass the appropriate, nationally administered, standardized written examination approved by the board in accordance with K.A.R. 102-3-5a.

(2) An applicant or prospective 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, each applicant shall submit the fee as provided in K.A.R. 102-3-2 for the original, two-year licensure period.

(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 the application 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.
- (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 for licensure.

(e)(1) Any applicant who is determined by the board to meet the requirements of K.S.A. 65-5804a, 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 provided in K.A.R. 102-3-2. Except as provided in paragraph (e)(2), the temporary license shall remain in effect for six months.

(2) Any applicant whose six-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) Any person who has been actively engaged in the practice of professional counseling as a licensed or registered professional counselor in Kansas at any time within the five years before July 1, 2000, may apply for a license as a clinical professional counselor by submitting transition application materials to the board and completing the following application procedures:

- (1) Submit the completed transition application materials;
- (2) submit the full payment of the licensure application fee as provided in K.A.R. 102-3-2;
- (3) demonstrate that the applicant held a Kansas license or registration as a professional counselor in good standing at any time during the five years immediately before July 1, 2000;
- (4) demonstrate active engagement in the practice of professional counseling at any time during the five years immediately before July 1, 2000; and
- (5) demonstrate competence to diagnose and treat mental disorders by documenting completion of at least two of the three following requirements:

(A)(i) Completion of at least nine graduate semester credit hours, or their academic equivalent, as documented on the transcript, which shall address clinical theory, assessment, and treatment issues, including three semester credit hours, or their academic equivalent, addressing psychopathology; or

(ii) passage of the national clinical examination in professional counseling as specified by K.A.R. 102-3-5a at the time of taking the examination;

(B) three years of clinical practice, including at least eight hours of client contact per week for at least nine months of each year in a community mental health center or its affiliate, a state mental hospital, or any other setting in which the applicant engaged in clinical practice that included diagnosis or treatment of mental disorders; or

(C) one attestation, on a form provided by the board, from a person licensed by the board to diagnose and treat mental disorders at the independent level or a person licensed to practice medicine and surgery, that the applicant has demonstrated competence in the diagnosis and treatment of mental disorders.

(g) For purposes of this regulation, the term “extenuating circumstances” means 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 timeframes established by this regulation or K.S.A. 65-5804a, and amendments thereto; or

(2) the inadvisability of requiring the applicant to comply with the requirements of this regulation within the timeframes established by this regulation and K.S.A. 65-5804a, and amendments thereto. (Authorized by K.S.A. 2005 Supp. 74-7507; implementing K.S.A. 65-5804a, as amended by 2006 SB 470, §1, and K.S.A. 65-5808; effective Dec. 19, 1997; amended Aug. 4, 2000; amended July 19, 2002; amended Aug. 12, 2005; amended, T-102-7-5-06, July 5, 2006; amended Oct. 27, 2006.)

102-3-4b. Application for licensure based on reciprocity. (a) Each individual who wishes to be licensed as a professional counselor or a clinical professional counselor based on reciprocity, as provided by K.S.A. 65-5807 and amendments thereto, shall submit an application for licensure in accordance with the provisions of this regulation.

(b) Each applicant for licensure as a professional 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 shall submit payment in full

of the application for a license fee, as provided in K.A.R. 102-3-2.

(2) The applicant shall forward to the licensing agency for the jurisdiction in which the applicant is currently licensed, certified, or registered as a professional counselor a form provided by the board on which the licensing agency is to provide the following documentation:

(A) Verification that the applicant currently holds a valid license, registration, or certification to practice professional counseling issued by the licensing agency;

(B) the date on which the applicant was initially licensed, registered, or certified as a professional 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 under the provisions of paragraph (a)(2) of K.S.A. 65-5807 and amendments thereto, the applicant shall ensure that documentation covering the five continuous years of licensure, registration, or certification as a professional 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;

(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” means 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; and

(D) either verification that the standards for licensure, certification, or registration as a professional counselor in that jurisdiction are substantially equivalent to the standards in Kansas or verification that the applicant has earned a master’s degree in professional counseling, the date on which the applicant earned the degree, and the name of the university or college granting the degree.

The completed form shall be returned to the board by the licensing agency and shall not be forwarded to the applicant.

(3) If the applicant is seeking licensure based on reciprocity under the provisions of paragraph (a)(2) of K.S.A. 65-5807, and amendments thereto, rather than on the basis that the standards for li-

censure, registration, or certification are substantially equivalent to the standards for licensure as a professional counselor in Kansas, the applicant shall ensure that following additional documentation is submitted:

(A) An attestation by the applicant that the applicant engaged in the professional practice of professional counseling an average of at least 15 hours per week for nine months during each of the five years immediately preceding the date of application for licensure based on reciprocity; and

(B) if the licensing agency does not provide verification that the applicant holds a master's degree in professional counseling, an original transcript sent directly from the university or college granting the degree that identifies all applicable graduate coursework and the date on which the applicant was granted a master's degree in professional counseling.

(c) In addition to complying with the requirements of subsection (b), each applicant for licensure as a clinical professional counselor shall demonstrate competence to diagnose and treat mental disorders by submitting at least two of the following three 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 mental disorders, including the following coursework:

(i) Two graduate semester hours of discrete coursework in ethics;

(ii) two graduate semester hours 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 of assessment instruments that support diagnosis; 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 per week during nine months or more of each year, in a community mental health center or its affiliate, a state mental hospital, or another employment setting in which the applicant engaged in clinical practice that included diagnosis or treatment of mental disorders; or

(B) an attestation by the applicant that the applicant engaged in a minimum of three years of independent clinical practice that included diagnosis or treatment of mental 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 a minimum of three years; or

(3) an attestation that the applicant has demonstrated competence in diagnosis or treatment of mental disorders and that is signed by a professional licensed to practice medicine and surgery, or by a professional licensed psychologist, a licensed specialist clinical social worker, or another professional licensed to diagnose and treat mental disorders in independent practice. (Authorized by K.S.A. 65-5807, as amended by L. 2003, Ch. 129, Sec. 2, and K.S.A. 74-7507; implementing K.S.A. 65-5807, as amended by L. 2003, Ch. 129, Sec. 2, K.S.A. 65-5808 and 65-5809; effective, T-102-7-1-03, July 1, 2003; effective Oct. 31, 2003.)

102-3-5. (Authorized by K.S.A. 1989 Supp. 74-7507; implementing K.S.A. 1989 Supp. 65-5804; effective, T-102-6-13-88, June 13, 1988; effective, T-102-10-17-89, Oct. 17, 1989; effective Feb. 25, 1991; revoked Dec. 19, 1997.)

102-3-5a. Examinations. (a)(1) An applicant for licensure as a professional counselor shall take a nationally administered, standardized written examination approved by the board. The minimum passing score shall be the criterion-referenced cutoff score.

(2) The applicant's required written examination may be waived by the board if the applicant has successfully passed a nationally administered, standardized written examination deemed by the board to be substantially equivalent to the examination used in this state and if the applicant obtained a score equal to or greater than the criterion-referenced cutoff score.

(3) An applicant shall not be authorized to register for the 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.

(b)(1) An applicant for licensure as a clinical professional counselor shall take a nationally administered, standardized written clinical examination approved by the board. The minimum passing score shall be the criterion-referenced cutoff score.

(2) The applicant's required written clinical examination may be waived by the board if the applicant has successfully passed a standardized written examination deemed by the board to be substantially equivalent to the examination used in this state and if the applicant obtained a score equal to or greater than the criterion-referenced cutoff score.

(3) 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. (Authorized by K.S.A. 1999 Supp. 74-7507; implementing K.S.A. 1999 Supp. 65-5804, as amended by L. 1999, Ch. 117, Sec. 3; effective Dec. 19, 1997; amended Aug. 4, 2000.)

102-3-6. (Authorized by K.S.A. 1989 Supp. 74-7507; implementing K.S.A. 1989 Supp. 65-5803; effective, T-102-6-13-88, June 13, 1988; effective, T-102-10-17-89, Oct. 17, 1989; effective Feb. 25, 1991; revoked Dec. 19, 1997.)

102-3-6a. (Authorized by K.S.A. 1996 Supp. 74-7507; implementing K.S.A. 1996 Supp. 65-5808 and 65-5811; effective Dec. 19, 1997; revoked July 19, 2002.)

102-3-7. (Authorized by K.S.A. 1988 Supp. 74-7507; implementing K.S.A. 1988 Supp. 65-5806; effective, T-102-6-13-88, June 13, 1988; effective, T-102-10-17-89, Oct. 17, 1989; effective Dec. 4, 1989; revoked April 17, 1998.)

102-3-7a. Postgraduate supervised professional experience requirement to be licensed as a clinical professional counselor. In order to be approved by the board for licensure as a clinical professional counselor, the applicant's postgraduate supervised professional experience of professional counseling shall meet all of the following standards. (a) Except as provided in subsection (b), 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 15 hours of direct client contact, specified as follows:

(1) At least 50 hours of one-on-one, individual supervision occurring with the supervisor and supervisee in the same physical space;

(2) at least 100 hours of supervision with one supervisor and no more than six supervisees in the same physical space, except when not practical due to an emergency or other exigent circumstances, at which time person-to-person contact by interactive video or other telephonic means maintaining confidentiality shall be allowed; and

(3) at least two separate clinical supervision sessions per month, at least one of which shall be one-on-one, individual supervision.

(b) Each applicant with a doctor's degree in professional counseling shall complete a minimum of one-half of the postgraduate supervised professional experience requirements as follows:

(1) At least 25 hours of one-on-one, individual supervision occurring with the supervisor and supervisee in the same physical space;

(2) at least 50 hours of supervision with one supervisor and no more than six supervisees in the same physical space, except when not practical due to an emergency or other exigent circumstances, at which time person-to-person contact by interactive video or other telephonic means maintaining confidentiality shall be allowed; and

(3) at least two separate supervisory sessions per month, one of which shall be one-on-one, individual supervision.

(c) The clinical supervisor of a person attaining the 4,000 hours of postgraduate supervised professional experience required for licensure as a clinical professional counselor, at the time of providing supervision, shall meet one of the following qualifying provisions:

(1) The clinical supervisor shall be a clinical professional counselor who is licensed in Kansas or is registered or licensed in another jurisdiction and who has practiced as a clinical professional counselor for two years beyond the supervisor's licensure date.

(2) If a licensed clinical professional counselor is not available, the clinical supervisor may be a person who is qualified by educational coursework and degree for licensure as a clinical professional counselor in Kansas and who has at least five years of postgraduate professional experience in clinical professional counseling.

(3) If a licensed clinical professional counselor is not available, the clinical supervisor may be a

person who is licensed at the graduate level to practice in one of the behavioral sciences, and whose authorized scope of practice permits the independent practice of counseling, therapy, or psychotherapy. The qualifying individual shall not have had less than two years of clinical practice beyond the qualifying licensure date at the time the individual provided the clinical supervision.

(d) In addition to the requirements of subsection (c), each clinical supervisor shall meet these requirements:

(1) Have professional authority over and responsibility for the supervisee's clinical functioning in the practice of professional counseling;

(2) not have a dual relationship with the supervisee;

(3) not be under any sanction from a disciplinary proceeding, unless this prohibition is waived by the board 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 staff member of the supervisee's practice setting or meet the requirements of subsection (e).

(e) 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 a solid 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 to the client and to the practice setting.

(f) Each professional counseling clinical supervisor shall perform the following duties:

(1) Provide oversight, guidance, and direction of the supervisee's clinical practice of professional

counseling by assessing and evaluating the supervisee's performance;

(2) conduct supervision as a process distinct from personal therapy, didactic instruction, or professional 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 a 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 professional counseling under supervision.

(g) Clinical supervision training plan. Each supervisor and supervisee shall develop and co-sign a written clinical supervision training plan on forms provided by the board at the beginning of the supervisory relationship. The supervisee shall submit this plan to the board and shall receive board approval of the plan before any supervised professional experience hours can begin to accrue. This plan shall clearly define and delineate the following items:

(1) The supervisory context;

(2) a summary of the anticipated types of clients and the services to be provided;

(3) the format and schedule of supervision;

(4) 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 otherwise, in the case of emergency; and

(E) an evaluation of the supervisee's progress under clinical supervision;

(5) a plan for notifying clients of the following information:

(A) The fact that the supervisee is practicing professional 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;

(6) the date on which the parties entered into the clinical supervision training plan and the time frame that the plan is intended to encompass;

(7) 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 (h);

(8) the supervisee's informed consent for the supervisor to discuss supervision or performance issues with the supervisee's clients, the supervisee's other professional counseling or employment supervisors, the board, or any other individual or entity to which either the supervisee or the supervisor is professionally accountable; and

(9) a statement signed by each supervisor and supervisee acknowledging that each person has read and agrees to the postgraduate supervised professional experience requirements set forth in this regulation.

(h) 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. 74-7507; implementing K.S.A. 65-5804a; effective April 17, 1998; amended Aug. 4, 2000; amended July 7, 2003; amended Aug. 13, 2004.)

102-3-7b. Requirements for board-approved clinical supervisor; application. (a) Each licensee providing postgraduate clinical supervision shall be a board-approved clinical supervisor. This requirement shall apply to each individual commencing a new supervisory relationship on or after July 1, 2017.

(b) In addition to meeting the requirements in K.S.A. 2016 Supp. 65-5818 and amendments thereto and K.A.R. 102-3-7a, the licensee

shall successfully complete clinical supervision training, which shall be approved by the board and be specific to providing supervision or becoming a supervisor. This training shall include either 15 hours of continuing education in supervision taken within the last six years or one semester credit hour of a graduate-level course on supervision or the academic equivalent at an accredited college or university approved by the board, each of which shall cover the following material:

(1) Roles in and functions of clinical supervision;

(2) models of clinical supervision;

(3) mental health-related professional development;

(4) methods and techniques in clinical supervision;

(5) supervisory relationship issues;

(6) cultural issues in clinical supervision;

(7) group supervision;

(8) legal and ethical issues in clinical supervision; and

(9) evaluation of supervisee competence and the supervision process.

(c) Each licensee applying for approval as a clinical supervisor shall obtain the appropriate application forms from the board and submit the completed application materials to the board.

(d) To maintain approval as a clinical supervisor, each approved clinical supervisor shall successfully complete the required continuing education specified in K.S.A. 2016 Supp. 65-5818, and amendments thereto. (Authorized by K.S.A. 2016 Supp. 74-7507; implementing K.S.A. 2016 Supp. 65-5818; effective, T-102-5-24-17, May 24, 2017; effective Oct. 6, 2017.)

102-3-8. (Authorized by K.S.A. 1988 Supp. 74-7507; implementing K.S.A. 1988 Supp. 65-5806; effective, T-102-6-13-88, June 13, 1988; effective, T-102-10-17-89, Oct. 17, 1989; effective Dec. 4, 1989; revoked Dec. 19, 1997.)

102-3-8a. (Authorized by K.S.A. 1996 Supp. 74-7507; implementing K.S.A. 1996 Supp. 65-5806 and 65-5809; effective Dec. 19, 1997; revoked June 8, 2007.)

102-3-9. (Authorized by K.S.A. 1988 Supp. 74-7507; implementing K.S.A. 1988 Supp. 65-5806; effective, T-102-6-13-88, June 13, 1988; effective, T-102-10-17-89, Oct. 17, 1989; effective Dec. 4, 1989; revoked Dec. 19, 1997.)

102-3-9a. Renewal and reinstatement.

(a) To be considered for license renewal, each licensed professional counselor and licensed clinical professional counselor shall submit to the board the following items:

- (1) A completed renewal application;
- (2) the continuing education reporting form; and
- (3) the renewal fee prescribed in K.A.R. 102-3-2.

(b) If the application for renewal, the continuing education reporting form, and payment of the required fee are not submitted before the date the license expires, the license may be reinstated upon payment of the required renewal fee, plus the late charge set forth in K.A.R. 102-3-2, and submitting proof satisfactory to the board that the applicant has complied with the continuing education requirements.

(c) Each individual who holds a professional counselor license or clinical professional counselor license but who fails to renew the license before its expiration, and who thereafter applies for renewal of the license, shall indicate on the reinstatement application form whether the individual has continued to engage in the practice of professional counseling in Kansas, or has continued to represent that individual in Kansas as a licensed professional counselor or a licensed clinical professional counselor after the expiration of the license and, if so, under what circumstances.

(d) If the license of any individual has been suspended and the individual thereafter makes an application to renew or reinstate the license, the individual shall submit the following:

- (1) A completed reinstatement application on forms approved by the board;
- (2) the required renewal fee and, if applicable, the late charge set forth in K.A.R. 102-3-2;
- (3) proof satisfactory to the board that the applicant has complied with the continuing education requirements;

(4) proof satisfactory to the board that the applicant has complied with the terms of the suspension; and

(5) any materials, information, evaluation or examination reports, or other documentation that the board may request that will enable the board to satisfactorily evaluate and determine whether or not the license should be renewed or reinstated. An applicant's license may be renewed or reinstated after the board considers the following factors:

(A) The extent to which the individual presently merits the public trust;

(B) the individual's demonstrated consciousness of the wrongful conduct that resulted in the license suspension;

(C) the extent of the individual's remediation and rehabilitation in regard to the wrongful conduct that resulted in the license suspension;

(D) the nature and seriousness of the original misconduct;

(E) the individual's conduct after the license suspension;

(F) the time elapsed since the license suspension; and

(G) the individual's present competence in professional counseling knowledge and skills.

(e) If the license of any individual has been revoked and the individual thereafter makes an application to reinstate the revoked license, the individual shall submit the following:

(1) A completed reinstatement application on forms approved by the board;

(2) the required renewal fee and the late charge set forth in K.A.R. 102-3-2;

(3) proof satisfactory to the board that the applicant has complied with the continuing education requirements; and

(4) materials, information, evaluation or examination reports, or other documentation 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 license shall include the following:

(A) The extent to which the individual presently merits the public trust;

(B) the individual's demonstrated consciousness of the wrongful conduct that resulted in revocation of the license;

(C) the extent of the individual's remediation and rehabilitation in regard to the wrongful conduct that resulted in revocation of the license;

(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 competence in professional counseling knowledge and skills. (Authorized by K.S.A. 74-7507; implementing K.S.A. 65-5803, 65-5806, and 65-5808; effective Dec. 19, 1997; amended July 11, 2003.)

102-3-9b. Renewal audit. (a) A random audit of the continuing education documentation for 10 percent of the professional counselor licenses and the clinical professional counselor licenses expiring each month shall be conducted by the board.

(b) Each licensee selected for the random audit shall be notified in writing after the board has received the licensee's renewal application form required by K.A.R. 102-3-9a.

(c) Upon board notification, each renewal applicant shall submit the following to the board within 30 days after the license expiration date:

- (1) The completed renewal audit forms; and
- (2) the original continuing education documents that validate all continuing education units claimed for credit during the current renewal period.

(d) Continuing education units that a renewal applicant earns after board receipt of the renewal application form shall not be approved for continuing education credit for the current renewal period.

(e) Failure to comply with this regulation shall be considered unprofessional conduct. (Authorized by and implementing K.S.A. 65-5806 and K.S.A. 2007 Supp. 74-7507; effective Feb. 13, 2009.)

102-3-10. (Authorized by and implementing K.S.A. 1989 Supp. 74-7507; effective, T-102-6-13-88, June 13, 1988; effective, T-102-10-17-89, Oct. 17, 1989; effective Feb. 25, 1991; revoked Dec. 19, 1997.)

102-3-10a. Continuing education for licensees. (a) Each licensee shall complete 30 hours of documented and approved continuing education oriented to the enhancement of a professional 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 six hours related to the diagnosis and treatment of mental disorders.

(c) One hour of continuing education credit shall consist of at least 50 minutes of classroom instruction between instructor and participant or a minimum of an actual 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 min-

utes 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 professional counseling course, or an academic course oriented to the enhancement of professional 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 professional counseling course, or an academic course oriented to the enhancement of a professional counselor's practice, values, ethics, skills, or knowledge, that is audited. Each licensee may 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, workshop, course, or minicourse. 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, the behavioral sciences, 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 a professional 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 graduate practicum or intern students, applicants for licensure as clin-

ical professional 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 a professional counseling course, seminar, institute, workshop, or mini-course. The maximum number of allowable continuing education hours shall be 10 for documented preparation and presentation time;

(10) the first-time publication of a professional counseling article in a juried professional journal. The maximum number of allowable continuing education hours shall be 10; and

(11) participation in professional organizations or appointment to professional credentialing boards, if the goals of the organizations or boards are clearly related to the enhancement of professional 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) First aid, CPR, infection control, or occupational health and safety courses;

(2) in-service training, if the training is for job orientation or job training, or is specific to the employing agency; or

(3) 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 professional 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. 102-3-11a. 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. 74-7507; implementing K.S.A. 65-5806 and 74-7507; effective Dec. 19, 1997; amended July 11, 2003.)

102-3-11. (Authorized by and implementing K.S.A. 1989 Supp. 65-5807 and K.S.A. 1989 Supp. 74-7507; effective, T-102-6-13-88, June 13, 1988;

effective, T-102-10-17-89, Oct. 17, 1989; effective Feb. 25, 1991; revoked Dec. 19, 1997.)

102-3-11a. Documentation for continuing education. Any of the following original, signed forms of documentation shall be accepted as proof of completion of a continuing education activity: (a) A passing course grade for an academic credit course;

(b) a signed statement, by the instructor, of actual hours attended for an audited academic course;

(c) a signed statement of attendance from the provider of the institute, symposium, workshop, or seminar;

(d) a copy of the article or book chapter and verification of publication or written presentation at a professional meeting. These materials shall be submitted to the board for evaluation and certification or the number of hours of continuing education credit to be granted;

(e) a copy of the academic course syllabus and verification that the course was presented;

(f) 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 workshop, seminar, or program was presented;

(g) a letter from the board giving approval for retroactive continuing education credit;

(h) written verification from the university practicum or intern instructor or other official training director that the licensee supervised undergraduate or graduate students or from the supervisor that the licensee provided supervision;

(i) a copy of the self-directed project. This copy shall be submitted to the board for evaluation and certification of the number of continuing education credit hours to be granted; or

(j) the media format, content title, presenter or sponsor, content description, run time, and activity date when videotapes, audiotapes, computerized interactive learning modules, or telecasts were utilized for continuing education purposes. (Authorized by K.S.A. 1996 Supp. 74-7507; implementing K.S.A. 1996 Supp. 65-5806; effective Dec. 19, 1997.)

102-3-12. (Authorized by and implementing K.S.A. 1988 Supp. 65-5806 and K.S.A. 1988 Supp. 74-7507; effective, T-102-6-13-88, June 13, 1988; effective, T-102-10-17-89, Oct. 17, 1989; effective Dec. 4, 1989; revoked Dec. 19, 1997.)

102-3-12a. Unprofessional conduct. (a) Any license may be suspended, limited, conditioned, qualified, restricted, revoked, not issued, or not renewed upon a finding of unprofessional conduct.

(b) Any of the following acts by a licensed professional counselor, a licensed clinical professional counselor, or an applicant for a professional counselor license or a clinical professional counselor license shall constitute unprofessional conduct:

(1) Obtaining or attempting to obtain a license or registration for oneself or another by means of fraud, bribery, deceit, misrepresentation, or concealment of a material fact;

(2) except when the information has been obtained in the context of confidentiality, failing to notify the board, within a reasonable period of time, that any of the following circumstances apply to any person regulated by the board or applying for a license or registration, including oneself:

(A) 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;

(B) has been subject to any other disciplinary action by any credentialing board, professional association, or professional organization;

(C) 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;

(D) has been convicted of a crime; or

(E) has practiced the licensee's or registrant's profession in violation of the laws or regulations regulating the profession;

(3) knowingly allowing another person to use one's license or registration;

(4) impersonating another person holding a license or registration issued by this or any other board;

(5) having been convicted of a crime resulting from or relating to the licensee's professional practice of professional counseling or clinical professional counseling;

(6) furthering the licensure or registration application of another person who is known or reasonably believed to be unqualified with respect to character, education, or other relevant eligibility requirements;

(7) knowingly aiding or abetting any individual who is not credentialed by the board to represent that individual as a person who is credentialed by the board;

(8) 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;

(9) 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. Any 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;

(10) offering to perform or performing professional counseling, assessments, consultations, or referrals clearly inconsistent or incommensurate with one's training, education or experience or with accepted professional standards;

(11) treating any client, student, directee, or supervisee in a cruel manner;

(12) discriminating against any client, student, directee, or supervisee on the basis of color, race, gender, religion, national origin, or disability;

(13) failing to advise and explain to each client the respective rights, responsibilities, and duties involved in the professional counseling relationship;

(14) failing to provide each client with a description of what the client can expect in the way of services, consultation, reports, fees, billing, and therapeutic regimen or schedule, or failing to reasonably comply with the description;

(15) failing to provide each client with a description of the possible effects of the proposed treatment when the treatment is experimental or when there are clear and known risks to the client;

(16) failing to inform each client, student, directee, or supervisee of any financial interests that might accrue to the professional counselor or clinical professional counselor from a referral to any other service or from using any tests, books, or apparatus;

(17) failing to inform each client that the client is entitled to the same services from a public agency if the professional counselor or clinical

professional counselor is employed by that public agency and also offers services privately;

(18) failing to inform each client, student, directee, or supervisee of the limits of client confidentiality, the purposes for which the information is obtained, and the manner in which the information may be used;

(19) revealing information, a confidence, or a secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records, except when at least one of these conditions is met:

(A) Disclosure is required or permitted by law;

(B) failure to disclose the information presents a clear and present danger to the health or safety of an individual or the public; or

(C) the professional counselor or clinical professional counselor is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of professional counseling or clinical professional counseling, in which case disclosure is limited to that action;

(20) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of these actions:

(A) Electronically recording sessions with that client;

(B) permitting a third-party observation of their activities; or

(C) releasing information concerning a client to a third person, except as required or permitted by law;

(21) failing to protect confidences of, secrets of, or information concerning other persons when providing a client with access to that client's records;

(22) failing to exercise due diligence in protecting the information regarding and the confidences and secrets of the client from disclosure by other persons in one's work or practice setting;

(23) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(24) using alcohol or illegally using a controlled substance while performing the duties or services of a professional counselor or clinical professional counselor;

(25) making sexual advances toward or engaging in physical intimacies or sexual activities with one's client, student, directee, or supervisee;

(26) making sexual advances toward, engaging in physical intimacies or sexual activities with, or

exercising undue influence over any person who, within the past 24 months, has been one's client;

(27) exercising undue influence over any client, student, directee, or supervisee, including promoting sales of services or goods, in a manner that will exploit the client, student, directee, or supervisee for the financial gain, personal gratification, or advantage of oneself or a third party;

(28) 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 the referral of the client or in connection with performing professional counselor or clinical professional counselor services;

(29) permitting any person to share in the fees for professional services, other than a partner, employee, associate in a professional firm, or consultant authorized to practice as a professional counselor or clinical professional counselor;

(30) soliciting or assuming professional responsibility for clients of another agency or colleague without attempting to coordinate continuity of client services with that agency or colleague;

(31) making claims of professional superiority that one cannot substantiate;

(32) guaranteeing that satisfaction or a cure will result from the performance of professional services;

(33) claiming or using any secret or special method of treatment or techniques that one refuses to disclose to the board;

(34) continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the condition, best interests, or preferences of the client;

(35) failing to maintain a record for each client that conforms to the following minimal requirements:

(A) Contains adequate identification of the client;

(B) indicates the client's initial reason for seeking the services of the professional counselor or clinical professional counselor;

(C) contains pertinent and significant information concerning the client's condition;

(D) summarizes the interventions, treatments, tests, procedures, and services that were obtained, performed, ordered, or recommended and the findings and results of each;

(E) documents the client's progress during the course of intervention or treatment provided by the professional counselor;

(F) is legible;

(G) contains only those terms and abbreviations that are comprehensible to similar professional practitioners;

(H) indicates the date and nature of any professional service that was provided; and

(I) describes the manner and process by which the professional counseling or clinical professional counseling relationship terminated;

(36) taking credit for work not personally performed, whether by giving inaccurate or misleading information or failing to disclose accurate or material information;

(37) if engaged in research, failing to fulfill these requirements:

(A) Consider carefully the possible consequences for human beings participating in the research;

(B) protect each participant from unwarranted physical and mental harm;

(C) ascertain that the consent of each participant is voluntary and informed; and

(D) preserve the privacy and protect the anonymity of each subject of the research within the terms of informed consent;

(38) making or filing a report that one knows to be false, distorted, erroneous, incomplete, or misleading;

(39) failing to notify the client promptly when termination or interruption of service to the client is anticipated;

(40) 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;

(41) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;

(42) failing to terminate the professional counseling or clinical professional counseling services when it is apparent that the relationship no longer serves the client's needs or best interests;

(43) if the professional counselor or clinical professional counselor is the owner or custodian of client records, failing to retain these records for at least five years after the date of termination of the professional relationship, unless otherwise provided by law;

(44) supervising or directing in a negligent manner anyone for whom one has supervisory or directory responsibility;

(45) failing to inform a client if professional counseling services are provided or delivered under supervision or direction;

(46) engaging in a dual relationship with a client, student, or supervisee;

(47) failing to inform the proper authorities as provided in K.S.A. 38-2223, and amendments thereto, that one knows or has reason to believe that a client has been involved in harming or has harmed a child, whether by physical, mental, or emotional abuse or neglect or by sexual abuse;

(48) failing to inform the proper authorities as required by K.S.A. 39-1402, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to a resident, as defined by K.S.A. 39-1401(a) and amendments thereto:

(A) Has been or is being abused, neglected, or exploited;

(B) is in a condition that is the result of abuse, neglect, or exploitation; or

(C) is in need of protective services;

(49) failing to inform the proper authorities as required by K.S.A. 39-1431, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to an adult, as defined in K.S.A. 39-1430 and amendments thereto:

(A) Is being or has been abused, neglected, or exploited;

(B) is in a condition that is the result of abuse, neglect, or exploitation; or

(C) is in need of protective services;

(50) intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing the filing of a report or record required by state or federal law, or inducing another person to take any of those actions;

(51) offering to perform or performing any service, procedure, or therapy that, by the accepted standards of professional counseling or clinical professional 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;

(52) practicing professional counseling or clinical professional counseling in an incompetent manner;

(53) practicing professional counseling or clinical professional counseling after one's license expires;

(54) using without a license, or continuing to use after the expiration of a license, any title or abbreviation prescribed by law for use solely by persons currently holding that type or class of license;

(55) diagnosing or treating any client who a professional counselor practicing under direction or a clinical professional counselor has reason to believe is suffering from a mental illness or disease, as opposed to a mental disorder; or

(56) violating any provision of this act or any regulation adopted under it. (Authorized by K.S.A. 2007 Supp. 65-5809 and 74-7507; implementing K.S.A. 2007 Supp. 65-5809; effective Dec. 19, 1997; amended July 19, 2002; amended Jan. 9, 2004; amended Aug. 8, 2008.)

102-3-13. (Authorized by K.S.A. 1988 Supp. 74-7507; implementing K.S.A. 1988 Supp. 65-5805; effective, T-102-6-13-88, June 13, 1988; effective, T-102-10-17-89, Oct. 17, 1989; effective Dec. 4, 1989; revoked Dec. 19, 1997.)

102-3-14. Licensee consult with physician when determining symptoms of mental disorders. (a) “Consult,” as used in K.S.A. 65-5804 and amendments thereto, shall be defined as contact made by the licensee with the appropriate medical professional for the purpose of promoting a collaborative approach to the client’s care and informing the medical professional of the client’s symptoms. This contact shall not be intended to accomplish confirmation of diagnosis. The timing of any such action by the licensee shall be managed in a way that enhances the progress of assessment, diagnosis, and treatment. This consult may or may not be completed in the initial session of service delivery.

(b) A consult with a client’s physician or psychiatrist may occur through face-to-face contact, telephonic contact, or correspondence by the licensee with the physician, the physician’s assistant, or designated nursing staff. When initiating this contact, the licensee shall not be responsible for the medical professional’s response or for the client’s compliance with any related intervention made by the medical professional.

(c) If a licensee is practicing in a setting or contract arrangement that involves a person licensed to practice medicine and surgery for review of mental health treatment, a physician consult may be completed through medical involvement completed in accordance with the established procedure of the setting or with the contract arrangement.

(d) A physician consult shall not be required beyond the procedures for medical involvement as established by the qualifying agency if a licensee is practicing in any of the following:

(1) A licensed community mental health center or its affiliate;

(2) an agency of the state that provides mental health, rehabilitative, or correctional services; or

(3) an agency licensed by the state for providing mental health, rehabilitative, or correctional services.

(e) If a licensee is offering services that do not include diagnosis and treatment of a mental disorder, a physician consult shall not be required. (Authorized by K.S.A. 1999 Supp. 74-7507; implementing K.S.A. 1999 Supp. 65-5804, as amended by L. 1999, Ch. 117, Sec. 3; effective Aug. 4, 2000.)

102-3-15. Designation of referral source for use in the diagnosis and treatment of mental disorders. The “diagnostic and statistical manual of mental disorders,” fifth edition, published by the American psychiatric association, shall be designated as the manual to diagnose and treat mental disorders. (Authorized by K.S.A. 65-5802, K.S.A. 65-5804a, and K.S.A. 74-7507; implementing K.S.A. 65-5804a; effective Aug. 4, 2000; amended April 22, 2005; amended March 15, 2019.)

102-3-16. Services rendered to individuals located in this state. Except as authorized by K.S.A. 65-5807 and K.S.A. 65-5812, and amendments thereto, each person, regardless of the person’s location, who engages in either of the following activities shall be deemed to be engaged in the practice of professional counseling in this state and shall be required to have a license, issued by the board, to practice professional counseling or clinical professional counseling as a licensed professional counselor or a licensed clinical professional counselor, as appropriate:

(a) performs any act included in subsection (b) of K.S.A. 65-5802, and amendments thereto, on or for one or more individuals located in this state; or

(b) represents oneself to be a licensed professional counselor or a licensed clinical professional counselor available to perform any act included in subsection (b) of K.S.A. 65-5802, and amendments thereto, on or for one or more individuals located in this state. (Authorized by K.S.A. 1999 Supp. 74-7507; implementing K.S.A. 65-5803, as amended by L. 1999, Ch. 117, § 2; effective May 11, 2001.)

102-3-17. Definition of “day.” For purposes of determining whether or not a non-resident individual has engaged in the practice of profes-

sional counseling activities or services within this state for more than the 30-day threshold in K.S.A. 65-5812 and amendments thereto, any professional counseling activities or services rendered within any 24-hour period shall count as one day of professional counseling activities and services. (Authorized by K.S.A. 2001 Supp. 74-7507; implementing K.S.A. 2001 Supp. 65-5812; effective July 19, 2002.)

Article 4.—MASTER'S LEVEL PSYCHOLOGISTS

102-4-1. (Authorized by and implementing K.S.A. 74-5370; effective, T-102-2-23-89, Feb. 23, 1989; effective April 3, 1989; amended May 30, 1995; revoked Dec. 19, 1997.)

102-4-1a. Definitions. (a) "Academic equivalent," as used in K.A.R. 102-4-3a, means the proportionate credit awarded for formal academic coursework when this coursework is completed on the basis of trimester credit hours or quarter credit hours rather than semester credit hours.

(b) "Alternate psychology supervisor" means a person who is not licensed or registered as a psychologist in the state or jurisdiction where the supervision occurred, but who satisfies all of the following alternate qualifications:

(1) The supervisor has received a graduate degree in psychology.

(2) The supervisor has practiced as a psychologist for no fewer than two calendar years before supervising the applicant.

(3) The supervisor had legal authority to engage in the independent practice of psychology in Kansas or in the state or jurisdiction where an applicant's supervision occurred.

(c) "Client" means a person who is a direct recipient of master's level psychology services or clinical psychotherapy services.

(d) "Clinical psychotherapy practice" means the independent practice of master's level psychology and the application of psychology theory and methods to the treatment and prevention of psychosocial dysfunction, disability, or impairment, including behavioral, emotional, and mental disorders. Clinical psychotherapy shall include the following:

(1) Assessment;

(2) diagnosis of mental disorders;

(3) planning of treatment, which may include psychotherapy and counseling;

(4) treatment intervention directed at interpersonal interactions, intrapsychic dynamics, and life management issues;

(5) consultation; and

(6) evaluation, referral, and collaboration.

(e) "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 supervisee.

(f) "Consultation" means collegial deliberation within the context of a voluntary, professional relationship in which the consultant offers the consultant's best advice and expertise that the consultee can either accept or reject and in which the objectives and requirements of supervision as established in K.A.R. 102-4-7a are lacking. Professional consultation shall not be substituted for professional psychology supervision and shall not meet the requirements of K.S.A. 74-5362, and amendments thereto, regarding the practice of master's level psychology under the direction of a licensed practitioner.

(g) "Continuing education" means programs or activities that have content designed to enhance a licensee's knowledge, skills, values, ethics, or ability to practice as a master's level psychologist or a clinical psychotherapist.

(h) "Cooperating agency" means a public or private agency, institution, or organization that provides psychological services and that has a prior agreement with an academic institution to participate in a practicum program in compliance with the requirements of K.A.R. 102-4-6a.

(i) "Dual relationship" means a professional relationship in which the objectivity or competency of the licensee is impaired or compromised due to any of the following present or previous relationships with the client or supervisee:

(1) Familial;

(2) sexual;

(3) emotional; or

(4) financial.

(j) "Extenuating circumstances" means conditions caused by unexpected events that are beyond the individual's control.

(k) "Job orientation" or "on-the-job training" means a training program or presentation of information that is so specific to a particular job or employment position that the training or information cannot be generalized to another work setting.

(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 master’s level psychology or clinical psychotherapy as demonstrated by the following personal qualities:

- (1) Good judgement;
- (2) integrity;
- (3) honesty;
- (4) fairness;
- (5) credibility;
- (6) reliability;
- (7) respect for others;
- (8) respect for the laws of the state and the nation;
- (9) self-discipline;
- (10) self-evaluation;
- (11) initiative; and

(12) commitment to the psychology 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 is required to perform.

(p) “Postgraduate work experience” means the postgraduate, supervised practice of psychology that meets the requirements provided in K.A.R. 102-4-7a.

(q) “Practice of psychology,” “practice of master’s level psychology,” and “practice of master’s level psychology or clinical psychotherapy” mean the application by persons trained in psychology of established principles of learning, motivation, perception, thinking, and emotional relationships to problems of behavior adjustment, group relations, and behavior modification. The application of these principles may include the following activities and services:

(1) Counseling and the use of psychological remedial measures with persons having adjustment or emotional problems in the areas of work, family, school, and personal relationships, whether those services are provided to individuals or in groups;

(2) the measuring and testing of personality, intelligence, aptitudes, attitudes, and skills;

(3) the teaching of the subject matter; and

(4) the conducting of research on problems relating to human behavior, except that in all cases involving the care of the sick and ill as defined by the laws of this state, the primary responsibility shall remain with those individuals licensed under the Kansas healing arts board.

(r) “Practicum,” whether entitled a residency, an internship, or a field placement, means a for-

mal component of the academic curriculum in the professional psychology program that engages the student in the supervised, professional practice of psychology and provides opportunities to apply classroom learning to actual practice situations in the field setting.

(s) “Prior-approved continuing education” means any of the following forms of continuing education:

(1) Any single program for which the program material has been submitted by a provider to the board, approved by the board, and assigned a continuing education number;

(2) any program offered by a provider with approved-provider status; or

(3) academic psychology courses audited or taken for credit.

(t) “Professional psychology supervision” means the oversight established in a formal relationship between the supervisor and supervisee for the purpose of developing the supervisee’s responsibility, skill, knowledge, attitudes, and ethical standards in the practice of psychology

(u) “Quarter credit hour” means two-thirds of a semester credit hour. Quarter credit hours shall be rounded as follows:

(1) One quarter credit hour equals .7 semester credit hours.

(2) Two quarter credit hours equal 1.3 semester credit hours.

(3) Three quarter credit hours equal 2.0 semester credit hours.

(4) Four quarter credit hours equal 2.7 semester credit hours.

(5) Five quarter credit hours equal 3.3 semester credit hours.

(v) “Semester credit hour,” as used in K.A.R. 102-4-3a, means a unit of academic credit based on a minimum of 13 clock-hours of formal didactic classroom instruction that occurred over the course of an academic semester and for which the applicant received formal graduate academic credit.

(w) “Substantially equivalent” means equal in value in all essential and material requirements.

(x) “Termination of the professional relationship” means the end of the professional relationship between a licensee and a client resulting from any of the following:

(1) The mutual consent of the licensee and the client;

(2) the completion of the professional services;

(3) the dismissal of the licensee by the client;

(4) the dismissal of the client by the licensee; or

(5) the transfer of the client to another professional for active treatment or therapy with the belief that treatment will continue.

(y) "Trimester credit hour" means a unit of academic credit received under an academic year consisting of three equal terms. A trimester credit hour shall be equivalent to a semester credit hour.

(z) "Under the direction," when used to describe a licensed master's level psychologist, means that the licensee has a formal relationship with an individual providing guidance and oversight in which both of the following conditions are met:

(1) The directing individual provides the licensee with the following, commensurate with the welfare of the client and the education, training, and experience of the licensee:

(A) Professional monitoring and oversight of the licensed master's level psychology services provided by the licensee;

(B) regular and periodic evaluation of the treatment services provided to clients by the licensee; and

(C) verification that guidance and oversight was provided to the licensee.

(2) With each license renewal, the licensee receiving direction provides the board with the following:

(A) The name of the directing individual, the type of license held by the directing individual, and other pertinent identifying information; and

(B) a description of the work setting and the master's level psychology services conducted under direction.

(aa) "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 either of the following purposes:

(1) To improperly influence or change a client's or supervisee's actions or decisions; or

(2) to exploit a client or supervisee for the financial gain, personal gratification, or advantage of the licensee or a third party. (Authorized by and implementing K.S.A. 2007 Supp. 74-7507; effective Dec. 19, 1997; amended Aug. 4, 2000; amended Oct. 27, 2006; amended Dec. 19, 2008.)

102-4-2. Fees. (a) Each applicant or licensee shall pay the appropriate fee or fees as follows:

(1) Application for a master's level psychologist license, \$50;

(2) application for clinical psychotherapist license, \$50;

(3) original master's level psychologist license, \$150;

(4) original clinical psychotherapy license, \$150;

(5) renewal of a master's level psychologist license, \$100;

(6) renewal of a clinical psychotherapist license, \$125;

(7) replacement of a master's level psychologist or a clinical psychotherapist license, \$20;

(8) replacement of a master's level psychologist or a clinical psychotherapist wallet card license, \$2;

(9) reinstatement of a master's level psychologist license after suspension or revocation, \$100;

(10) reinstatement of a clinical psychotherapist license after suspension or revocation, \$125;

(11) temporary master's level psychologist license, \$100;

(12) temporary, 15-day permit for an out-of-state licensed independent clinical master's level psychologist, \$200; or

(13) temporary, 15-day permit for an out-of-state licensed independent clinical master's level psychologist extension, \$200.

(b) Each applicant for reinstatement of a master's level psychologist license after its expiration date shall pay the renewal fee in addition to the penalty fee of \$100.

(c) Each applicant for reinstatement of a clinical psychotherapist license after its expiration date shall pay the renewal fee in addition to the penalty fee of \$125.

(d) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 74-5365, 74-5367, 74-5367a, and 74-7507; implementing K.S.A. 74-5363, 74-5365, 74-5366, 74-5367, and 74-5367a; effective, T-102-2-23-89, Feb. 23, 1989; effective April 3, 1989; amended, T-102-11-29-90, Nov. 29, 1990; amended Jan. 21, 1991; amended Aug. 4, 1995; amended Oct. 24, 1997; amended Aug. 4, 2000; amended July 1, 2005; amended, T-102-7-2-07, July 2, 2007; amended Nov. 30, 2007; amended March 8, 2019.)

102-4-3. (Authorized by K.S.A. 1987 Supp. 74-5370; implementing K.S.A. 1987 Supp. 74-5363, as amended by L. 1988, Ch. 304, Sec. 7, and further amended by L. 1988, Ch. 243, Sec. 16; effective, T-102-2-23-89, Feb. 23, 1989; effective April 3, 1989; revoked Dec. 19, 1997.)

102-4-3a. Educational requirements. To academically qualify for licensure as a master's level psychologist or a clinical psychotherapist, the

applicant's educational qualifications and background shall meet the applicable requirements specified in the following subsections.

(a) Definitions.

(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 physical proximity and 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) Degree requirements. At the time of application, the applicant shall have fulfilled one of the following requirements:

(1) The applicant received a master's degree in psychology based on a program of studies that is substantially equivalent to the coursework requirements provided in subsection (c) if the degree was earned before July 1, 2003 or subsection (e) if the degree was earned on or after July 1, 2003.

(2) The applicant received a master's degree in psychology and has completed the coursework requirements provided in either subsection (c) if the degree was earned before July 1, 2003 or subsection (e) if the degree was earned on or after July 1, 2003.

(3) The applicant passed comprehensive examinations or equivalent final examinations in a doctoral program in psychology and has completed the coursework requirements provided in either subsection (c) if the program was completed before July 1, 2003 or subsection (e) if the program was completed on or after July 1, 2003.

(c) Coursework requirements for applicants who earned a psychology degree before July 1, 2003.

(1) Each applicant shall have satisfactorily completed at least 36 discrete and unduplicated graduate semester credit hours, or the academic equivalent, of formal, didactic academic coursework that is distributed across the coursework areas as specified in this paragraph (c)(1), subject to the restrictions set out in subsection (d). This coursework shall have been completed at the time of application as a part of or in addition to the coursework completed for the graduate degree requirements:

(A) A minimum of six semester credit hours, or the academic equivalent, in psychotherapy that includes an in-depth study of the major theories, principles, and clinical methods and techniques of psychotherapy with individuals, groups, or families. These courses shall be completed while in residence;

(B) a minimum of six semester credit hours, or the academic equivalent, in psychological testing that includes studies in the selection, administration, scoring, and interpretation of objective and projective diagnostic tests as indicators of intelligence and scholastic abilities or as screening devices for organic pathologies, learning disabilities, and personality disturbances. These courses shall be completed while in residence;

(C) a minimum of 12 semester credit hours, or the academic equivalent, in any of the following psychological foundation courses:

(i) The philosophy of psychology, which may include studies that introduce the fundamental philosophical, conceptual, theoretical, or applied processes of psychology and the issues central to professional orientation, role development, ethical and legal standards, and professional responsibility;

(ii) the psychology of perception, which may include studies of memory, language, speech, sensory functioning, motor functioning, reasoning, decision making, problem solving, and other cognitive processes;

(iii) learning theory, which may include studies pertaining to the fundamental theoretical assumptions about and applied principles of learning, conditioning, concept formation, and behavior;

(iv) the history of psychology, which may include studies that trace and analyze the historical development and contemporary evolution of the concepts and theories in psychology;

(v) motivation, which may include studies of the concepts, principles, and empirical findings con-

cerning the innate, biological, and acquired factors that underlie human motivation; or

(vi) statistics, which may include studies in the theory, analysis, and interpretation of statistics, and the manual or computerized application of statistical measures; and

(D) a minimum of 12 semester credit hours, or the academic equivalent, in professional core courses. The professional core courses shall include a minimum of three semester credit hours, or the academic equivalent, in psychopathology, which may include studies that examine the theories, definitions, and dynamics of the diagnostic classifications, and differentiation among diagnostic classifications. This subcategory may also include studies in abnormal psychology or studies that examine the etiological factors, clinical course, and clinical and psychopharmacological approaches to the treatment of mental, behavioral, and personality disorders. The remaining nine semester credit hours, or the academic equivalent, may consist of any of the following professional core courses:

(i) Personality theories, which may include studies that seek to explain or to compare and contrast the major theories of normal and abnormal personality development, functioning, adaptation, and assessment;

(ii) developmental psychology, which may include psychological or biologically based studies that provide a comprehensive overview of the biopsychosocial factors, determinants, and stages that pertain to and impact the physical, emotional, intellectual, and social development and adaptation of humans from infancy through senescence;

(iii) research methods, which may include studies in the principles, techniques, and ethics of research, as well as studies about the identification of research problems, selection of research designs, measurement strategies, sampling techniques, and methods of evaluating the results;

(iv) social psychology, which may include studies of the interactive and influencing effects of social, cultural, and ecological factors upon the emotions, beliefs, attitudes, expectations, roles, behaviors, and interactional dynamics of individuals, families, groups, organizations, and the larger society; or

(v) additional coursework in psychotherapy or psychological testing as specified in this subsection.

(2) In addition to or as a part of the 36 semester hours specified in paragraph (c)(1), each applicant for a clinical psychotherapist license shall have

completed 15 graduate semester credit hours, or the academic equivalent, supporting diagnosis or treatment of mental disorders using the "diagnostic and statistical manual of mental disorders" as specified in K.A.R. 102-4-15. 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 semester credit hours, or the 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 semester credit hours shall be subject to the restrictions set out in subsection (d).

(d) The following activities shall not be substituted for or counted toward any of the educational coursework requirements set out in subsection (c):

(1) Academic courses that the applicant completed as a part of or in conjunction with the undergraduate degree requirements;

(2) independent study courses, whether or not such coursework is taken for academic credit, unless the independent study course clearly occurred as a didactic course formally established and designed by the program to provide the student with specifically identified, organized, and integrated course content;

(3) thesis or independent research courses;

(4) academic courses that, by their experiential rather than didactic nature and content, are designed to precede, satisfy, or augment the practicum activities required for the graduate psychology degree;

(5) academic coursework that has been audited rather than graded;

(6) academic coursework for which the applicant received an incomplete or failing grade;

(7) graduate or postgraduate coursework or training provided by colleges, universities, institutes, or training programs that do not meet the requirements in subsections (f) and (g); and

(8) continuing education, in-service, or on-the-job training activities or experience.

(e) Coursework requirements for applicants who earn a psychology degree on or after July 1, 2003.

(1) As a part of or in addition to the coursework completed for the graduate degree requirements,

each applicant shall have satisfactorily completed at least 60 discrete and unduplicated graduate semester credit hours, or the academic equivalent, of formal, didactic academic coursework in psychology or a related field.

(2) Thirty-six of the 60 required graduate semester credit hours, or the academic equivalent, shall be distributed across the coursework areas as specified in paragraph (c)(1). The coursework specified in paragraphs (c)(1)(A) and (c)(1)(B) shall be completed while the student is in residence.

(3) Of the remaining 24 required graduate semester credit hours, a maximum of six semester credit hours, or the academic equivalent, may be attained through independent study courses or independent research courses, and a maximum of 10 semester credit hours, or the academic equivalent, may be attained through thesis preparation.

(4) In addition to or as a part of the 60 semester hours specified in paragraph (e)(1), each applicant for a clinical psychotherapist license shall have completed 15 graduate semester credit hours, or the academic equivalent, supporting diagnosis or treatment of mental disorders using the “diagnostic and statistical manual of mental disorders” as specified in K.A.R. 102-4-15. 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 semester credit hours, or the 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 semester credit hours, or the academic equivalent, shall be subject to the restrictions set out in paragraph (e)(5).

(5) The following activities shall not be substituted for or counted toward any of the educational coursework requirements set out in this subsection:

(A) Academic courses that the applicant completed as a part of or in conjunction with the undergraduate degree requirements;

(B) academic coursework that has been audited rather than graded;

(C) academic coursework for which the applicant received an incomplete or failing grade;

(D) graduate or postgraduate coursework or training provided by colleges, universities, insti-

tutes, or training programs that do not meet the requirements in subsections (f) and (g); and

(E) continuing education, in-service, or on-the-job training activities or experience.

(f) Program requirements. In order for the applicant to qualify for licensure, the educational program completed by the applicant shall meet all of the following conditions:

(1) The program has formally established program admission requirements that are based upon objective measures.

(2) The program requires and provides an established curriculum that encompasses a minimum of two years of graduate study and that includes two contiguous semesters of enrollment, or the academic equivalent, attended and completed by the student in residence at the same college or university granting the degree.

(3) The program has clear administrative authority and formal responsibility within the program for the core and specialty areas of training in psychology.

(4) The program has an established, organized, and comprehensive sequence of study that is planned by administrators who are responsible for providing an integrated educational experience in psychology.

(5) The program is chaired or directed by an identifiable person who holds a graduate degree that was earned from a regionally accredited college or university following that person’s actual completion of a formal academic training program in psychology.

(6) The program has an identifiable, full-time, professional faculty whose members hold earned graduate degrees in psychology.

(7) The program has an identifiable and formally enrolled body of students.

(8) The ratio of students to core faculty members does not exceed 15 students to one core faculty member.

(9) The program conducts an ongoing, objective review and evaluation of each student’s learning and progress, and the program reports this evaluation in the official student transcripts.

(g) College or university requirements. In order for the applicant to qualify for licensure, the college or university at which the applicant completed the degree requirements shall meet all of the following requirements.

(1) The college or university is institutionally accredited to award the graduate degree in psychology.

(2) The college or university is regionally accredited by an accrediting body substantially equivalent to those agencies that accredit the universities in Kansas.

(3) The college or university documents in its official publications, including course catalogs and announcements, the program description and standards and the admission requirements of the psychology education and training program.

(4) The college or university identifies and clearly describes in pertinent institutional catalogs the coursework, experiential, and other academic program requirements that must be satisfied before the conferral of the graduate degree in psychology.

(5) The college or university clearly identifies and specifies in pertinent institutional catalogs its intent to educate and train psychologists.

(6) The college or university has clearly established a psychology education and training program as a recognized, coherent organizational entity within the college or university that, at the time the applicant's degree requirements were satisfied, met the program standards as provided in subsection (f).

(7) The college or university has conferred the graduate degree in psychology on the applicant, or has advanced the applicant to doctoral candidacy status, following the applicant's successful completion of an established and required formal program of studies. (Authorized by K.S.A. 2005 Supp. 74-7507; implementing K.S.A. 74-5363; effective Dec. 19, 1997; amended Aug. 13, 2004; amended Oct. 27, 2006.)

102-4-4. (Authorized by K.S.A. 74-5370; implementing K.S.A. 74-5363, K.S.A. 74-5366, and K.S.A. 74-5367; effective, T-102-2-23-89, Feb. 23, 1989; effective April 3, 1989; amended Feb. 25, 1991; amended May 30, 1995; revoked Dec. 19, 1997.)

102-4-4a. Applications for licensure. (a) Each applicant for licensure as a master's level psychologist or clinical psychotherapist shall request the appropriate licensure application form from the director of the board.

(b) Each applicant for licensure as a licensed master's level psychologist shall submit the completed application materials to the board and complete the following application procedures:

(1) Submit the full payment of the licensure application fee as provided in K.A.R. 102-4-2

(2) submit, on board-approved forms, references from three individuals, one of whom shall have provided direct clinical supervision of the applicant's graduate program practicum. If the practicum supervisor is unavailable, the graduate program director or any person who has knowledge of the applicant's practicum experience on the basis of the applicant's practicum records shall submit the reference. Except as specified below in paragraph (b)(2)(B), each individual submitting a reference shall meet all of the following conditions:

(A) Is not related to the applicant;

(B) is authorized by law to practice master's level psychology or to practice in a related field. However, this paragraph shall not apply to the individual specified above in paragraph (b)(2) who submits the reference if the practicum supervisor is unavailable; and

(C) can address the applicant's professional conduct, competence, and merit of the public trust;

(3) arrange for the applicant's transcripts covering all applicable graduate 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

(4) demonstrate satisfactory completion of graduate educational requirements as specified in K.A.R. 102-4-3a.

(c) Each applicant for licensure as a clinical psychotherapist shall submit the completed application materials to the board and complete the following application procedures:

(1) Submit the full payment of the licensure application fee as provided in K.A.R. 102-4-2;

(2) if not previously provided to the board, submit, on board-approved forms, references from three individuals, one of whom shall have provided direct clinical supervision of the applicant's graduate program practicum. If the practicum supervisor is unavailable, the graduate program director or any person who has knowledge of the applicant's practicum experience on the basis of the applicant's practicum records shall submit the reference. Except as specified below in paragraph (c)(2)(B), each individual submitting a reference shall meet all of the following conditions:

(A) Is not related to the applicant;

(B) is authorized by law to practice master's level psychology or to practice in a related field.

However, this paragraph shall not apply to the individual specified above in paragraph (c)(2) who submits the reference if the practicum supervisor is unavailable; and

(C) can address the applicant's professional conduct, competence, and merit of the public trust;

(3) demonstrate that the applicant is licensed by the board as a master's level psychologist or meets all requirements for licensure as a master's level psychologist;

(4) if not previously provided to the board, arrange for the applicant's transcripts covering all applicable graduate 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;

(5) demonstrate satisfactory completion of the graduate education requirements specified in K.A.R. 102-4-3a; 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. 102-4-7a.

(d) The following provisions shall apply to each applicant for licensure as a master's level psychologist and to each applicant for licensure as a clinical psychotherapist:

(1) Upon the board's determination that the applicant has met the applicable educational requirements, each applicant shall take the appropriate, nationally administered, standardized written examination approved by the board in accordance with K.A.R. 102-4-5.

(2) An applicant or prospective 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 as provided in K.A.R. 102-4-2 for the original, two-year licensure period.

(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 the application was submitted to the board or on the date the applicant's temporary license expires, which-

ever date is later, except as provided by paragraph (d)(4)(B):

(i) The applicant has not met the qualifications.

(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 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 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 for licensure.

(e) Any applicant who is determined by the board to meet the requirements of K.S.A. 74-5367, 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 provided in K.A.R. 102-4-2. Except as provided in paragraphs (e)(1) and (e)(2), the temporary license shall remain in effect for 24 months.

(1)(A) Except as provided in paragraph (e)(1)(B), the temporary license shall expire after 12 months if the applicant has not taken the examination at least one time.

(B) Any applicant who does not take the examination at least one time during the first 12 months in which the applicant's temporary license is in effect may request that the temporary license remain in effect for the full 24 months on the basis that extenuating circumstances preclude the applicant from taking the examination during the initial 12-month period. 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 end of the initial 12-month period. If the request is approved by the board, the applicant's temporary license shall remain in effect for the remaining 12 months.

(2) Any applicant whose 24-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) Any person who has been engaged in the practice of master's level psychology as a licensed or registered master's level psychologist in Kansas at any time within the five years before July 1, 2000, may apply for a license as a clinical psychotherapist by submitting transition application materials to the board and completing the following application procedures:

(1) Submit the completed transition application form;

(2) submit the full payment of the licensure application fee as provided in K.A.R. 102-4-2;

(3) demonstrate that the applicant held a Kansas license or registration as a master's level psychologist in good standing at any time during the five years immediately before July 1, 2000; and

(4) demonstrate competence to diagnose and treat mental disorders by documenting completion of at least two of the three following requirements:

(A)(i) Completion of at least nine graduate semester credit hours of coursework, or their academic equivalent, as documented on the transcript, which shall address clinical theory, assessment, and treatment issues, including three semester credit hours, or their academic equivalent, addressing psychopathology; or

(ii) passage of the competency examination as specified by K.A.R. 102-4-5a at the time of taking the examination;

(B) three years of clinical practice, including at least eight hours of client contact per week for at least nine months of each year in a community mental health center or its affiliate, a state mental hospital, or any other setting in which the applicant provided clinical services that included diagnosis or treatment of mental disorders; or

(C) one attestation, on a form provided by the board, from a person licensed by the board to diagnose and treat mental disorders at the

independent level or a person licensed to practice medicine and surgery that the applicant has demonstrated competence in the diagnosis or treatment of mental disorders.

(g) For purposes of this regulation, the term "extenuating circumstances" means 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 timeframes established by this regulation or K.S.A. 74-5367, and amendments thereto; or

(2) the inadvisability of requiring the applicant to comply with the requirements of this regulation within the timeframes established by this regulation and K.S.A. 74-5367, and amendments thereto. (Authorized by K.S.A. 2005 Supp. 74-7507; implementing K.S.A. 74-5363 and K.S.A. 74-5367, as amended by 2006 SB 470, §5; effective Dec. 19, 1997; amended Aug. 4, 2000; amended Aug. 13, 2004; amended, T-102-7-5-06, July 5, 2006; amended Oct. 27, 2006.)

102-4-4b. Application for licensure based on reciprocity. (a) Each individual who wishes to be licensed as a master's level psychologist or a clinical psychotherapist based on reciprocity, as provided by L. 2003, Ch. 129, Sec. 1 and amendments thereto, shall submit an application for licensure in accordance with the provisions of this regulation.

(b) Each applicant for licensure as a master's level psychologist 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 shall submit payment in full of the application for a license fee, as provided in K.A.R. 102-4-2.

(2) The applicant shall forward to the licensing agency for the jurisdiction in which the applicant is currently licensed, certified, or registered as a master's level psychologist a form provided by the board on which the licensing agency is to provide the following documentation:

(A) Verification that the applicant currently holds a valid license, registration, or certification to practice psychology at the master's level issued by the licensing agency;

(B) the date on which the applicant was initially licensed, registered, or certified as a master's

level psychologist 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 under the provisions of paragraph (a)(2) of L. 2003, Ch. 129, Sec. 1 and amendments thereto, the applicant shall ensure that documentation covering the five continuous years of licensure, registration, or certification as a master's level psychologist 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;

(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" means 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; and

(D) either verification that the standards for licensure, certification, or registration as a master's level psychologist in that jurisdiction are substantially equivalent to the standards in Kansas or verification that the applicant has earned a master's degree in psychology, the date on which the applicant earned the degree, and the name of the university or college granting the degree.

The completed form shall be returned to the board by the licensing agency and shall not be forwarded to the applicant.

(3) If the applicant is seeking licensure based on reciprocity under the provisions of paragraph (a) (2) of L. 2003, Ch. 129, Sec. 1, and amendments thereto, rather than on the basis that the standards for licensure, registration, or certification are substantially equivalent to the standards for licensure as a master's level psychologist in Kansas, the applicant shall ensure that following additional documentation is submitted:

(A) An attestation by the applicant that the applicant engaged in the professional practice of psychology at the master's level an average of at least 15 hours per week for nine months during each of the five years immediately preceding the date of application for licensure based on reciprocity; and

(B) if the licensing agency does not provide verification that the applicant holds a master's degree in psychology, an original transcript sent directly

from the university or college granting the degree that identifies all applicable graduate coursework and the date on which the applicant was granted a master's degree in psychology.

(c) In addition to complying with the requirements of subsection (b), each applicant for licensure as a clinical psychotherapist shall demonstrate competence to diagnose and treat mental disorders by submitting at least two of the following three 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 mental disorders using the diagnostic and statistical manual of mental disorders as specified in K.A.R. 102-4-15. Three of the 15 credit hours 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 credit hours shall consist of academic courses with the primary and explicit focus of diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches, and professional ethics, or coursework that specifically contains identifiable, equivalent instruction; 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 per week during nine months or more of each year, in a community mental health center or its affiliate, a state mental hospital, or another employment setting in which the applicant engaged in clinical practice that included diagnosis or treatment of mental disorders; or

(B) an attestation by the applicant that the applicant engaged in a minimum of three years of independent clinical practice that included diagnosis or treatment of mental 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 a minimum of three years; or

(3) an attestation that the applicant has demonstrated competence in diagnosis or treatment of mental disorders and that is signed by a professional licensed to practice medicine and surgery, or by a professional licensed psychologist, a licensed specialist clinical social worker, or another professional licensed to diagnose and treat mental disorders in independent practice. (Authorized by L. 2003, Ch. 129, Sec. 1, K.S.A. 74-5370 and 74-7507; implementing L. 2003, Ch. 129, Sec. 1, K.S.A. 74-5365, and 74-5369; effective, T-102-7-1-03, July 1, 2003; effective Oct. 31, 2003.)

102-4-5. (Authorized by K.S.A. 74-5370; implementing K.S.A. 74-5369; effective, T-102-2-23-89, Feb. 23, 1989; effective April 3, 1989; amended May 30, 1995; revoked Dec. 19, 1997.)

102-4-5a. Examination requirements.

Each applicant who submits an application for licensure as a master's level psychologist or a clinical psychotherapist shall be required to qualify for licensure by examination. Each applicant submitting an application for licensure shall take a nationally administered, standardized written examination approved by the board. (a)(1) The pass score for licensure as a master's level psychologist shall be not less than 60 percent correctly answered items.

(2) The pass score for licensure as a clinical psychotherapist shall be not less than 70 percent correctly answered items.

(b) Upon receiving board notification of the applicant's educational eligibility to be seated for the licensure examination, the applicant shall submit the examination registration forms and fee in the manner and within any deadlines established by the board.

(c) For each examination registration or seating opportunity the applicant attempts, the applicant shall submit by board-established deadlines the required registration form and a separate examination fee made payable to the examination service.

(d) Each applicant who fails a required examination for which the applicant has been registered shall submit, by board-established deadlines, the required registration form and the examination fee made payable to the examination service for each

subsequent examination for which the applicant registers. If an applicant fails to sit for an examination for which the applicant has been registered, the applicant may register for a subsequent examination by submitting the required registration form within board-established deadlines.

(e) The written examination shall be waived by the board if the applicant has passed, at a level equal to or greater than the applicable pass score indicated above in paragraph (a)(1) or (2), a nationally administered, standardized written examination deemed by the board to be substantially equivalent to the examination approved by the board.

(f) An applicant shall not be authorized to register for the examination or 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. (Authorized by K.S.A. 1999 Supp. 75-7507; implementing K.S.A. 1999 Supp. 74-5363, as amended by L. 1999, Ch. 117, Sec. 32; effective Dec. 19, 1997; amended Aug. 4, 2000.)

102-4-6. (Authorized by and implementing K.S.A. 74-5370; effective, T-102-2-23-89, Feb. 23, 1989; effective April 3, 1989; amended May 30, 1995; revoked Dec. 19, 1997.)

102-4-6a. Academically supervised practicum. In order to satisfy K.S.A. 74-5363(b) (4), and amendments thereto, by means of completing 750 clock-hours of an academically supervised practicum in the applicant's psychology master's degree program, the applicant shall meet the requirements in this regulation.

(a) Practicum requirements. The applicant's practicum experience shall meet all of the following minimal requirements. The practicum shall meet these provisions:

(1) Have been completed by the applicant in fulfillment of the requirements for the applicant's master's degree in psychology or clinical psychology that was conferred by an academic institution that satisfies the college or university requirements provided in K.A.R. 102-4-3a;

(2) have constituted a formal and integrated component of an academic psychology training program that satisfies the program and coursework requirements as provided in K.A.R. 102-4-3a;

(3) have consisted of at least 750 clock-hours of academically supervised experience acceptable to the board;

(4) have occurred after the applicant satisfactorily completed the practicum prerequisite psychology coursework;

(5) have been supervised as provided in subsection (b); and

(6) have consisted of a formal, academically supervised placement in a cooperating agency that meets these requirements:

(A) Identified students, interns, or residents as being in training and not as staff; and

(B) by its nature and function, provided the applicant with the opportunity to participate in the practice of psychology through a broad range of supervised experiences that included the following practice activities and experiences:

- (i) Diagnosis;
- (ii) measuring and testing personality, intelligence, aptitudes, attitudes, and skills;
- (iii) interdisciplinary collaboration and consultation; and
- (iv) treatment interventions with a client or patient population presenting a diverse set of problems and backgrounds.

(b) Practicum supervision requirements. In order for the applicant's academic practicum to be approved by the board, the practicum supervisor or supervisors at the time of the practicum supervision shall have satisfied all of the following requirements.

(1) The supervisor was licensed, registered, or certified to practice psychology or qualified as an alternate psychology supervisor as defined in K.A.R. 102-4-1a.

(2) The supervisor had at least partial professional responsibility for the applicant's supervised practice of psychology.

(3) The supervisor had no familial or other dual relationship with the applicant.

(4) The supervisor had a supervisory relationship that was clearly differentiated from that of consultant.

(5) The supervisor was available at the points of decision making regarding the diagnosis and treatment of clients.

(6) The supervisor provided the applicant with on-site supervision that included a minimum of one hour of face-to-face, individual supervision for each 10 hours of the applicant's direct patient or client contact.

(c) During the time of supervision, the practicum supervisor shall not have been subject to disciplinary action by the licensing, registering, or certifying authority, unless this provision is waived

by the board upon prior application by the proposed supervisor.

(d) Credit toward the 750 clock-hours of practicum shall not be approved by the board for any of the following experiences or activities:

(1) Practicum experiences completed in fulfillment of the requirements established by training programs, institutes, colleges, or universities that do not qualify under the program requirements and the college or university requirements provided in K.A.R. 102-4-3a;

(2) academic practicum hours taken after the completion of the master's degree in psychology or clinical psychology;

(3) practicum experiences that do not qualify under the practicum requirements and the practicum supervision requirements as provided in subsections (a) and (b);

(4) postgraduate supervised work experience;

(5) postgraduate job orientation or on-the-job training;

(6) research or thesis activities or experience;

(7) teaching activities or experience;

(8) didactic coursework;

(9) simulated classroom activities or exercises;

(10) simulated laboratory experiences;

(11) field activities that are strictly observational rather than experiential in nature; or

(12) any supervised practicum hours during which the applicant's performance as evaluated by the practicum supervisor is determined by the board to be unacceptable. (Authorized by K.S.A. 2007 Supp. 74-7507; implementing K.S.A. 74-5363 and K.S.A. 2007 Supp. 74-5367; effective Dec. 19, 1997; amended Jan. 9, 2004; amended Dec. 19, 2008.)

102-4-6b. Postgraduate hours in lieu of practicum. In order to meet the requirement specified in K.S.A. 74-5363(b)(4) and amendments thereto, each applicant who has not completed a qualifying practicum as part of the applicant's master's degree in psychology or clinical psychology shall complete 1,500 hours of postgraduate supervised work experience. All of the following requirements shall be met:

(a) Of the required 1,500 postgraduate supervised hours, 500 hours shall consist of direct client contact, which shall include the following:

(1) Assessment;

(2) diagnosis of mental disorders; and

(3) treatment intervention directed at interpersonal interactions, intrapsychic dynamics, and life management issues.

(b) The supervision of these postgraduate hours shall meet the requirements in K.A.R. 102-4-7a.

(c) These 1,500 postgraduate supervised hours shall be in addition to the 4,000 hours required for clinical licensure. (Authorized by K.S.A. 2007 Supp. 74-7507; implementing K.S.A. 74-5363; effective Dec. 19, 2008.)

102-4-7. (Authorized by K.S.A. 74-5370; implementing K.S.A. 74-5363 and K.S.A. 74-5358; effective, T-102-2-23-89, Feb. 23, 1989; effective April 3, 1989; revoked May 30, 1995.)

102-4-7a. Postgraduate supervised professional work experience requirement. In order to be approved by the board for licensure as a clinical psychotherapist, the applicant's postgraduate supervised professional experience of master's level psychology shall meet all of the following standards. (a) 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 15 hours of direct client contact, specified as follows:

(1) At least 50 hours of one-on-one, individual supervision occurring with the supervisor and supervisee in the same physical space;

(2) at least 100 hours of supervision with one supervisor and no more than six supervisees in the same physical space, except when not practical due to an emergency or other exigent circumstances, at which time person-to-person contact by interactive video or other telephonic means maintaining confidentiality shall be allowed; and

(3) at least two separate clinical supervision sessions per month, at least one of which shall be one-on-one, individual supervision.

(b) The clinical supervisor of a person attaining the postgraduate supervised professional experience required for licensure as a clinical psychotherapist, at the time of providing supervision, shall meet one of the following qualifying provisions:

(1) The clinical supervisor shall be a person licensed as a psychologist.

(2) The clinical supervisor shall be a person who is currently licensed in the state of Kansas as a clinical psychotherapist and, beginning July 1, 2003, who has practiced as a clinical psychotherapist for two years beyond the supervisor's licensure date.

(3) The clinical supervisor shall be a person with qualifications substantially equivalent to the requirements for licensure in the state of Kansas

as a clinical psychotherapist with no fewer than two years of experience in the practice of master's level psychology beyond the date of the supervisor's registration, certification, or licensure that is acceptable to the board.

(c) In addition to the requirements of subsection (b), each clinical supervisor shall meet these requirements:

(1) Have professional authority over and responsibility for the supervisee's clinical functioning in the practice of master's level psychology;

(2) not have a 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 procedure of the supervisee's practice setting; and

(7) be a member of the practice setting staff or meet the requirements of subsection (d).

(d) 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 a sound 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 to the client and to the practice setting.

(e) Each clinical supervisor shall perform the following duties:

(1) Provide oversight, guidance, and direction of the supervisee's clinical practice of master's level psychology by assessing and evaluating the supervisee's performance;

(2) conduct supervision as a process distinct from personal therapy, didactic instruction, or marriage and family therapy 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 a supervisee completes the postgraduate supervised professional experience. The supervisor shall submit this documentation on a board-approved form 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 master's level psychology under supervision.

(f) Each supervisor and supervisee shall develop and co-sign a written clinical supervision training plan on forms provided by the board at the beginning of the supervisory relationship. The supervisee shall submit this plan to the board and shall receive board approval of the plan before any supervised professional experience hours can begin to accrue. This plan shall clearly define and delineate the following items:

(1) The supervisory context;

(2) a summary of the anticipated types of clients and the services to be provided;

(3) the format and schedule of supervision;

(4) 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 otherwise, in the case of emergency; and

(E) an evaluation of the supervisee's progress under clinical supervision;

(5) a plan to notify clients of the following information:

(A) The fact that the supervisee is practicing master's level psychology under supervision;

(B) the limits of client confidentiality within the supervisory process; and

(C) the name, address, and telephone number of the clinical supervisor;

(6) the date on which the parties entered into the clinical supervision training plan and the time frame that the plan is intended to encompass;

(7) 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 (h);

(8) the supervisee's informed consent for the supervisor to discuss supervision or performance issues with the supervisee's clients, the supervisee's other clinical or employment supervisors, the board, or any other individual or entity to which either the supervisee or the supervisor is professionally accountable; and

(9) a statement signed by each supervisor and supervisee acknowledging that each person has read and agrees to the postgraduate supervised professional experience requirements set forth in this regulation.

(g) Supervised practicum hours completed in a doctoral program of study that is primarily psychological in content may be approved by the board toward the postgraduate supervised professional experience requirements for licensure as a clinical psychotherapist if the applicant meets both of the following qualifications:

(1) The applicant received a master's degree in psychology or clinical psychology and met the coursework, program, and college or university requirements provided in K.A.R. 102-4-3a before completing the doctoral practicum hours.

(2) The applicant's doctoral-level practicum fully met the requirements provided in subsections (a), (b), (c), and (e).

(h) 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. 74-7507; implementing K.S.A. 74-5363; effective March 27, 1998; amended Aug. 4, 2000; amended Aug. 13, 2004.)

102-4-8. (Authorized by and implementing K.S.A. 1987 Supp. 74-5370; effective, T-102-2-23-

89, Feb. 23, 1989; effective April 3, 1989; revoked Dec. 19, 1997.)

102-4-8a. (Authorized by K.S.A. 1996 Supp. 74-7507; implementing K.S.A. 1996 Supp. 74-5363 and 74-5369; effective Dec. 19, 1997; revoked June 8, 2007.)

102-4-9. (Authorized by K.S.A. 1987 Supp. 74-5370; implementing K.S.A. 1987 Supp. 74-5364 and 74-5366; effective, T-102-2-23-89; Feb. 23, 1989; effective April 3, 1989; revoked Dec. 19, 1997.)

102-4-9a. Renewal and reinstatement.

(a) To be considered for license renewal, each licensed master's level psychologist and each licensed clinical psychotherapist shall submit the following items to the board:

- (1) A completed renewal application;
- (2) the continuing education, reporting form; and
- (3) the fee prescribed in K.A.R. 102-4-2.

(b) If the application for renewal, the continuing education reporting form, and payment of the required fee are not submitted before the license expires, the license may be reinstated by the deadlines as provided in K.S.A. 74-5366, and amendments thereto, upon payment of the required renewal fee, plus the late charge set forth in K.A.R. 102-4-2, and proof satisfactory to the board of compliance with the continuing education requirements. Each applicant who fails to meet the statutory deadlines for reinstatement may submit a new licensure application as provided in K.A.R. 102-4-4a.

(c) At the time of application for reinstatement, each applicant shall submit a reinstatement application, the continuing education reporting form documenting evidence of the satisfactory completion, within the 24 months immediately before application, of the required continuing education hours, and the fee prescribed in K.A.R. 102-4-2.

(d) Each individual who holds a license but who fails to renew the license before the license expires, and who thereafter applies for renewal of the license, shall indicate on the reinstatement application form whether or not the individual has continued to engage in the practice of psychology in Kansas, or has continued to use the authorized licensure title or abbreviation after the expiration of the license and, if so, under what circumstances. (Authorized by K.S.A. 74-7507; implementing K.S.A. 74-5365, 74-5366, 74-5369, and 74-5371; effective Dec. 19, 1997; amended July 11, 2003.)

102-4-9b. Renewal audit. (a) A random audit of the continuing education documentation for 10 percent of the master's level psychologist licenses and the clinical psychotherapist licenses expiring each month shall be conducted by the board.

(b) Each licensee selected for the random audit shall be notified in writing after the board has received the licensee's renewal application form required by K.A.R. 102-4-9a.

(c) Upon board notification, each renewal applicant shall submit the following to the board within 30 days after the license expiration date:

- (1) The completed renewal audit forms; and
- (2) the original continuing education documents that validate all continuing education units claimed for credit during the current renewal period.

(d) Continuing education units that a renewal applicant earns after board receipt of the renewal application form shall not be approved for continuing education credit for the current renewal period.

(e) Failure to comply with this regulation shall be considered unprofessional conduct. (Authorized by and implementing K.S.A. 74-5365 and K.S.A. 2007 Supp. 74-7507; effective Feb. 13, 2009.)

102-4-10. (Authorized by K.S.A. 74-5370; implementing K.S.A. 74-5364; effective, T-102-2-23-89, Feb. 23, 1989; effective April 3, 1989; amended Aug. 13, 1990; amended May 30, 1995; revoked Dec. 19, 1997.)

102-4-10a. Continuing education for licensees.

(a) During each two-year renewal period, each licensee shall complete 50 hours of documented and board-approved continuing education oriented to the enhancement of a master's level psychologist's practice, values, ethics, skills, or knowledge. Continuing education hours accumulated in excess of the required 50 hours shall not be carried over to the next renewal period.

(b) Professional ethics continuing education requirement. During each two-year renewal period and as a part of the required continuing education hours, each licensee shall complete a program on professional ethics consisting of at least three continuing education hours of formal training in ethics. These hours shall be obtained from any of the activities specified in paragraphs (e)(1), (e)(2), (e)(3), and (e)(4).

(c) Diagnosis and treatment continuing education requirement. During each two-year renewal period and as a part of the required continuing education hours, each licensee shall complete a

program on diagnosis and treatment consisting of at least six continuing education hours of formal training in diagnosis and treatment. These hours shall be obtained from any of the activities specified in paragraphs (e)(1), (e)(2), (e)(3), and (e)(4).

(d) Continuing education credit for approved programs shall be awarded on the basis of one continuing education hour for each 50 minutes actually spent in attendance at instructional activities. One-quarter continuing education hour shall be awarded for attendance of at least 15 but fewer than 30 minutes. Continuing education credit shall not be granted for fractional units of fewer than 15 minutes.

(e) Acceptable continuing education, whether taken within the state or outside the state, shall include the following:

(1) Activities that are sponsored, accredited, or conducted by educational institutions, by professional associations, or by private institutions that are nationally or regionally accredited for education or training. The maximum number of hours allowed shall be 50;

(2) activities conducted by agencies, groups, and continuing education providers that do not meet the requirements of national or regional accreditation, if the content is clearly related to the enhancement of psychology practice, skills, knowledge, values, or ethics. The maximum number of hours allowed shall be 50;

(3) academic psychology courses that are either taken for academic credit or audited. For courses taken for academic credit, 15 continuing education hours shall be granted for each semester credit hour that is successfully completed. Quarter hours shall be granted according to K.A.R. 102-4-1a(u). For academic courses that are audited, one continuing education hour shall be granted for each hour of actual classroom attendance and participation. The maximum number of hours allowed shall be 50;

(4) seminars, institutes, workshops, or mini-courses. The maximum number of hours allowed shall be 50;

(5) cross-disciplinary offerings in medicine, law, the behavioral sciences, a foreign or sign language, computer science, professional or technical writing, business administration, management sciences, or any other discipline, if the offerings are clearly related to the enhancement of a master's level psychologist's practice, values, skills, ethics, or knowledge. The maximum number of hours allowed shall be 20;

(6) the first-time presentation of courses, workshops, or other formal training activities, if the content is clearly related to the enhancement of psychology practice, values, skills, ethics, or knowledge. For each first-time presentation, a maximum of 10 continuing education hours may be approved. If more than one master's level psychologist or other professional gave the presentation, the continuing education credit shall be prorated among the presenters. The maximum number of hours allowed shall be 15;

(7) the first-time publication of a psychology article in a juried professional journal or first-time publication of a book chapter in a psychology text. For each first-time publication, a maximum of 10 continuing education hours may be approved. If more than one master's level psychologist or other professional authored the article or book chapter, the continuing education credit shall be prorated among the authors. The maximum number of hours allowed shall be 20;

(8) 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 hours allowed shall be 40;

(9) 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 hours allowed shall be 10;

(10) supervision of undergraduate or graduate practicum or intern students, applicants for licensure as master's level psychologists, or other professional mental health practitioners for which the maximum number of hours allowed shall be 20. Continuing education credit for providing this supervision shall not exceed a total of five hours per semester;

(11) self-directed learning projects preapproved by the board. The maximum number of hours allowed shall be 10;

(12) participation in quality care activities that may include client diagnosis review conferences, client staffings, treatment utilization review, peer or supervisory reviews, case consultations with other professional staff, or participation in formal quality-assurance activities. The maximum number of hours allowed shall be five;

(13) holding office or serving on a committee in a professional organization, if the organization's goals are clearly related to the enhancement of psychology practice, values, skills, ethics, or

knowledge. The maximum number of hours allowed shall be 10; and

(14) receiving personal psychotherapy from a licensed or certified mental health provider that is part of a designated training program. The maximum number of hours allowed shall be five.

(f) In determining whether or not a claimed continuing education activity shall be allowed, the master's level psychologist may be required by the board to satisfactorily demonstrate that the content was clearly related to psychology, or to provide verification of the master's level psychologist's participation in any claimed or reported activity. If a master's level psychologist fails to comply with this requirement, the claimed credit may be disallowed by the board.

(g) Continuing education approval shall not be granted for any of the following activities:

(1) First aid, infection control, or occupational health and safety courses;

(2) in-service training if the training is for job orientation or job training, or is specific to the employing agency; or

(3) 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 psychology practice, values, skills, ethics, or knowledge.

(h) Each licensee shall maintain individual continuing education records. Continuing education records shall document the licensee's continuing education activity attendance, participation, or completion as defined by K.A.R. 102-4-11a. These records may be required to be submitted to the board at least 30 days before the expiration date of each current licensure period or upon a random audit. (Authorized by K.S.A. 2007 Supp. 74-7507; implementing K.S.A. 74-5365, K.S.A. 2007 Supp. 74-5366, and K.S.A. 2007 Supp. 74-7507; effective Dec. 19, 1997; amended, T-102-7-8-99, July 8, 1999; amended Oct. 29, 1999; amended July 11, 2003; amended Dec. 19, 2008.)

102-4-11. (Authorized by and implementing K.S.A. 1987 Supp. 74-5370; effective, T-102-2-23-89, Feb. 23, 1989; effective April 3, 1989; revoked Dec. 19, 1997.)

102-4-11a. Documentation for continuing education. Any of the following original, signed forms of documentation shall be accepted as proof of completion of a continuing education activity:

(a) a passing course grade for an academic credit course;

(b) a statement signed by the instructor and indicating the actual hours attended for an audited academic course;

(c) a signed statement of attendance from the provider of the institute, symposium, workshop, or seminar;

(d) a copy of the article or book chapter and verification of publication or written presentation at a professional meeting. These materials shall be submitted to the board for evaluation and certification of the number of hours of credit to be granted;

(e) a copy of the academic course syllabus and verification that the course was presented;

(f) 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 workshop, seminar, or program was presented;

(g) a letter from the board giving approval for retroactive continuing education credit;

(h) written verification from the university practicum or intern instructor or other official training director that the licensee provided supervision of undergraduate or graduate students, or from the supervisee that the licensee provided supervision;

(i) a copy of the self-directed project. This copy shall be submitted to the board for prior evaluation and certification of the number of credit hours to be granted upon the satisfactory completion of the project;

(j) the media format, content title, presenter or sponsor, content description, run time, and activity date when videotapes, audiotapes, computerized interactive learning modules, or telecasts were utilized for continuing education purposes; or

(k) a signed and dated statement from a sponsor, agency administrator, provider or other individual acceptable to the board that verifies the licensee's attendance, participation in, or completion of the continuing education activity. (Authorized by K.S.A. 1996 Supp. 74-7507; implementing K.S.A. 1996 Supp. 74-5365 and 74-5366; effective Dec. 19, 1997.)

102-4-12. Unprofessional conduct. (a) Any license may be suspended, limited, conditioned, qualified, restricted, revoked, not issued, or not renewed upon a finding that unprofessional conduct has occurred.

(b) Any of the following acts by a licensed master's level psychologist, a licensed clinical psychotherapist, or an applicant for licensure at the master's level of psychology shall constitute unprofessional conduct:

(1) Obtaining or attempting to obtain a license or registration for oneself or another by means of fraud, bribery, deceit, misrepresentation, or concealment of a material fact;

(2) except when such information has been obtained in the context of confidentiality, failing to notify the board, within a reasonable period of time, that any person regulated by the board or applying for a license or registration, including oneself, has met any of the following conditions:

(A) 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;

(B) has been subject to any other disciplinary action by any credentialing board, professional association, or professional organization;

(C) 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;

(D) has been convicted of a crime; or

(E) has practiced the licensee's or registrant's profession in violation of the laws or regulations regulating the profession;

(3) knowingly allowing another person to use one's license or registration;

(4) impersonating another person holding a license or registration issued by this or any other board;

(5) having been convicted of a crime resulting from or relating to the licensee's practice of master's level psychology;

(6) furthering the licensure or registration application of another person who is known or reasonably believed to be unqualified with respect to character, education, or other relevant eligibility requirements;

(7) knowingly aiding or abetting anyone who is not credentialed by the board to represent that individual as a person who is credentialed by the board;

(8) 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;

(9) 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. Any 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;

(10) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, or experience or with accepted professional standards;

(11) treating any client, student, or supervisee in a cruel manner;

(12) discriminating against any client, student, or supervisee on the basis of color, race, gender, religion, national origin, or disability;

(13) failing to advise and explain to each client the respective rights, responsibilities, and duties involved in the professional relationship;

(14) failing to provide each client with a description of what the client can expect in the way of services, consultation, reports, fees, billing, therapeutic regimen, or schedule, or failing to reasonably comply with the description;

(15) failing to provide each client with a description of the possible effects of the proposed treatment when the treatment is experimental or when there are clear and known risks to the client;

(16) failing to inform each client, supervisee, or student of any financial interests that might accrue to the master's level psychologist or clinical psychotherapist from referral to any other service or from the use of any tests, books, or apparatus;

(17) failing to inform each client that the client is entitled to the same services from a public agency if one is employed by that public agency and also offers services privately;

(18) failing to provide each client or the client's legal representative with access to the client's records following the receipt of a formal written request, unless the release of this information is restricted or exempted by law, or when the disclosure of this information is precluded for a sufficiently compelling reason;

(19) failing to inform each client, supervisee, or student of the limits of client confidentiality, the purposes for which the information is obtained, and the manner in which the information may be used;

(20) revealing information, a confidence, or secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records, except when at least one of these conditions is met:

(A) Disclosure is required or permitted by law;

(B) failure to disclose the information presents a clear and present danger to the health or safety of an individual or the public; or

(C) the master's level psychologist or clinical psychotherapist is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of psychology, in which case disclosure is limited to that action;

(21) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of the following actions:

(A) Electronically recording sessions with that client;

(B) permitting a third-party observation of their activities; or

(C) releasing information concerning a client to a third person, except as required or permitted by law;

(22) failing to protect the confidences of, secrets of, or information concerning other persons when providing a client with access to that client's records;

(23) failing to exercise due diligence in protecting the information regarding and the confidences and secrets of the client from disclosure by other persons in one's work or practice setting;

(24) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(25) using alcohol or illegally using any controlled substance while performing the duties or services of a master's level psychologist or clinical psychotherapist;

(26) making sexual advances toward or engaging in physical intimacies or sexual activities with one's client, supervisee, or student;

(27) making sexual advances toward, engaging in physical intimacies or sexual activities with, or exercising undue influence over any person who, within the past 24 months, has been one's client;

(28) exercising undue influence over any client, supervisee, or student, including promoting sales

of services or goods, in a manner that will exploit the client, student, or supervisee for the financial gain, personal gratification, or advantage of oneself or a third party;

(29) 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 the referral of the client or in connection with the performance of psychological or other professional services;

(30) directly receiving or agreeing to receive a fee or any other consideration from a client or from any third party for or in connection with the performance of psychological services, other than from an authorized employer in an employment situation as specified in this act;

(31) soliciting or assuming professional responsibility for clients of another agency or colleague without attempting to coordinate continuity of client services with that agency or colleague;

(32) making claims of professional superiority that one cannot substantiate;

(33) guaranteeing that satisfaction or a cure will result from the performance of psychological services;

(34) claiming or using any secret or special method of treatment or techniques that one refuses to disclose to the board;

(35) continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the condition, best interests, or preferences of the client;

(36) failing to maintain a record for each client that conforms to the following minimal requirements:

(A) Contains adequate identification of the client;

(B) indicates the client's initial reason for seeking the master's level psychologist's or clinical psychotherapist's services;

(C) contains pertinent and significant information concerning the client's condition;

(D) summarizes the intervention, treatment, tests, procedures, and services that were obtained, performed, ordered, or recommended and the findings and results of each;

(E) documents the client's progress during the course of intervention or treatment provided by the master's level psychologist or clinical psychotherapist;

(F) is legible;

(G) contains only those terms and abbreviations that are comprehensible to similar professional practitioners;

(H) indicates the date and nature of any professional service that was provided; and

(I) describes the manner and process by which the professional relationship terminated;

(37) taking credit for work not personally performed, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information;

(38) if engaged in research, failing to fulfill these requirements:

(A) Consider carefully the possible consequences for human beings participating in the research;

(B) protect each participant from unwarranted physical and mental harm;

(C) ascertain that the consent of each participant is voluntary and informed; and

(D) preserve the privacy and protect the anonymity of each subject of the research within the terms of informed consent;

(39) making or filing a report that one knows to be false, distorted, erroneous, incomplete, or misleading;

(40) failing to notify the client promptly when termination or interruption of service to the client is anticipated;

(41) 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;

(42) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;

(43) failing to terminate the master's level psychology or clinical psychotherapy services when it is apparent that the relationship no longer serves the client's needs or best interests;

(44) if the master's level psychologist or clinical psychotherapist is the owner or custodian of client records, failing to retain those records for at least two years after the date of termination of the professional relationship, unless otherwise provided by law;

(45) supervising in a negligent manner anyone for whom one has supervisory responsibility;

(46) failing to inform a client if master's level psychology or clinical psychotherapy services are provided or delivered under supervision;

(47) engaging in a dual relationship with a client, student, or supervisee;

(48) failing to inform the proper authorities as required by K.S.A. 38-2223, and amendments thereto, that one knows or has reason to believe

that a client has been involved in harming or has harmed a child, whether by physical, mental, or emotional abuse or neglect or by sexual abuse;

(49) failing to inform the proper authorities as required by K.S.A. 39-1402, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to a resident, as defined by K.S.A. 39-1401(a) and amendments thereto:

(A) Has been or is being abused, neglected, or exploited;

(B) is in a condition that is the result of abuse, neglect, or exploitation; or

(C) is in need of protective services;

(50) failing to inform the proper authorities as required by K.S.A. 39-1431, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to an adult, as defined in K.S.A. 39-1430 and amendments thereto:

(A) Is being or has been abused, neglected, or exploited;

(B) is in a condition that is the result of abuse, neglect, or exploitation; or

(C) is in need of protective services;

(51) intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing the filing of a report or record required by state or federal law, or inducing another person to take any of those actions;

(52) offering to perform or performing any service, procedure, or therapy that, by the accepted standards of professional 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;

(53) practicing master's level psychology or clinical psychotherapy in an incompetent manner;

(54) practicing as a master's level psychologist or clinical psychotherapist after one's license expires;

(55) using without a license, or continuing to use after the expiration of a license, any title or abbreviation prescribed by law for use solely by persons currently holding that type or class of license;

(56) offering to provide or providing services in an employment situation other than that which is permitted by K.S.A. 74-5362, and amendments thereto, as an independent, contract, or private provider of psychological services;

(57) practicing without adequate direction from a person authorized in K.S.A. 74-5362 and amendments thereto; and

(58) violating any provision of this act or any regulation adopted under the act. (Authorized by K.S.A. 2007 Supp. 74-7507; implementing K.S.A. 74-5362 and K.S.A. 2007 Supp. 74-5369; effective Dec. 19, 1997; amended Jan. 9, 2004; amended Aug. 8, 2008.)

102-4-13. Use of computerized psychological tests. (a) To utilize computers in any aspect of psychological testing, each master's level psychologist shall consider each of the following issues in testing each client:

- (1) whether or not a particular test is appropriate for a particular client;
- (2) whether or not the computerized version of a test is appropriate for use by a particular client;
- (3) whether or not the evaluation, validity, and reliability of the decision rules underlying interpretive statements and their supporting research are effective and adequate;
- (4) whether or not the integration of findings is correct; and
- (5) whether or not the conclusions and recommendations are appropriate;

(b) To utilize computers in any aspect of psychological testing, the master's level psychologist shall also meet all of the following requirements:

- (1) Conform to the "standards for educational and psychological testing," as copyrighted by the American psychological association in 1985 and reprinted in July 1996, that are hereby adopted by reference;
- (2) not use the results of a computerized test in decision making about clients or make such results part of official client records, unless the results are signed by the master's level psychologist utilizing the test;
- (3) be involved in a direct, supervisory, or consultative relationship to the client or to those persons using test findings for decision making regarding the client;
- (4) assume the same degree of responsibility for the validity and reliability of interpretive statements and soundness of inferences, judgments, and recommendations based on computer-generated test results as would be assured if the master's level psychologist had personally examined the client; and
- (5) make an explicit statement concerning the report as to whether or not the master's level psychologist has seen or examined the client in person. (Authorized by and implementing K.S.A. 1996 Supp. 74-7507; effective Dec. 19, 1997.)

102-4-14. Licensee consult with physician when determining symptoms of mental disorders. (a) "Consult," as used in K.S.A. 74-5362 and K.S.A. 74-5363, and amendments thereto, shall be defined as contact made by the licensee with the appropriate medical professional for the purpose of promoting a collaborative approach to the client's care and informing the medical professional of the client's symptoms. This contact shall not be intended to accomplish confirmation of diagnosis. The timing of any such action by the licensee shall be managed in a way that enhances the progress of assessment, diagnosis, and treatment. This consult may or may not be completed in the initial session of service delivery.

(b) A consult with a client's physician or psychiatrist may occur through face-to-face contact, telephonic contact, or correspondence by the licensee with the physician, the physician's assistant, or designated nursing staff. When initiating this contact, the licensee shall not be responsible for the medical professional's response or for the client's compliance with any related intervention made by the medical professional.

(c) If a licensee is practicing in a setting or contract arrangement that involves a person licensed to practice medicine and surgery for review of mental health treatment, a physician consult may be completed through medical involvement completed in accordance with the established procedure of the setting or with the contract arrangement.

(d) A physician consult shall not be required beyond the procedures for medical involvement as established by the qualifying agency if a licensee is practicing in any of the following:

- (1) A licensed community mental health center or its affiliate;
- (2) an agency of the state that provides mental health, rehabilitative, or correctional services; or
- (3) an agency licensed by the state for providing mental health, rehabilitative, or correctional services.

(e) If a licensee is offering services that do not include diagnosis and treatment of a mental disorder, a physician consult shall not be required. (Authorized by K.S.A. 1999 Supp. 74-7507; implementing K.S.A. 1999 Supp. 74-5362, as amended by L. 1999, Ch. 117, Sec. 30 and K.S.A. 1999 Supp. 74-5363, as amended by L. 1999, Ch. 117, Sec. 32; effective Aug. 4, 2000.)

102-4-15. Designation of referral source for use in the diagnosis and treatment of mental disorders. The “diagnostic and statistical manual of mental disorders,” fifth edition, published by the American psychiatric association, shall be designated as the manual to diagnose and treat mental disorders. (Authorized by K.S.A. 74-5361, 74-5363, and 74-7507; implementing K.S.A. 74-5363; effective Aug. 4, 2000; amended April 22, 2005; amended March 15, 2019.)

102-4-16. Services rendered to individuals located in this state. Except as authorized by K.S.A. 74-5373, and amendments thereto, each person, regardless of the person’s location, who engages in either of the following activities shall be deemed to be engaged in the practice of master’s level psychology or clinical psychotherapy in this state and shall be required to have a license, issued by the board, to practice psychology as a licensed clinical psychotherapist or licensed master’s level psychologist:

(a) performs any act included in subsection (a) of K.S.A. 74-5361, and amendments thereto, on or for one or more individuals located in this state; or

(b) represents oneself to be a master’s level psychologist or clinical psychotherapist available to perform any act included in subsection (a) of K.S.A. 74-5361, and amendments thereto, on or for one or more individuals located in this state. (Authorized by K.S.A. 74-5370 and K.S.A. 1999 Supp. 74-7507; implementing K.S.A. 1999 Supp. 74-5371, as amended by L. 1999, Ch. 117, § 35; effective May 11, 2001.)

Article 5.—LICENSING OF MARRIAGE AND FAMILY THERAPISTS

102-5-1. Definitions. (a) “Academic equivalent of a semester credit hour,” as used in K.A.R. 102-5-3, means the prorated proportionate credit for formal academic coursework when that coursework is completed on the basis of trimester or quarter hours rather than semester hours.

(b) “Client” means a person who is a direct recipient of marriage and family therapy services.

(c) “Clinical marriage and family therapy practice” means the professional application of marriage and family therapy theory and methods to the treatment and prevention of psychosocial dysfunction, disability, or impairment, including behavioral, emotional, and mental disorders. Clinical marriage and family therapy shall include the following:

- (1) Assessment;
- (2) diagnosis of mental disorders;
- (3) planning of treatment, which may include psychotherapy and counseling;
- (4) treatment intervention directed to interpersonal interactions, intrapsychic dynamics, and life management issues;
- (5) consultation; and
- (6) evaluation, referral, and collaboration.

(d) “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.

(e) “Consultation” means a voluntary, professional relationship in which the consultant offers the consultant’s best advice and expertise that the consultee can either accept or reject and in which the supervision objectives and requirements, as established in K.A.R. 102-5-7a, are lacking. Marriage and family therapy consultation shall not be substituted for supervision.

(f) “Continuing education” means programs or activities that are designed and that have content intended to enhance the therapist’s knowledge, skill, values, ethics, and ability to practice as a marriage and family therapist or as a clinical marriage and family therapist.

(g) “Direct client contact” means face-to-face interaction between the therapist and an individual, couple, or family system.

(h) “Dual relationship” means a professional relationship in which the objectivity or competency of the licensee is impaired or compromised because of any of the following present or previous relationships with a client or supervisee:

- (1) Familial;
- (2) sexual;
- (3) emotional; or
- (4) financial.

(i) “Extenuating circumstances” means conditions caused by any unexpected event that is beyond an individual’s control.

(j) “Group format,” for the purposes of clinical practicum supervision, means face-to-face, simultaneous supervision with not more than six supervisees.

(k) “Individual format,” for the purposes of clinical practicum supervision, means face-to-face supervision with one supervisor and one supervisee.

(l) “Job orientation” or “on-the-job training” means a training program or presentation of information that is so specific to a particular job or

employment position that it bears no generalization to any other work setting.

(m) “Malfeasance” means doing an act that a licensee should not do.

(n) “Marriage and family therapy supervision” means a formal professional relationship between the supervisor and supervisee that promotes the development of responsibility, skill, knowledge, attitudes, and ethical standards in the practice of marriage and family therapy.

(o) “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 marriage and family therapy as demonstrated by the following personal qualities:

- (1) Good judgement;
- (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 marriage and family therapy profession and its values and ethics.

(p) “Misfeasance” means the improper performance of a lawful act by a licensee.

(q) “Nonfeasance” means the omission of an act that a licensee should do.

(r) “One year of professional experience” means a total of 2,000 clock hours of postgraduate supervised experience in marriage and family therapy.

(s) “Practice setting” means the public or private marriage and family therapy service agency or delivery system within which marriage and family therapy is practiced or marriage and family therapy services are delivered.

(t) “Practicum or its equivalent” means a formal component of the academic curriculum in the marriage and family therapy or a related field educational program that includes the following components:

(1) Engages the student in supervised marriage and family therapy practice; and

(2) provides the student with opportunities to apply classroom learning to actual marriage and family therapy practice situations in the field setting.

(u) “Prior-approved continuing education” means any of the following forms of continuing education:

(1) Any single-program material that has been submitted by a provider to the board, approved by the board, and assigned a prior-approved continuing education number;

(2) any program offered by a provider with approved-provider status; or

(3) academic marriage and family therapy courses that are either audited or taken for credit.

(v) “Related field” means a degree program in the helping professions and may include any of the following:

- (1) Social work;
- (2) psychology;
- (3) counseling;
- (4) healing arts;
- (5) nursing;
- (6) education;
- (7) human development and family studies; or
- (8) theology.

(w) “Semester credit hour,” as used in K.A.R. 102-5-3, means a minimum of 13 clock hours of formal, didactic classroom instruction that occurred over the course of an academic semester and for which the applicant received formal graduate academic credit.

(x) “Termination of a marriage and family therapy relationship” means the end of the professional relationship that results from any of the following actions or situations:

(1) The mutual consent of the therapist and client

(2) the completion of therapy;

(3) dismissal of the therapist by the client;

(4) dismissal of the client by the therapist; or

(5) the transfer of the client to another professional for active treatment or therapy with the belief that treatment will continue.

(y) “Under the direction” means the formal relationship between the individual providing direction and the licensed marriage and family therapist in which both of the following conditions are met:

(1) The directing individual provides the licensee, commensurate with the welfare of the client and the education, training, and experience of the licensee, with the following:

(A) Professional monitoring and oversight of the marriage and family therapy services provided by the licensee;

(B) regular and periodic evaluation of treatment provided to clients by the licensee; and

(C) verification that direction was provided to the licensee.

(2) The licensee receiving direction provides the board, with each license renewal, with the following:

(A) The name, identifying information, and type of license of the directing individual;

(B) a description of the work setting and the marriage and family therapy services conducted under direction; and

(C) documentation that direction was given, including dates, location, and length of time as verified by the directing individual.

(z) “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 either of the following purposes:

(1) To improperly influence or change a client’s or supervisee’s actions or decisions; or

(2) to exploit a client or supervisee for the therapist’s or a third party’s financial gain, personal gratification, or advantage. (Authorized by and implementing K.S.A. 1999 Supp. 74-7507; effective March 29, 1993; amended Dec. 19, 1997; amended Aug. 4, 2000.)

102-5-2. Fees. (a) Each applicant or licensee shall pay the appropriate fee or fees as follows:

(1) Application for a marriage and family therapist license, \$50;

(2) application for a clinical marriage and family therapist license, \$50;

(3) original marriage and family therapist license, \$150;

(4) original clinical marriage and family therapist license, \$150;

(5) renewal of a marriage and family therapist license, \$100;

(6) renewal of a clinical marriage and family therapist license, \$125;

(7) replacement of a marriage and family therapist or a clinical marriage and family therapist license, \$20;

(8) replacement of a marriage and family therapist or a clinical marriage and family therapist wallet card license, \$2;

(9) reinstatement of a marriage and family therapist license, \$100;

(10) reinstatement of a clinical marriage and family therapist license, \$125;

(11) temporary marriage and family therapist license, \$150;

(12) temporary, 15-day permit for an out-of-state licensed independent clinical marriage and family therapist, \$200; or

(13) temporary, 15-day permit for an out-of-state licensed independent clinical marriage and family therapist extension, \$200.

(b)(1) Each applicant for renewal of a marriage and family therapist license after its expiration date shall pay the renewal fee in addition to the late renewal penalty of \$100.

(2) Each applicant for renewal of a clinical marriage and family therapist license after its expiration date shall pay the renewal fee in addition to the late renewal penalty of \$125.

(c) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 65-6405a, 65-6411, and 74-7507; implementing K.S.A. 65-6405, 65-6405a and 65-6411; effective March 29, 1993; amended Aug. 23, 1993; amended Aug. 4, 1995; amended Oct. 24, 1997; amended Aug. 4, 2000; amended July 1, 2005; amended, T-102-7-2-07, July 2, 2007; amended Nov. 30, 2007; amended March 8, 2019.)

102-5-3. Education requirements. (a) Definitions. For purposes of this regulation, the following terms shall be defined as follows:

(1) “Core faculty member” means an individual who is part of the program’s teaching staff and who meets the following conditions:

(A) Is an individual whose education, training, and experience are consistent with the individual’s role within the program and are consistent with the published description of the goals, philosophy, and educational purpose of the program;

(B) is an individual whose primary professional employment is at the institution in which the program is housed; and

(C) is an individual who is identified with the program and is centrally involved in program development, decision making, and student training as demonstrated by consistent inclusion of the individual’s name in public and departmental documents.

(2) “In residence,” when used to describe a student, means that the student is present at the physical location of the institution for the purpose of completing coursework during which the student and one or more core faculty members are in face-to-face contact.

(3) “Primary professional employment” means a minimum of 20 hours per week of instruction, research, any other service to the institution in the course of employment, and the related administrative work.

(b) Each applicant for licensure shall meet both of the following education requirements:

(1) Each applicant shall have been awarded a master's or doctoral degree that meets the standards in subsection (c), (e), or (f).

(2) The applicant shall have completed no less than 50% of the coursework for the degree "in residence" at one institution, and the required practicum shall be completed at the same institution.

(c) To qualify for licensure with a master's or doctoral degree from a marriage and family therapy program, both of the following requirements shall be met:

(1) The college or university at which the applicant completed a master's or doctoral degree in marriage and family therapy shall be regionally accredited, with accreditation standards equivalent to those in Kansas.

(2) The marriage and family therapy program through which the applicant completed a master's or doctoral degree either shall be accredited by the commission on accreditation for marriage and family therapy education or shall meet the standards set out in subsection (d).

(d) Each marriage and family therapy program that is not accredited by the commission on accreditation for marriage and family therapy education shall meet all of these conditions:

(1) The program requires satisfactory completion by the applicant of a marriage and family therapy practicum, or its equivalent, that is provided by the program and that fulfills these conditions:

(A) Is a part-time clinical experience that integrates didactic learning with clinical experience and that is completed concurrently with didactic coursework at a typical rate of five to 10 hours of direct client contact per week;

(B) consists of at least 300 total hours of client contact; and

(C) includes at least 60 total hours of supervision that is provided by the program's core faculty and off-site supervisors. The practicum shall provide a minimum of 30 supervised hours in an individual format and no more than 30 supervised hours in a group format. Supervision shall occur at least once a week.

(2) The program requires that each marriage and family therapy student successfully complete a minimum of nine graduate semester credit hours, or the academic equivalent, in each of the following substantive content areas:

(A) Human development and family study courses in which the interplay between interpersonal and intrapersonal development is stressed and issues of gender, ethnicity, and ecosystems are

addressed as they relate to human development. These courses may include studies in sexuality, sexual functioning, sexual identity, sexism, stereotyping, and racism;

(B) theoretical foundations of marital and family functioning courses, including an overview of the historical development of systems theory and cybernetics, a study of the life cycle of the family, and a study of family processes and the modification of family structures over time. These courses may include studies in the birth of the first child, adolescent sexual development, death of a family member, and issues of context, including gender and ethnicity; and

(C) marital and family assessment and therapy courses that underscore the interdependence between diagnosis or assessment and treatment by ensuring that students can use appropriate assessment instruments and methods within a systemic context. These courses shall provide a thorough understanding of the major theoretical models of systemic change, including structural, strategic, intergenerational, contextual, experiential, systemic, and behavioral theories. These courses also shall teach the principles and techniques evolving from each theory. In addition, the courses shall identify the indications and contraindications for use of each theory or technique and shall address the rationale for intervention, the role of the therapist, and the importance of considering gender and ethnicity in selecting and using assessment and treatment methods.

(3) The program requires that each marriage and family therapy student successfully complete a minimum of three graduate semester credit hours, or the academic equivalent, in each of the following substantive content areas:

(A) A professional study course that contributes to the development of a professional attitude and identity by examining the role of professional socialization, professional organizations, licensure and certification, the code of ethics, the legal responsibilities and liabilities of clinical practice and research, and interprofessional cooperation, as these topics relate to the profession and practice of marriage and family therapy. A generic course in ethics shall not be considered appropriate for this area of study; and

(B) a research course in which students gain an understanding of research methodology, data analysis, computer research skills, and evaluation and critical examination of professional research reports. The emphasis of the course shall be placed

on the quantitative and qualitative research that is relevant to marriage and family therapy.

(e) To qualify for licensure with a master's or doctoral degree in a related field, both of the following requirements shall be met:

(1) The college or university at which the applicant completed a master's or doctoral degree in a related field shall be regionally accredited, with accreditation standards equivalent to those in Kansas.

(2) To be considered equivalent to a marriage and family therapy program, the related-field degree program shall have provided and the applicant shall have completed the requirements of subsection (d).

(f) To qualify for licensure with a master's or doctoral degree in a related field with additional coursework in marriage and family therapy, both of the following requirements shall be met:

(1) The college or university at which the applicant completed a master's or doctoral degree in a related field shall be regionally accredited, with accreditation standards equivalent to those in Kansas.

(2) The marriage and family therapy program through which the applicant obtained additional coursework in marriage and family therapy either shall be accredited by the commission on accreditation for marriage and family therapy education or shall meet the standards approved by the board as set out in subsection (d).

(g) Each applicant for licensure as a clinical marriage and family therapist whose master's or doctoral degree is earned on or after July 1, 2003 shall meet the following education requirements:

(1) A graduate degree as required by the board for licensure as a licensed marriage and family therapist in accordance with subsection (c), (e), or (f); and

(2) in addition to or as a part of the academic requirements for the graduate degree, completion of 15 graduate semester credit hours, or the academic equivalent, supporting diagnosis and treatment of mental disorders using the "diagnostic and statistical manual of mental disorders" as specified in K.A.R. 102-5-14. Three of the 15 semester credit hours, or the academic equivalent, shall consist of a discrete academic course with the primary and explicit focus of psychopathology and the diagnosis and treatment of mental disorders as classified in the "diagnostic and statistical manual of mental disorders." The remaining 12 graduate semester credit hours, or their academic equivalent, shall consist

of academic courses with the primary and explicit focus of diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches, and professional ethics or other coursework that specifically contains identifiable, equivalent instruction. The 15 graduate semester credit hours shall be from an educational institution and graduate degree program meeting the requirements described in subsection (c), (e), or (f).

(h) The following activities shall not be substituted for or counted toward any of the education or supervised experience requirements set out in subsections (b) through (g):

(1) Academic courses that the applicant completed as a part of or in conjunction with undergraduate degree requirements;

(2) independent studies;

(3) thesis or independent research courses;

(4) academic coursework that has been audited rather than graded;

(5) academic coursework for which the applicant received an incomplete or a failing grade;

(6) graduate or postgraduate coursework or experiential training provided by colleges, universities, institutes, or training programs that do not qualify under subsection (c), (e), or (f); and

(7) continuing education, an in-service activity, or on-the-job training. (Authorized by K.S.A. 2010 Supp. 65-6404 and K.S.A. 2010 Supp. 74-7507; implementing K.S.A. 2010 Supp. 65-6404; effective March 29, 1993; amended Dec. 19, 1997; amended July 7, 2003; amended Oct. 27, 2006; amended April 15, 2011.)

102-5-4. (Authorized by K.S.A. 1991 Supp. 74-7507(j) and implementing K.S.A. 1991 Supp. 65-6404; effective March 29, 1993; revoked Dec. 19, 1997.)

102-5-4a. Applications for licensure. (a) Each applicant for licensure as a marriage and family therapist or a clinical marriage and family therapist shall request the appropriate licensure application forms from the director of the board.

(b) Each applicant for licensure as a marriage and family therapist shall submit the completed application materials to the board and complete the following application procedures:

(1) Submit the full payment of the licensure application fee as provided in K.A.R. 102-5-2;

(2) submit, on board-approved forms, references from three individuals, one of whom shall have provided direct clinical supervision of the

applicant's graduate program practicum. If the practicum supervisor is unavailable, the graduate program director or any person who has knowledge of the applicant's practicum experience on the basis of the applicant's practicum records shall submit the reference. Except as specified below in paragraph (b)(2)(B), each individual submitting a reference shall meet all of the following conditions:

(A) Is not related to the applicant;

(B) is authorized by law to practice marriage and family therapy or to practice in a related field. However, this paragraph shall not apply to the individual specified above in paragraph (b)(2) who submits the reference if the practicum supervisor is unavailable; and

(C) can address the applicant's professional conduct, competence, and merit of the public trust;

(3) arrange for the applicant's transcripts covering all applicable graduate 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

(4) demonstrate satisfactory completion of graduate educational requirements as specified in K.A.R. 102-5-3.

(c) Each applicant for licensure as a clinical marriage and family therapist shall submit the completed application materials to the board and complete the following application procedures:

(1) Submit the full payment of the licensure application fee as provided in K.A.R. 102-5-2;

(2) if not previously provided to the board, submit, on board-approved forms, references from three individuals, one of whom shall have provided direct clinical supervision of the applicant's graduate program practicum. If the practicum supervisor is unavailable, the graduate program director or any person who has knowledge of the applicant's practicum experience on the basis of the applicant's practicum records shall submit the reference. Except as specified below in paragraph (c)(2)(B), each individual submitting a reference shall meet all of the following conditions:

(A) Is not related to the applicant;

(B) is authorized by law to practice marriage and family therapy or to practice in a related field. However, this paragraph shall not apply to the individual specified above in paragraph (c)(2) who

submits the reference if the practicum supervisor is unavailable; and

(C) can address the applicant's professional conduct, competence, and merit of the public trust;

(3) demonstrate that the applicant is licensed by the board as a marriage and family therapist or meets all requirements for licensure as a licensed marriage and family therapist;

(4) if not previously provided to the board, arrange for the applicant's transcripts covering all applicable graduate 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;

(5) demonstrate satisfactory completion of the graduate education requirements specified in K.A.R. 102-5-3; 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. 102-5-7a.

(d) The following provisions shall apply to each applicant for licensure as a marriage and family therapist and to each applicant for licensure as a clinical marriage and family therapist:

(1) Upon the board's determination that the applicant has met the applicable educational requirements, each applicant shall pass the appropriate, nationally administered, standardized written examination approved by the board in accordance with K.A.R. 102-5-5.

(2) An applicant or prospective 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 required in K.A.R. 102-5-2 for the original, two-year licensure period.

(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.

(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 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 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) Any applicant who is determined by the board to meet the requirements of K.S.A. 65-6405, 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 provided in K.A.R. 102-5-2. Except as provided in paragraphs (e)(1) and (e)(2), the temporary license shall remain in effect for 12 months.

(1)(A) Except as provided in paragraph (e)(1)(B), the temporary license shall expire after six months if the applicant has not taken the examination at least one time.

(B) Any applicant who does not take the examination at least one time during the first six months in which the applicant's temporary license is in effect may request that the temporary license remain in effect for the full 12 months on the basis that extenuating circumstances preclude the applicant from taking the examination during the initial six-month period. 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 end of the initial six-month period. If the request is approved by the board, the applicant's temporary license shall remain in effect for the remaining six months.

(2) Any applicant whose 12-month temporary license is due to expire may request that the tem-

porary 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) Any person who has been engaged in the practice of marriage and family therapy as a licensed or registered marriage and family therapist in Kansas at any time within the five years before July 1, 2000, may apply for a license as a clinical marriage and family therapist by submitting transition application materials to the board and completing the following application procedures:

(1) Submit the completed transition application form;

(2) submit the full payment of the licensure application fee as provided in K.A.R. 102-5-2;

(3) demonstrate that the applicant held a Kansas license or registration as a marriage and family therapist in good standing at any time during the five years immediately before July 1, 2000; and

(4) demonstrate competence to diagnose and treat mental disorders by documenting completion of at least two of the three following requirements:

(A)(i) Completion of at least nine graduate semester credit hours of coursework, or their academic equivalent, as documented on the transcript, which shall address clinical theory, assessment, and treatment issues, including three semester credit hours, or their academic equivalent, addressing psychopathology; or

(ii) passage of the national marriage and family therapy competency examination as specified by K.A.R. 102-5-5 at the time of taking the examination;

(B) three years of clinical practice, including at least eight hours of client contact per week for at least nine months of each year in a community mental health center or its affiliate, a state mental hospital, or any other setting in which the applicant provided clinical services that included diagnosis or treatment of mental disorders; or

(C) one attestation, on a form provided by the board, from a person licensed by the board to diagnose and treat mental disorders at the independent level or a person licensed to practice medicine and surgery that the applicant has

demonstrated competence in the diagnosis or treatment of mental disorders.

(g) For purposes of this regulation, the term “extenuating circumstances” means 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 timeframes established by this regulation or K.S.A. 65-6405, and amendments thereto; or

(2) the inadvisability of requiring the applicant to comply with the requirements of this regulation within the timeframes established by this regulation and K.S.A. 65-6405, and amendments thereto. (Authorized by K.S.A. 2005 Supp. 74-7507; implementing K.S.A. 65-6404, K.S.A. 65-6405, as amended by 2006 SB 470, §3, and K.S.A. 65-6411; effective Dec. 19, 1997; amended Aug. 4, 2000; amended Aug. 13, 2004; amended, T-102-7-5-06, July 5, 2006; amended Oct. 27, 2006.)

102-5-4b. Application for licensure based on reciprocity. (a) Each individual who wishes to be licensed as a marriage and family therapist or a clinical marriage and family therapist based on reciprocity, as provided by K.S.A. 65-6406 and amendments thereto, shall submit an application for licensure in accordance with the provisions of this regulation.

(b) Each applicant for licensure as a marriage and family therapist 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 shall submit payment in full of the application for a license fee, as provided in K.A.R. 102-5-2.

(2) The applicant shall forward to the licensing agency for the jurisdiction in which the applicant currently licensed, certified, or registered as a marriage and family therapist a form provided by the board on which the licensing agency is to provide the following documentation:

(A) Verification that the applicant currently holds a valid license, registration, or certification to practice marriage and family therapy issued by the licensing agency;

(B) the date on which the applicant was initially licensed, registered, or certified as a marriage and family therapist 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 under the provisions of paragraph (a)(2) of K.S.A. 65-6406 and amendments thereto, the applicant shall ensure that documentation covering the five continuous years of licensure, registration, or certification as a marriage and family therapist 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;

(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” means 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; and

(D) either verification that the standards for licensure, certification, or registration as a marriage and family therapist in that jurisdiction are substantially equivalent to the standards in Kansas or verification that the applicant has earned a master’s degree in marriage and family therapy, the date on which the applicant earned the degree, and the name of the university or college granting the degree.

The completed form shall be returned to the board by the licensing agency and shall not be forwarded to the applicant.

(3) If the applicant is seeking licensure based on reciprocity under the provisions of paragraph (a)(2) of K.S.A. 65-6406, and amendments thereto, rather than on the basis that the standards for licensure, registration, or certification are substantially equivalent to the standards for licensure as a marriage and family therapist in Kansas, the applicant shall ensure that following additional documentation is submitted:

(A) An attestation by the applicant that the applicant engaged in the professional practice of marriage and family therapy an average of at least 15 hours per week for nine months during each of the five years immediately preceding the date of application for licensure based on reciprocity; and

(B) if the licensing agency does not provide verification that the applicant holds a master’s degree in marriage and family therapy, an original transcript sent directly from the university or college granting the degree that identifies all applicable

graduate coursework and the date on which the applicant was granted a master's degree in marriage and family therapy.

(c) In addition to complying with the requirements of subsection (b), each applicant for licensure as a clinical marriage and family therapist shall demonstrate competence to diagnose and treat mental disorders by submitting at least two of the following three 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 mental disorders using the diagnostic and statistical manual of mental disorders as specified in K.A.R. 102-5-14. Three of the 15 credit hours 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 credit hours shall consist of academic courses with the primary and explicit focus of diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches, and professional ethics, or coursework that specifically contains identifiable, equivalent instruction; 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 per week during nine months or more of each year, in a community mental health center or its affiliate, a state mental hospital, or another employment setting in which the applicant engaged in clinical practice that included diagnosis or treatment of mental disorders; or

(B) an attestation by the applicant that the applicant engaged in a minimum of three years of independent clinical practice that included diagnosis or treatment of mental 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 a minimum of three years; or

(3) an attestation that the applicant has demonstrated competence in diagnosis or treatment of mental disorders and that is signed by a professional licensed to practice medicine and surgery, or by a professional licensed psychologist, a licensed specialist clinical social worker, or another professional licensed to diagnose and treat mental disorders in independent practice. (Authorized by K.S.A. 65-6406, as amended by L. 2003, Ch. 129, Sec. 4, K.S.A. 74-7507; implementing K.S.A. 65-6406, as amended by L. 2003, Ch. 129, Sec. 4, K.S.A. 65-6408 and 65-6411; effective, T-102-7-1-03, July 1, 2003; effective Oct. 31, 2003.)

102-5-5. Examination for marriage and family therapist or clinical marriage and family therapist. (a) Each applicant for licensure with examination shall take a nationally administered, standardized written examination approved by the board.

(b)(1) Any applicant may submit an application for licensure as provided by K.A.R. 102-5-4a only if the applicant has completed the applicable academic degree requirements or is expected to complete those requirements within four months of the date on which the application is submitted. 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 at the time the academic degree is awarded to the applicant.

(2) If the board determines that the applicant has met the applicable academic degree requirements or is likely to meet those requirements within four months of the date on which the application was submitted, the applicant shall be notified by the board that the applicant is eligible to register for the written examination with the examination service that administers the examination.

(c) The written examination may be waived by the board if the applicant successfully passed, at a level equal to or greater than the criterion-referenced cutoff score, a standardized written examination that the board deems to be substantially equivalent to the examination approved by the board.

(d) For an applicant to be licensed as a marriage and family therapist, the minimum pass-

ing score shall be a score of 12 items below the criterion-referenced pass point statistically established by the examination service, based on a 200-item examination.

(e) For an applicant to be licensed as a clinical marriage and family therapist, the minimum passing score shall be the criterion-referenced pass point statistically established by the examination service. (Authorized by K.S.A. 2004 Supp. 74-7507; implementing K.S.A. 65-6404; effective March 29, 1993; amended Dec. 19, 1997; amended Aug. 4, 2000; amended March 10, 2006.)

102-5-6. (Authorized by K.S.A. 1991 Supp. 74-7507(j); implementing K.S.A. 1991 Supp. 65-6406; effective March 29, 1993; revoked Dec. 19, 1997.)

102-5-6a. Licensure without examination. (a) On or after January 1, 1997 and before July 1, 1998, an applicant may qualify for licensure as a marriage and family therapist without examination by submitting an application, license application fee, and all supporting documents that demonstrate that, at the time of application, the applicant meets the educational and experience requirements of either paragraph (1) or paragraph (2).

(1) To qualify for licensure without examination under this paragraph, an applicant shall fulfill these requirements:

(A) have completed the education requirements provided in subsection (a), subsection (b), or subsection (c) of K.A.R. 102-5-3;

(B) have satisfied the professional supervised experience requirements provided in K.A.R. 102-5-7a;

(C) have practiced postgraduate marriage and family therapy continuously for five years immediately before application, as demonstrated by the applicant's attestation that the applicant averaged eight client contact hours per week for at least nine months out of each of the five years immediately before application; and

(D) be given proportionate credit under this subsection toward the requirement of five years of continuous practice of marriage and family therapy, when the applicant successfully completes any portion of the postgraduate supervised experience that occurred within the five years immediately before application.

(2) To qualify for licensure without examination under this paragraph, an applicant shall meet these conditions:

(A) have completed a graduate degree in a related field as defined in K.A.R. 102-5-1(o);

(B) have practiced postgraduate marriage and family therapy continuously for five years immediately before application for licensure. The applicant shall demonstrate the five years of continuous practice by submitting the following:

(i) an attestation that the applicant averaged eight client contact hours per week for at least nine months out of each of the five years immediately before application;

(ii) attestations on board-approved forms from at least two persons who are not related to the applicant, who are lawfully engaged in the practice of marriage and family therapy or a related field, and who can verify that the applicant is recognized as a professional who has been engaged in the practice of marriage and family therapy; and

(iii) supporting documentation, such as an official job description, a published description of the applicant's professional services as offered to clients, membership in marriage and family therapy professional associations, or participation in marriage and family therapy continuing education activities.

(b) In addition, each applicant for licensure without examination shall submit on board-approved forms, three professional references that attest to the applicant's competency to practice marriage and family therapy. Such references shall be from individuals who are not related to the applicant and who are lawfully authorized to practice marriage and family therapy or to practice in a related field.

(c) Each applicant for licensure without examination shall arrange for the applicant's transcripts covering all applicable graduate college or university course work to be sent directly from each academic institution to the board office. Each applicant who graduated from a college or university outside the United States shall also arrange to have the applicant's transcript translated and evaluated for degree equivalency by a source and in a manner that is acceptable to the board.

(d) When the applicant receives the board's notice that the applicant has satisfied all eligibility requirements for licensure without examination, the applicant shall submit the fee for the original two-year licensure period.

(e) An applicant or a prospective applicant shall not receive a judgment on the applicant's eligibility for licensure until the board receives all application materials and the applicant completes all application procedures.

(f) This regulation shall have no force or effect on or after July 1, 1998. (Authorized by K.S.A. 1996 Supp. 74-7507(j); implementing K.S.A. 1996 Supp. 65-6305, 65-6308, and 65-6411; effective Dec. 19, 1997.)

102-5-7. (Authorized by K.S.A. 1991 Supp. 74-7507(j); implementing K.S.A. 1991 Supp. 65-6404; effective March 29, 1993; revoked April 17, 1998.)

102-5-7a. Postgraduate supervised professional experience requirement for a clinical marriage and family therapist. In order to be approved by the board for licensure as a clinical marriage and family therapist, the applicant's postgraduate supervised professional experience of marriage and family therapy, totaling 4,000 hours of professional experience inclusive of 1,500 hours of direct client contact, shall meet all of the following standards: (a) Except as provided in subsection (b), clinical supervision shall be provided throughout the entirety of the postgraduate supervised professional experience, as specified below:

(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 in the same physical space, except when not practical due to an emergency or other exigent circumstances, at which time person-to-person contact by interactive video or other telephonic means maintaining confidentiality shall be allowed;

(3) at least one hour of clinical supervision during each week in which the applicant has 15 or more hours of direct client contact; and

(4) at least two separate clinical supervision sessions per month, at least one of which shall be one-on-one, individual supervision.

(b) Each applicant with a doctor's degree in marriage and family therapy or a related field as defined in K.A.R. 102-5-1 shall complete a minimum of one-half of the postgraduate supervised professional experience requirements as specified below:

(1) At least 25 hours of one-on-one, individual supervision occurring with the supervisor and supervisee in the same physical space;

(2) at least 50 hours of supervision with one supervisor and no more than six supervisees in the same physical space, except when not practical due to an emergency or other exigent circum-

stances, at which time person-to-person contact by interactive video or other telephonic means maintaining confidentiality shall be allowed; and

(3) at least two separate supervisory sessions per month, at least one of which shall be one-on-one, individual supervision.

(c) The clinical supervisor of a person attaining the 4,000 hours of postgraduate supervised professional experience required for licensure as a clinical marriage and family therapist, at the time of providing supervision, shall meet one of the following qualifying provisions:

(1) The clinical supervisor shall be a clinical marriage and family therapist who is licensed in Kansas or is registered, certified, or licensed in another jurisdiction and, beginning July 1, 2003, who has engaged in the independent practice of clinical marriage and family therapy, including the diagnosis and treatment of mental disorders, for at least two years beyond the supervisor's registration, certification, or licensure date as a clinical marriage and family therapist.

(2) If a licensed clinical marriage and family therapist is not available, the clinical supervisor may be a person who is registered, 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. The qualifying individual shall not have had less than two years of professional experience in the independent practice of clinical marriage and family therapy beyond the date of the supervisor's registration, certification, or licensure.

(d) In addition to the requirements of subsection (c), each clinical supervisor shall meet these requirements:

(1) Have professional authority over and responsibility for the supervisee's clinical functioning in the practice of marriage and family therapy;

(2) not have a 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 (e).

(e) 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 a solid 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 to the client and to the practice setting.

(f) Each clinical supervisor shall perform the following duties:

(1) Provide oversight, guidance, and direction of the supervisee's clinical practice of marriage and family therapy by assessing and evaluating the supervisee's performance;

(2) conduct supervision as a process distinct from personal therapy, didactic instruction, or marriage and family therapy 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 a supervisee completes the postgraduate supervised professional experience. The supervisor shall submit this documentation on board-approved forms and in a manner that will enable the board to evaluate the extent and quality of the supervisee's professional experience and assign credit for that experience;

(8) provide a level of supervision that is commensurate with the education, training, experience, and ability of both the supervisor and the supervisee; and

(9) ensure that each client knows that the supervisee is practicing marriage and family therapy under supervision.

(g) Each supervisor and supervisee shall develop and co-sign a written clinical supervision training plan on forms provided by the board at the beginning of the supervisory relationship. The supervisee shall submit this plan to the board and shall receive board approval of the plan before any supervised professional experience hours can begin to accrue. This plan shall clearly define and delineate the following items:

(1) The supervisory context;

(2) a summary of the anticipated types of clients and the services to be provided;

(3) the format and schedule of supervision;

(4) 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 otherwise, in the case of emergency; and

(E) an evaluation of the supervisee's progress under clinical supervision;

(5) a plan to notify clients of the following information:

(A) The fact that the supervisee is practicing marriage and family therapy under supervision;

(B) the limits of client confidentiality within the supervisory process; and

(C) the name, address, and telephone number of the clinical supervisor;

(6) the date on which the parties entered into the clinical supervision training plan and the time frame that the plan is intended to encompass;

(7) 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 (h);

(8) the supervisee's informed consent for the supervisor to discuss supervision or performance issues with the supervisee's clients, the supervisee's other marriage and family therapy or employment supervisors, the board, or any other individual or entity to which either the supervisee or the supervisor is professionally accountable; and

(9) a statement signed by each supervisor and supervisee acknowledging that each person has read and agrees to the postgraduate supervised professional experience requirements set forth in this regulation.

(h) 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. 74-7507; implementing K.S.A. 65-6404; effective April 17, 1998; amended Oct. 22, 1999; amended Aug. 4, 2000; amended July 7, 2003; amended Aug. 13, 2004.)

102-5-7b. Requirements for board-approved clinical supervisor; application.

(a) Each licensee providing postgraduate clinical supervision shall be a board-approved clinical supervisor. This requirement shall apply to each individual commencing a new supervisory relationship on or after July 1, 2017.

(b) In addition to meeting the requirements in K.S.A. 2016 Supp. 65-6414 and amendments thereto and K.A.R. 102-5-7a, the licensee shall successfully complete clinical supervision training, which shall be approved by the board and be specific to providing supervision or becoming a supervisor. This training shall include either 15 hours of continuing education in supervision or one semester credit hour of a graduate-level course on supervision or the academic equivalent at an accredited college or university approved by the board, each of which shall cover the following material:

- (1) Hands-on practice in supervision, consisting of at least eight hours;
- (2) best practices of supervision;
- (3) classic and postmodern systemic supervision models;
- (4) ethical and legal issues, including risk management;
- (5) culture and context in supervision;
- (6) structuring supervision;
- (7) the importance of a positive working relationship between the supervisor and supervisee; and
- (8) Kansas marriage and family therapist statutes and regulations.

(c) Each licensee applying for approval as a clinical supervisor shall obtain the appropriate application forms from the board and submit the completed application materials to the board.

(d) To maintain approval as a clinical supervisor, each approved clinical supervisor shall successfully complete the required continuing education specified in K.A.R. 2016 Supp. 65-6414, and amendments thereto. (Authorized by K.S.A. 2016 Supp. 74-7507; implementing K.S.A. 2016 Supp. 65-6414; effective, T- 102-5-24-17, May 24, 2017; effective Oct. 6, 2017.)

102-5-8. (Authorized by K.S.A. 1996 Supp. 74-7507(j); implementing K.S.A. 1996 Supp. 65-6407; effective March 29, 1993; amended Dec. 19, 1997; revoked June 8, 2007.)

102-5-9. Renewal and reinstatement. (a) To be considered for license renewal, each licensed marriage and family therapist and licensed clinical marriage and family therapist shall submit the following items to the board:

- (1) A completed renewal application;
- (2) the continuing education reporting form; and
- (3) the renewal fee as prescribed in K.A.R. 102-5-2.

(b) If the application for renewal, the continuing education reporting form, and payment of the required fee are not submitted before the date the license expires, the licensee may reinstate the license by paying the required renewal fee, plus the late charge prescribed in K.A.R. 102-5-2, and submitting proof satisfactory to the board that the licensee has complied with the continuing education requirements.

(c) Each individual who holds a marriage and family therapy license or a clinical marriage and family therapy license but who fails to renew the license before its expiration, and who thereafter applies to renew the license, shall indicate on the reinstatement application form whether or not the individual has continued to practice marriage and family therapy in Kansas, or has continued to represent that individual as being a marriage and family therapist in Kansas after the individual's license expired and, if so, under what circumstances.

(d) If the license of any individual has been suspended and the individual thereafter makes an application for license renewal or reinstatement, the individual shall submit the following items:

- (1) The completed renewal or reinstatement application form;
- (2) the required renewal fee and, if applicable, the late charge set forth in K.A.R. 102-5-2;

(3) proof satisfactory to the board that the individual has complied with the continuing education requirements;

(4) proof satisfactory to the board that the individual has complied with the terms of the suspension; and

(5) 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 the license should be renewed or reinstated. Factors to be considered by the board in determining whether or not the license should be renewed or reinstated shall include the following:

(A) The extent to which the individual presently merits the public trust;

(B) the extent to which the individual demonstrates consciousness of the wrongful conduct that resulted in the license suspension;

(C) the extent of the individual's remediation and rehabilitation in regard to the wrongful conduct that resulted in the license suspension;

(D) the nature and seriousness of the original misconduct;

(E) the individual's conduct after the license suspension;

(F) the time elapsed since the license suspension; and

(G) the individual's present competence in marriage and family therapy knowledge and skills.

(e) If the license of any individual has been revoked and the individual thereafter makes an application for license reinstatement, the individual shall submit the following items:

(1) The completed reinstatement application form;

(2) the required renewal fee and the late charge set forth in K.A.R. 102-5-2;

(3) proof satisfactory to the board that the individual has complied with the continuing education requirements; and

(4) materials, information, evaluation or examination reports, or other documentation 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 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 wrongful conduct that resulted in the license revocation;

(C) the extent of the individual's remediation and rehabilitation in regard to the wrongful conduct 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 competence in marriage and family therapy knowledge and skills. (Authorized by K.S.A. 74-7507; implementing K.S.A. 65-6407 and 65-6411; effective March 29, 1993; amended Dec. 19, 1997; amended July 11, 2003.)

102-5-9a. Renewal audit. (a) A random audit of the continuing education documentation for 10 percent of the marriage and family therapist licenses and the clinical marriage and family therapist licenses expiring each month shall be conducted by the board.

(b) Each licensee selected for the random audit shall be notified in writing after the board has received the licensee's renewal application form required by K.A.R. 102-5-9.

(c) Upon board notification, each renewal applicant shall submit the following to the board within 30 days after the license expiration date:

(1) The completed renewal audit forms; and

(2) the original continuing education documents that validate all continuing education units claimed for credit during the current renewal period.

(d) Continuing education units that a renewal applicant earns after board receipt of the renewal application form shall not be approved for continuing education credit for the current renewal period.

(e) Failure to comply with this regulation shall be considered unprofessional conduct. (Authorized by and implementing K.S.A. 65-6407 and K.S.A. 2007 Supp. 74-7507; effective Feb. 13, 2009.)

102-5-10. Continuing education for licensees. (a) Each licensee shall complete 40 hours of documented and approved continuing education during each two-year renewal period. Continuing education hours accumulated in excess of the required number of hours shall not be carried over to the next renewal period.

(b) During each two-year renewal period as a part of the required continuing education hours, each licensee shall complete a program on professional ethics that consists of at least three hours of formal training. This program shall meet the defi-

inition of marriage and family therapy continuing education in K.A.R. 102-5-1, and the program shall focus on ethical issues of the marriage and family therapy profession. 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) Any licensee may receive continuing education credit for attending approved programs. Continuing education credit shall be granted on the basis of the actual contact time that the licensee spends attending each instructional activity. One-quarter continuing education hour may be granted for attending at least 15 but fewer than 30 minutes. Continuing education credit shall not be granted for fractional units of fewer than 15 minutes.

(d) Acceptable continuing education, whether taken within the state or outside the state, shall include the following:

(1) An academic marriage and family therapy course, or an academic course oriented to the enhancement of a marriage and family therapist'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 40;

(2) an academic marriage and family therapy course, or an academic course oriented to the enhancement of a marriage and family therapist's practice, values, ethics, skills, or knowledge, that is audited. The licensee may 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 number of allowable continuing education hours shall be 40;

(3) a seminar, institute, workshop, course, or minicourse. The maximum number of allowable continuing education hours shall be 40;

(4) if a posttest is provided, an activity consisting of completing of 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 40;

(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 10;

(6) a cross-disciplinary offering in medicine, law, the behavioral sciences, 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 a marriage and family therapist's practice, values, ethics, skills, or knowledge. The maximum number of allowable continuing education hours shall be 10;

(7) a self-directed learning project that is pre-approved by the board. The maximum number of allowable continuing education hours shall be 10;

(8) providing supervision to undergraduate or graduate practicum or intern students, applicants for licensure as clinical marriage and family therapists, or other clinical mental health practitioners. The maximum number of allowable continuing education hours shall be 15;

(9) preparing for and presenting for the first time a marriage and family therapy course, seminar, institute, workshop, or mini-course. The maximum number of allowable continuing education hours shall be 10 for documented preparation and presentation time;

(10) the first-time publication of a marriage and family therapy article in a juried professional journal. The maximum number of allowable continuing education hours shall be 10; and

(11) participation in professional organizations or appointment to professional credentialing boards, if the goals of the organizations or boards are clearly related to the enhancement of marriage and family therapy 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) Approval shall not be granted for identical programs if the programs are completed within the same renewal period.

(f) Approval shall not be granted for any of the following activities:

(1) First aid, CPR, infection control, or occupational health and safety courses;

(2) in-service training, if the training is for job orientation or job training, or is specific to the employing agency; or

(3) 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, ethics, values, skills, or knowledge in marriage and family therapy.

(g) Each licensee shall maintain individual continuing education records. Continuing education records shall document the licensee's continuing education activity attendance, participation, or completion as specified in K.A.R. 102-5-11. Any licensee may be required to submit these records to the board at least 30 days before the date the individual's license expires. (Authorized by and implementing K.S.A. 65-6407 and 74-7507; effective March 29, 1993; amended Dec. 19, 1997; amended July 11, 2003.)

102-5-11. Documentation for continuing education. Any of the following original, signed forms of documentation shall be accepted as proof that a licensee has completed a continuing education activity:

(a) a passing course grade for an academic credit course;

(b) a signed statement, by the instructor, of actual contact hours attended for an audited academic course;

(c) a signed statement from the provider of the institute, symposium, workshop, or seminar that the licensee attended the continuing education program;

(d) a copy of the article or book chapter 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;

(e) a copy of the academic course syllabus and verification that the licensee presented the course;

(f) 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 workshop, seminar, or program;

(g) a letter from the board giving approval for retroactive continuing education credit;

(h) written verification from the university practicum or intern instructor or other official training director that the licensee supervised undergraduate or graduate students or from the postgraduate supervisee that the licensee provided supervision;

(i) a copy of the 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; or

(j) the media format, content title, presenter or sponsor, content description, run time, and activity date for each videotape, audiotape, computer-

ized interactive learning module, or telecast that the licensee utilized for continuing education purposes. (Authorized by and implementing K.S.A. 1996 Supp. 65-6407; effective March 29, 1993; amended Dec. 19, 1997.)

102-5-12. Unprofessional conduct. (a) Any license may be suspended, limited, conditioned, qualified, restricted, revoked, not issued, or not renewed upon a finding by the board that unprofessional conduct has occurred.

(b) Any of the following acts by either a marriage and family therapy licensee or a marriage and family therapy licensure applicant shall constitute unprofessional conduct:

(1) Obtaining or attempting to obtain a license or registration for oneself or another by engaging in fraud, bribery, deceit, misrepresentation, or by concealing a material fact;

(2) 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:

(A) 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;

(B) has been subject to any other disciplinary action by any credentialing board, professional association, or professional organization;

(C) 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;

(D) has been convicted of a crime; or

(E) has practiced the licensee's or registrant's profession in violation of the laws or regulations that regulate the profession;

(3) knowingly allowing another person to use one's license or registration;

(4) impersonating another person holding a license or registration issued by this or any other board;

(5) having been convicted of a crime resulting from or relating to one's professional practice of marriage and family therapy;

(6) furthering the licensure or registration application of another person who is known or reasonably believed to be unqualified with respect to character, education, or other relevant eligibility requirements;

(7) 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;

(8) 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;

(9) 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. Any 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;

(10) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, or experience or with accepted professional standards;

(11) treating any client, student, or supervisee in a cruel manner;

(12) discriminating against any client, student, or supervisee on the basis of color, race, gender, religion, national origin, or disability;

(13) failing to advise and explain to each client the respective rights, responsibilities, and duties involved in the marriage and family therapy relationship;

(14) failing to provide each client with a description of what the client can expect in the way of services, consultation, reports, fees, billing, therapeutic regimen, or schedule, or failing to reasonably comply with that description;

(15) failing to provide each client with a description of the possible effects of the proposed treatment when the treatment is experimental or when there are clear and known risks to the client;

(16) 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;

(17) failing to inform each client that the client is entitled to the same services from a public agency if one is employed by that public agency and also offers services privately;

(18) failing to inform each client, student, or supervisee of the limits of client confidentiality, the purposes for which the information is obtained, and the manner in which the information may be used;

(19) revealing information, a confidence, or secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records, except when at least one of these conditions is met:

(A) Disclosure is required or permitted by law;

(B) failure to disclose the information presents a clear and present danger to the health or safety of an individual or the public;

(C) the licensee or applicant is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of marriage and family therapy, in which case disclosure is limited to that action; or

(D) the criteria provided by K.S.A. 65-6410, and amendments thereto, are met;

(20) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of these actions:

(A) Electronically recording sessions with that client;

(B) permitting a third-party observation of their activities; or

(C) releasing information concerning a client to a third person, except as required or permitted by law;

(21) failing to protect the confidences of, secrets of, or information concerning other persons when providing a client with access to that client's records;

(22) failing to exercise due diligence in protecting the information regarding and the confidences and secrets of the client from disclosure by other persons in one's work or practice setting;

(23) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(24) using alcohol or illegally using any controlled substance while performing the duties or services of a marriage and family therapist;

(25) making sexual advances toward or engaging in physical intimacies or sexual activities with one's client, student, or supervisee;

(26) making sexual advances toward, engaging in physical intimacies or sexual activities with, or exercising undue influence over any person who, within the past 24 months, has been one's client;

(27) exercising undue influence over any client, student, or supervisee, including promoting sales of services or goods, in a manner that will exploit the client, student, or supervisee for the financial gain, personal gratification, or advantage of oneself or a third party;

(28) 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;

(29) 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 marriage and family therapy;

(30) 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;

(31) making claims of professional superiority that one cannot substantiate;

(32) guaranteeing that satisfaction or a cure will result from performing or providing any professional service;

(33) claiming or using any secret or special method of treatment or techniques that one refuses to disclose to the board;

(34) continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the client's condition, best interests, or preferences;

(35) taking credit for work not personally performed, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information;

(36) if engaged in research, failing to fulfill these requirements:

(A) Consider carefully the possible consequences for human beings participating in the research;

(B) protect each participant from unwarranted physical and mental harm;

(C) ascertain that each participant's consent is voluntary and informed; and

(D) preserve the privacy and protect the anonymity of each subject of the research within the terms of informed consent;

(37) making or filing a report that one knows

to be false, distorted, erroneous, incomplete, or misleading;

(38) failing to notify the client promptly when one anticipates terminating or interrupting service to the client;

(39) 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;

(40) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;

(41) failing to terminate marriage and family therapy services when it is apparent that the relationship no longer serves the client's needs or best interests;

(42) supervising in a negligent manner anyone for whom one has supervisory responsibility;

(43) when applicable, failing to inform a client that marriage and family therapy services are provided or delivered under supervision;

(44) engaging in a dual relationship with a client, student, or supervisee;

(45) failing to inform the proper authorities as required by K.S.A. 38-2223, and amendments thereto, that one knows or has reason to believe that a client has been involved in harming or has harmed a child, whether by physical, mental, or emotional abuse or neglect or by sexual abuse;

(46) failing to inform the proper authorities as required by K.S.A. 39-1402, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to a resident, as defined by K.S.A. 39-1401(a) and amendments thereto:

(A) Has been or is being abused, neglected, or exploited;

(B) is in a condition that resulted from abuse, neglect, or exploitation; or

(C) needs protective services;

(47) failing to inform the proper authorities as required by K.S.A. 39-1431, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to an adult, as defined in K.S.A. 39-1430 and amendments thereto:

(A) Is being or has been abused, neglected, or exploited;

(B) is in a condition that is the result of abuse, neglect, or exploitation; or

(C) needs protective services;

(48) 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;

(49) offering to perform or performing any service, procedure, or therapy that, by the accepted standards of marriage and family therapy 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;

(50) practicing marriage and family therapy in an incompetent manner;

(51) practicing marriage and family therapy after one's license expires;

(52) using without a license or continuing to use after a license has expired any title or abbreviation prescribed by law to be used solely by persons who currently hold that type or class of license; or

(53) violating any provision of this act or any regulation adopted under the act. (Authorized by K.S.A. 65-6408 and K.S.A. 2007 Supp. 74-7507; implementing K.S.A. 65-6408; effective March 29, 1993; amended Dec. 19, 1997; amended July 11, 2003; amended Jan. 9, 2004; amended Aug. 8, 2008.)

102-5-13. Licensee consult with physician when determining symptoms of mental disorders. (a) "Consult," as used in K.S.A. 65-6404 and amendments thereto, shall be defined as contact made by the licensee with the appropriate medical professional for the purpose of promoting a collaborative approach to the client's care and informing the medical professional of the client's symptoms. This contact shall not be intended to accomplish confirmation of diagnosis. The timing of any such action by the licensee shall be managed in a way that enhances the progress of assessment, diagnosis, and treatment. This consult may or may not be completed in the initial session of service delivery.

(b) A consult with a client's physician or psychiatrist may occur through face-to-face contact, telephonic contact, or correspondence by the licensee with the physician, the physician's assistant, or designated nursing staff. When initiating this contact, the licensee shall not be responsible for the medical professional's response or for the client's compliance with any related intervention made by the medical professional.

(c) If a licensee is practicing in a setting or contact arrangement that involves a person licensed to

practice medicine and surgery for review of mental health treatment, a physician consult may be completed through medical involvement completed in accordance with the established procedure of the setting or with the contact arrangement.

(d) A physician consult shall not be required beyond the procedures for medical involvement as established by the qualifying agency if a licensee is practicing in any of the following:

(1) A licensed community mental health center or its affiliate;

(2) an agency of the state that provides mental health, rehabilitative, or correctional services; or

(3) an agency licensed by the state for providing mental health, rehabilitative, or correctional services.

(e) If a licensee is offering services that do not include diagnosis and treatment of a mental disorder, a physician consult shall not be required. (Authorized by K.S.A. 1999 Supp. 74-7507; implementing K.S.A. 1999 Supp. 65-6404, as amended by L. 1999, Ch. 117, Sec. 20; effective Aug. 4, 2000.)

102-5-14. Designation of referral source for use in the diagnosis and treatment of mental disorders. The "diagnostic and statistical manual of mental disorders," fifth edition, published by the American psychiatric association, shall be designated as the manual to diagnose and treat mental disorders. (Authorized by K.S.A. 65-6402, K.S.A. 65-6404, and K.S.A. 74-7507; implementing K.S.A. 65-6404; effective Aug. 4, 2000; amended April 22, 2005; amended March 15, 2019.)

102-5-15. Services rendered to individuals located in this state. Except as authorized by K.S.A. 65-6409, and amendments thereto, each person, regardless of the person's location, who engages in either of the following activities shall be deemed to be engaged in the practice of marriage and family therapy or clinical marriage and family therapy in this state and shall be required to have a license, issued by the board, to practice marriage and family therapy as a licensed marriage and family therapist or a licensed clinical marriage and family therapist, as appropriate:

(a) performs any act included in subsection (b) of K.S.A. 65-6402, and amendments thereto, on or for one or more individuals located in this state; or

(b) represents oneself to be a licensed marriage and family therapist or a licensed clinical marriage and family therapist available to perform any act

included in subsection (b) of K.S.A. 65-6402, and amendments thereto, on or for one or more individuals located in this state. (Authorized by K.S.A. 1999 Supp. 74-7507; implementing K.S.A. 65-6403, as amended by L. 1999, Ch. 117, § 19; effective May 11, 2001.)

102-5-16. Unprofessional conduct regarding recordkeeping. (a) The failure of a marriage and family therapist licensee or clinical marriage and family therapist licensee to comply with the recordkeeping requirements established in this regulation shall constitute unprofessional conduct.

(b) Content of marriage and family therapy or clinical marriage and family therapy records. Each licensed marriage and family therapist or clinical marriage and family therapist shall maintain a record for each client or client system that accurately reflects the licensee's contact with the client or client system and the results of the marriage and family therapy or clinical marriage and family therapy 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 media, if reasonable steps are taken to maintain confidentiality, accessibility, and durability. Each record shall be completed in a timely manner and shall include the following information for each client or client system:

- (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) a plan for service delivery or case disposition;
- (6) the clinical notes from each session; and
- (7) sufficient detail to permit planning for continuity that would enable another marriage and family therapist or clinical marriage and family therapist to take over the delivery of services.

(c) Retention of records. If a licensee is the owner or custodian of client or client system 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. 65-6408 and 74-7507; implementing K.S.A. 65-6408; effective July 11, 2003.)

Article 6.—REGISTERED ALCOHOL AND OTHER DRUG ABUSE COUNSELORS

102-6-1. (Authorized by and implementing K.S.A. 74-7507(j); effective July 17, 1995; revoked Feb. 10, 2012.)

102-6-2. (Authorized by and implementing K.S.A. 65-6602(c) and 65-6603; effective July 17, 1995; revoked Feb. 10, 2012.)

102-6-4. (Authorized by K.S.A. 65-6602(b) and 74-7507(j) and implementing K.S.A. 65-6602; effective July 17, 1995; revoked Feb. 10, 2012.)

102-6-5. (Authorized by K.S.A. 74-7507(i) and implementing K.S.A. 65-6602(c); effective July 17, 1995; revoked Feb. 10, 2012.)

102-6-8. (Authorized by and implementing K.S.A. 2006 Supp. 74-7507; effective July 17, 1995; amended June 8, 2007; revoked Feb. 10, 2012.)

102-6-9. (Authorized by K.S.A. 74-7507; implementing K.S.A. 65-6603 and 74-7507; effective July 17, 1995; amended July 11, 2003; revoked Feb. 10, 2012.)

102-6-9a. (Authorized by and implementing K.S.A. 65-6603 and K.S.A. 2007 Supp. 74-7507; effective Feb. 13, 2009; revoked Feb. 10, 2012.)

102-6-10. (Authorized by and implementing K.S.A. 74-7507 and K.S.A. 65-6603; effective July 17, 1995; amended July 11, 2003; revoked Feb. 10, 2012.)

102-6-11. (Authorized by and implementing K.S.A. 74-7507(g) and K.S.A. 65-6603; effective July 17, 1995; revoked Feb. 10, 2012.)

102-6-12. (Authorized by and implementing K.S.A. 2007 Supp. 74-7507; effective July 17, 1995; amended Aug. 8, 2008; revoked Feb. 10, 2012.)

Article 7.—LICENSING OF ADDICTION COUNSELORS

102-7-1. Definitions. (a) “Academic equivalent of a semester credit hour,” when used in K.A.R. 102-7-3, means the prorated proportionate credit for formal academic coursework if that coursework is completed on the basis of trimester or quarter hours rather than semester hours.

(b) “Addiction counseling supervision” means a formal professional relationship between the supervisor and supervisee that promotes the development of responsibility, skills, knowledge, values, and ethical standards in the practice of addiction counseling.

(c) “Board” means the Kansas behavioral sciences regulatory board.

(d) “Client” means a person who is a direct recipient of addiction counseling services.

(e) “Client contact,” for purposes of K.A.R. 102-7-6, means a service to a client or clients that utilizes individual, family, or group interventions through face-to-face interaction or the use of electronic mediums of face-to-face interaction in which confidentiality is protected.

(f) “Clinical supervision training plan” means a formal, written agreement that establishes the supervisory framework for postgraduate clinical experience and describes the expectations and responsibilities of the supervisor and the supervisee.

(g) “Continuing education” means formally organized programs or activities that are designed for and have content intended to enhance the addiction counselor’s or clinical addiction counselor’s knowledge, skill, values, ethics, and ability to practice as an addiction counselor or as a clinical addiction counselor.

(h) “Fraudulent representation” shall include the following:

- (1) Deceit;
- (2) misrepresentation; and
- (3) concealing a material fact.

(i) “Harmful dual relationship” means a professional relationship between a licensee and a client, student, supervisee, or any person who has had a significant relationship with either a current client or a person who has been a client within the past 24 months if that relationship is known to the licensee, in which the objectivity or competency of the licensee is impaired or compromised because of any of the following types of present or previous relationships:

- (1) Familial;

- (2) social;

- (3) emotional;

- (4) financial;

- (5) supervisory; or

- (6) administrative.

(j) “LAC” means licensed addiction counselor.

(k) “LCAC” means licensed clinical addiction counselor.

(l) “Malfeasance” means the performance of an act by a licensee that is prohibited or that constitutes wrongdoing or misconduct.

(m) “Merits the public trust” means that an applicant or licensee possesses the high standard of good moral character and fitness that is required to practice addiction counseling as demonstrated by the following personal qualities:

- (1) Good judgment;

- (2) integrity;

- (3) honesty;

- (4) fairness;

- (5) credibility;

- (6) reliability;

- (7) respect for others;

- (8) respect for the laws of the state and nation;

- (9) self-discipline;

- (10) self-evaluation;

- (11) initiative; and

(12) commitment to the addiction counseling profession and its values and ethics.

(n) “Misfeasance” means the improper performance of a lawful act by a licensee.

(o) “Nonfeasance” means the omission of an act that a licensee should do.

(p) “Practice setting” means the public or private addiction counseling agency or delivery system within which addiction counseling is practiced or addiction counseling services are delivered.

(q) “Practicum or its equivalent” means a formal component of the academic curriculum in the addiction counseling or in the related field educational program that engages the student in supervised addiction counseling practice and provides opportunities to apply classroom learning to actual practice situations in a field setting.

(r) “Quarter credit hour” means two-thirds of a semester hour. Quarter credit hours shall be rounded as follows:

- (1) One quarter credit hour equals .7 semester hours.

- (2) Two quarter credit hours equal 1.3 semester hours.

- (3) Three quarter credit hours equal 2.0 semester hours.

(4) Four quarter credit hours equal 2.7 semester hours.

(5) Five quarter credit hours equal 3.3 semester hours.

(s) “Related field” means a degree program in a helping profession and may include any of the following:

- (1) Criminal justice;
- (2) counseling;
- (3) healing arts;
- (4) human development and family studies;
- (5) human services;
- (6) marriage and family therapy;
- (7) nursing;
- (8) psychology;
- (9) social work; or
- (10) theology.

(t) “Semester credit hour,” when used in K.A.R. 102-7-3, means at least 13 clock-hours of formal, didactic classroom instruction that occurred over the course of an academic semester and for which the applicant received formal academic credit.

(u) “Undue influence” means misusing one’s professional position of confidence, trust, or authority over a client or supervisee, or taking advantage of a client’s vulnerability, weakness, infirmity, or distress for any of the following purposes:

(1) To improperly influence or change a client’s or supervisee’s actions or decisions;

(2) to exploit a client or supervisee for the counselor’s or a third party’s financial gain, personal gratification, or advantage; or

(3) to impose one’s personal values, spiritual beliefs, or lifestyle on a client, student, or supervisee. (Authorized by and implementing K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

102-7-2. Fees. (a) Each applicant or licensee shall pay the appropriate fee or fees as follows:

(1) Application for an addiction counselor license: \$50;

(2) application for a master’s addiction counselor license: \$50;

(3) application for a clinical addiction counselor license: \$50;

(4) original addiction counselor license: \$100;

(5) original master’s addiction counselor license: \$150;

(6) original clinical addiction counselor license: \$150;

(7) renewal of an addiction counselor license: \$50;

(8) renewal of a master’s addiction counselor license: \$75;

(9) renewal of a clinical addiction counselor license: \$100;

(10) replacement of an addiction counselor, a master’s addiction counselor, or a clinical addiction counselor license: \$20;

(11) replacement of an addiction counselor, a master’s addiction counselor, or a clinical addiction counselor wallet license: \$2;

(12) reinstatement of an addiction counselor license: \$50;

(13) reinstatement of a master’s addiction counselor license: \$75;

(14) reinstatement of a clinical addiction counselor license: \$100;

(15) temporary addiction counselor license: \$75;

(16) temporary master’s addiction counselor license: \$75;

(17) temporary, 15-day permit for an out-of-state licensed clinical addiction counselor: \$200; or

(18) temporary, 15-day permit for an out-of-state licensed clinical addiction counselor extension: \$200.

(b) Each applicant for license renewal after its expiration date shall pay, in addition to the renewal fee, the applicable late renewal penalty fee as follows:

(1) Licensed addiction counselor: \$50;

(2) licensed master’s addiction counselor: \$75; or

(3) licensed clinical addiction counselor: \$100.

(c) Fees paid to the board shall not be refundable. (Authorized by K.S.A. 65-6618 and 74-7507; implementing K.S.A. 65-6618; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012; amended March 8, 2019.)

102-7-3. Educational requirements. (a)(1) “Core faculty member” means an individual who is part of the teaching staff of a program covered by this regulation and who meets the following conditions:

(A) Has education, training, and experience consistent with the individual’s role within the program and consistent with the published description of the goals, philosophy, and educational purpose of the program;

(B) has primary professional employment at the institution in which the program is housed; and

(C) is identified with the program and is centrally involved in program development, decision making, and student training as demonstrated by consistent inclusion of the individual's name in public and departmental documents.

(2) "In residence," when used to describe a student, means that the student is present at the physical location of the institution or at any other location approved by the board for the purpose of completing coursework, during which the student and one or more core faculty members, adjunct faculty members, or agency internship supervisors are in face-to-face contact.

(3) "Primary professional employment" means at least 20 hours each week of instruction, research, or any other service to the institution in the course of employment, and related administrative work.

(4) "Skill-based coursework" means those courses that allow students to work on basic helping skills including open-ended questions, clarification, interpretation, response to feelings, and summarization.

(b) To qualify for licensure as an addiction counselor with a baccalaureate degree in addiction counseling or a baccalaureate degree in a related field that included all coursework requirements, the applicant shall hold one of the following:

(1) A baccalaureate degree in addiction counseling or a related field. When the degree was granted, the program met the standards approved by the board;

(2) a baccalaureate degree in addiction counseling or a related field, if the applicant began the program on or before May 1, 2011 and the baccalaureate degree is conferred on or before June 1, 2012, from a program that was approved by the Kansas department of social and rehabilitation services, division of addiction and prevention services; or

(3) a baccalaureate degree in addiction counseling or a related field, if the applicant began the program on or before June 30, 2012, from a program that included at least 30 semester hours, or the academic equivalent, in coursework on substance use disorders and that meets the coursework requirements in subsection (c).

(c) Each applicant for licensure as an addiction counselor shall have satisfactorily completed formal academic coursework that contributes to the development of a broad conceptual framework for addiction counseling theory and practice. This formal academic coursework shall be distributed

across the substantive content areas specified in this subsection. For applicants who graduate on or after July 1, 2013, two of the following courses shall be completed while the student is in residence: methods of individual counseling, methods of group counseling, practicum one, or practicum two. A maximum of three semester hours, or the academic equivalent, may be completed in independent study. Except for the required courses in a practicum or its equivalent, there shall be at least three discrete and unduplicated semester hours, or the academic equivalent, in each of the following content areas:

(1) Introduction to addiction, which shall include the study of the nature of addiction and other substance use-related problems; models, theories, philosophies, principles, implications for medical and mental health conditions that coexist with addiction, and evidence-based strategies of addiction prevention, treatment, relapse prevention, continuing care, and recovery; and the impact of addiction on the individual, family, and society;

(2) methods of individual counseling, which shall include the study of culturally informed, ethical, evidence-based models and approaches to individual counseling; methods for establishing effective therapeutic relationships, developing realistic and achievable treatment goals, and assessing client substance use, functioning, motivation, and progress; and strategies for crisis prevention and intervention;

(3) methods of group counseling, which shall include the study of culturally informed, ethical, evidence-based models and approaches to group counseling; group facilitation and counseling skills; and methods for establishing group goals and treatment outcomes;

(4) addiction pharmacology, which shall include the study of the nature of psychoactive chemicals; the behavioral, psychological, physiological, and social effects of psychoactive substance use; symptoms of intoxication, withdrawal, and toxicity; toxicity screen options, limitations, and legal implications; and the use of pharmacotherapy for treatment of addiction;

(5) co-occurring disorders, which shall include the study of the symptoms of mental health and other disorders prevalent in individuals with substance use disorders, screening and assessment tools used to detect and evaluate the presence and severity of co-occurring disorders, and evidence-based strategies for managing risks

associated with treating individuals who have co-occurring disorders;

(6) addiction services coordination, which shall include the study of administrative, clinical, evaluative, and referral activities used to connect clients with treatment services and other community resources; navigation and coordination across multiple systems; and case management and advocacy skills used to assist clients in achieving their treatment and recovery goals;

(7) legal and ethical issues, which shall include the study of established codes of ethical conduct, standards of professional behavior and scope of practice; client rights, responsibilities, and informed consent; and confidentiality and other legal considerations in counseling;

(8) family and community studies, which shall include the study of family, social, and community systems; the impact of addiction on the family and society; and the development of culturally informed skills utilized in the treatment and recovery process;

(9) at least six semester credit hours, or the academic equivalent, of practicum or its equivalent, which shall include the following:

(A) An experience that integrates didactic learning that is related to substance use disorders with face-to-face, direct counseling experience that includes intake and assessment, counseling, treatment planning, discharge planning, documentation, and case management activities;

(B) at least 400 clock-hours of practice; and

(C) at least one hour of supervision for every 10 hours of practice. Supervision shall be provided by the educational program's faculty and agency staff, at least one of whom shall be licensed in the behavioral sciences; and

(10) for applicants who graduate on and after July 1, 2012, at least three discrete and unduplicated semester hours, or the academic equivalent, in the study of research, which shall include the study of basic research design and methodology; critical evaluation and interpretation of professional research reports; introduction to data collection, performance measurement, and outcome evaluation; and the application of research results in a treatment setting.

(d) To qualify for licensure as an addiction counselor with a baccalaureate degree in a related field with additional coursework in addiction counseling, the following requirements shall be met:

(1) The college or university at which the applicant completed a baccalaureate degree in a

related field shall be regionally accredited with accreditation standards equivalent to those met by Kansas colleges and universities.

(2) The applicant shall meet the coursework requirements in subsection (c).

(3) The program through which the applicant obtained additional coursework in addiction counseling shall meet the standards approved by the board as specified in subsections (i) and (j).

(e) To qualify for licensure as an addiction counselor while holding a baccalaureate social work license in Kansas, the applicant shall complete the coursework specified in paragraphs (c) (1), (4), and (9).

(f) To qualify for licensure as a clinical addiction counselor with a master's degree in addiction counseling or a master's degree in a related field that included all coursework requirements, the applicant shall hold one of the following:

(1) A master's degree in addiction counseling or a related field. When the degree was granted, the program met the standards approved by the board;

(2) a master's degree in addiction counseling or a related field, if the applicant began the program on or before May 1, 2011 and the master's degree is conferred on or before June 1, 2012 from a program that was approved by the Kansas department of social and rehabilitation services, division of addiction and prevention services; or

(3) a master's degree in addiction counseling or a related field. Part of the coursework completed for the master's degree shall be at least 30 graduate semester credit hours, or the academic equivalent, supporting the diagnosis and treatment of substance use disorders and shall meet the coursework requirements in subsection (g).

(g) Each applicant for licensure as a clinical addiction counselor shall have satisfactorily completed formal academic coursework that contributes to the development of a broad conceptual framework for addiction counseling theory and practice. This formal academic coursework shall be distributed across the substantive content areas specified in this subsection. For applicants who graduate on or after July 1, 2013, half of all skill-based coursework shall be completed while the student is in residence, as defined in this regulation. A maximum of three graduate semester hours, or the academic equivalent, may be completed in independent study. There shall be at least three discrete and unduplicated graduate semester hours, or the academic equivalent, in each of the following content areas:

(1) Addiction and recovery services, which shall include the study and critical analysis of philosophies and theories of addiction and scientifically supported models of prevention, intervention, treatment, and recovery for addiction and other substance-related problems;

(2) advanced methods of individual and group counseling, which shall include the study of practical skills related to evidence-based, culturally informed individual and group counseling techniques and strategies designed to facilitate therapeutic relationships and the educational and psychosocial development of clients as specifically related to their addiction;

(3) advanced pharmacology and substance use disorders, which shall include the study of the pharmacological properties and effects of psychoactive substances; physiological, behavioral, psychological, and social effects of psychoactive substances; drug interactions; medication-assisted addiction treatment; and pharmacological issues related to co-occurring disorders treated with prescription psychotropic medications;

(4) integrative treatment of co-occurring disorders, which shall include the study of the relationship between addiction and co-occurring mental or physical disorders or other conditions and evidenced-based models for the screening, assessment, and collaborative treatment of co-occurring disorders;

(5) assessment and diagnosis, which shall include the study of a comprehensive clinical assessment process that addresses age, gender, disability, and cultural issues; the signs, symptoms, and diagnostic criteria used to establish substance use-disorder diagnoses; and the relationship between diagnosis, treatment, and recovery;

(6) professional ethics and practice, which shall include the study of professional codes of ethics and ethical decision making; client privacy rights and confidentiality; legal responsibilities and liabilities of clinical supervision; and professional identity and development issues;

(7) applied research, which shall include the study of the purposes and techniques of behavioral sciences research, including qualitative and quantitative approaches, research methodology, data collection and analysis, electronic research skills, outcome evaluation, critical evaluation and interpretation of professional research reports, and practical applications of research. A maximum of three semester hours, or the academic equivalent, may be completed in thesis or independent research courses;

(8) practicum or its equivalent, which shall meet the following requirements:

(A) Be a clinical experience that integrates didactic learning supporting the diagnosis and treatment of substance use disorders;

(B) include at least 300 hours of client contact; and

(C) provide at least one hour of supervision for every 10 hours of client contact. Supervision shall be provided by the program's faculty and agency supervisors, at least one of whom shall be licensed at the clinical level by the board; and

(9) six additional graduate semester hours of academic coursework that contributes to the development of advanced knowledge or skills in addiction counseling, supervision, or research.

(h) To qualify for licensure as a clinical addiction counselor with a master's degree in a related field with additional coursework in addiction counseling, the following requirements shall be met:

(1) The college or university at which the applicant completed a master's degree in a related field shall be regionally accredited with accreditation standards equivalent to those met by Kansas colleges and universities.

(2) The applicant shall meet the coursework requirements in subsection (g).

(3) The program through which the applicant obtained additional coursework in addiction counseling shall meet the standards approved by the board as specified in subsections (i) and (j).

(i) In order to be approved by the board, each addiction counseling program or related-field program, except the related-field degree listed in paragraphs (d)(1) and (h)(1), shall meet the following conditions:

(1) Have established program admission requirements that are based, in part or in full, on objective measures or standardized achievement tests and measures;

(2) offer education and training in addiction counseling, one goal of which is to prepare students for the practice of addiction counseling;

(3) require an established curriculum that encompasses at least one academic year of study for a baccalaureate degree or two academic years of study for a master's degree;

(4) have clear administrative authority and primary responsibility within the program for the core and specialty areas of training in addiction counseling;

(5) have an established, organized, and comprehensive sequence of study that is planned by

administrators who are responsible for providing an integrated educational experience in addiction counseling;

(6) for a master's degree program, be coordinated or directed by an identifiable person who holds a graduate degree that was earned from a regionally accredited college or university upon that person's actual completion of a formal academic training program;

(7) have an identifiable, full-time core faculty member who holds an earned graduate degree in addiction counseling or a related field;

(8) have an established, identifiable body of students who are formally enrolled in the program with the goal of obtaining coursework for the concentration in the study of addiction counseling;

(9) require the student's major advisor to be a member of the program faculty;

(10) require each student to complete the institution's requirements for the number of credit hours that must be completed at that institution and to satisfactorily complete an addiction counseling practicum or its equivalent that is provided by the program from which the student completes the concentration in the study of addiction counseling. The required practicum shall meet the following requirements:

(A) Accept as practicum students only applicants enrolled in the addiction counseling or related-field program;

(B) provide the majority of supervision by an individual who is licensed at the clinical level by the board;

(C) exist as a distinct and organized program that is clearly recognizable within an institution or agency, as well as in pertinent public, official documents issued by the institution or agency, and that is clearly recognizable as a training program for addiction counselors;

(D) identify students as being in training and not as staff members; and

(E) be an integrated and formally organized training experience, not an after-the-fact tabulation of experience; and

(11) conduct an ongoing, objective review and evaluation of each student's learning and progress and report this evaluation in the official student transcripts.

(j) In order to be approved by the board, each addiction counseling program or related-field program, except the related-field degree listed in paragraphs (d)(1) and (h)(1), shall meet the following requirements:

(1) Be regionally accredited, with accreditation standards equivalent to those met by Kansas colleges and universities;

(2) document in official publications, including course catalogs and announcements, the program description and standards and the admission requirements for the addiction counseling or related-field education and training program;

(3) identify and clearly describe in pertinent institutional catalogs the coursework, experiential, and other academic program requirements that must be satisfied before conferral of the degree;

(4) clearly identify and specify in pertinent institutional catalogs the intent to educate and train addiction counselors;

(5) have clearly established the addiction counselor or related-field education program as a coherent entity within the college or university that, when the applicant's degree was conferred, met the program standards in subsection (i);

(6) have conferred the degree upon the applicant's successful completion of an established and required formal program of studies; and

(7) have a library and equipment and resources available that are adequate for the size of the student body and the scope of the program offered.

(k) The following types of study shall not be substituted for or counted toward the coursework requirements of this regulation:

(1) Academic coursework that has been audited rather than graded;

(2) academic coursework for which the applicant received an incomplete or failing grade;

(3) coursework that the board determines is not closely related to the field or practice of addiction counseling;

(4) coursework or training provided by any college, university, institute, or training program that does not meet the requirements of subsections (i) and (j); and

(5) any continuing education, in-service activity, or on-the-job training. (Authorized by K.S.A. 2013 Supp. 74-7507; implementing K.S.A. 2013 Supp. 65-6610; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012; amended, T-102-7-16-13, July 16, 2013; amended Dec. 2, 2013.)

102-7-4. Application for licensure. (a) Each applicant for licensure as an addiction counselor or a clinical addiction counselor shall request the appropriate licensure application forms from the executive director of the board.

(b) Each applicant for licensure as an addiction counselor shall submit the completed application materials to the board and perform the following:

(1) Submit the full payment of the licensure application fee as specified in K.A.R. 102-7-2;

(2) submit, on board-approved forms, two professional references. Each individual submitting a reference shall meet all of the following conditions:

(A) Not be related to the applicant;

(B) be authorized by law to practice addiction counseling or to practice in a related field; and

(C) be able to address the applicant's professional conduct, competence, and merit of the public trust;

(3) if not previously provided to the board, submit, on a board-approved form, a third professional reference from an individual who shall meet the following conditions:

(A) Not be related to the applicant;

(B) if the individual is the applicant's practicum supervisor, be authorized by law to practice addiction counseling; and

(C) have served as the applicant's on-site practicum supervisor or, if that supervisor is unavailable, the program director or any person who has knowledge of the applicant's practicum experience on the basis of the applicant's practicum records; and

(4) meet either of the following requirements:

(A) Currently hold a license issued by the board at the master's level or above; or

(B)(i) Demonstrate completion of the educational requirements specified in K.A.R. 102-7-3; and

(ii) arrange for the applicant's transcripts covering all applicable college or university coursework to be sent directly from each academic institution to the board office. Each applicant who graduated from a college or university outside the United States also shall arrange for the applicant's transcript to be translated and evaluated for degree equivalency by a source and in a manner that are acceptable to the board.

(c) Each applicant for licensure as a clinical addiction counselor shall submit the completed application materials to the board and perform the following:

(1) Submit the full payment of the licensure application fee as specified in K.A.R. 102-7-2;

(2) demonstrate that the applicant is licensed by the board as an addiction counselor or meets all requirements for licensure as a licensed addiction counselor;

(3) if not previously provided to the board, submit, on board-approved forms, two professional references. Each individual submitting a reference shall meet all of the following conditions:

(A) Not be related to the applicant;

(B) be authorized by law to practice addiction counseling or to practice in a related field; and

(C) be able to address the applicant's professional conduct, competence, and merit of the public trust;

(4) if not previously provided to the board, submit, on a board-approved form, a third professional reference from an individual who shall meet the following conditions:

(A) Not be related to the applicant;

(B) if the individual is the applicant's practicum supervisor, be authorized by law to practice addiction counseling; and

(C) have served as the applicant's on-site practicum supervisor or, if that supervisor is unavailable, the program director or any person who has knowledge of the applicant's practicum experience on the basis of the applicant's practicum records;

(5) meet either of the following requirements:

(A) Demonstrate compliance with requirements pursuant to L. 2011, ch. 114, sec. 12(b)(1)(A)(iv), and amendments thereto; or

(B)(i) Demonstrate satisfactory completion of the graduate education requirements specified in K.A.R. 102-7-3; and

(ii) if not previously provided to the board, arrange for the applicant's transcripts covering all applicable college or university coursework to be sent directly from each academic institution to the board office. Each applicant who graduated from a college or university outside the United States also shall arrange for the applicant's transcript to be translated and evaluated for degree equivalency by a source and in a manner that are acceptable to the board; and

(6) submit each supervisor's attestation that the applicant has satisfactorily completed the postgraduate supervised professional experience requirements in accordance with a clinical supervision training plan approved by the board as specified in K.A.R. 102-7-6.

(d) The following provisions shall apply to each applicant for licensure as an addiction counselor and each applicant for licensure as a clinical addiction counselor:

(1) Upon the board's determination that the applicant has met the applicable educational requirements, each applicant shall pass an appropri-

ate, 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 con-

tinuing education in ethics, confidentiality, and infectious disease during the three years immediately preceding application;

(4) submit, on board-approved forms, references from two professionals. Each individual submitting a reference shall meet all of the following conditions:

(A) Not be related to the applicant;

(B) be authorized to engage in the practice of addiction counseling or to practice in a related field; and

(C) be able to address the applicant's competence to perform the duties of an addiction counselor; and

(5) pay the application fee specified in K.A.R. 102-7-2.

(c) Each applicant for licensure as a clinical addiction counselor without examination shall submit to the board all application materials prescribed in paragraphs (b)(1) through (4), in addition to the following items:

(1) Documentation verifying that the applicant has completed six hours of continuing education in the diagnosis and treatment of substance use disorders during the three years immediately preceding the application date;

(2) (A) Documentation verifying that the applicant is authorized to practice independently as a licensed specialist clinical social worker, licensed clinical professional counselor, licensed clinical marriage and family therapist, licensed clinical psychotherapist, licensed psychologist, mental health advanced registered nurse practitioner, or advanced practice registered nurse or is a physician licensed to practice medicine and surgery; or

(B) (i) An official transcript verifying that the applicant holds a master's degree in a related field; and

(ii) an attestation, on a board-approved form, that the applicant has engaged in the practice, supervision, or administration of addiction counseling for at least four years with an average of at least eight hours each week for at least nine months of each of the four years; and

(3) payment of the application fee specified in K.A.R. 102-7-2.

(d) The following provisions shall apply to each applicant for licensure as an addiction counselor and each applicant for licensure as a clinical addiction counselor:

(1) An applicant shall not be given a judgment on the applicant's eligibility for licensure until the board receives all application materials and the applicant completes all application procedures.

(2) Upon notification from the board that all eligibility requirements for licensure without examination have been satisfied, the applicant shall submit the fee for the original two-year licensure period as specified in K.A.R. 102-7-2.

(3)(A) If any of the following conditions applies to the applicant, the applicant's application shall expire one year from the date on which it was submitted to the board:

(i) The applicant has not met the qualifications for licensure.

(ii) The applicant has not submitted a complete application.

(iii) The applicant has not submitted the original license fee.

(B) Upon expiration of the application, the applicant may submit a new application, the required fee, and all supporting documents if the applicant wishes to reapply. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §4, as amended by L. 2011, ch. 114, §12, and K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

102-7-4b. Application for licensure based on reciprocity. (a) Each individual who wishes to be licensed as an addiction counselor or a clinical addiction counselor based on reciprocity, pursuant to L. 2011, ch. 114, sec. 13 and amendments thereto, shall submit an application for licensure in accordance with this regulation.

(b) Each applicant for licensure as an addiction counselor shall request the application forms for licensure by reciprocity from the board. Each applicant shall ensure that the application materials are submitted to the board as follows:

(1) The applicant shall submit the completed application form and payment in full of the application for a license fee, as specified in K.A.R. 102-7-2.

(2) The applicant shall forward to the licensing agency for the jurisdiction in which the applicant is currently licensed, certified, or registered as an addiction counselor a form provided by the board on which the licensing agency is to provide the following information directly to the board:

(A) Verification that the applicant currently holds a valid license, registration, or certification to practice addiction counseling issued by the licensing agency;

(B) the date on which the applicant was initially licensed, registered, or certified as an addiction counselor by the licensing agency and a complete history of each subsequent renewal, reinstatement, and lapse in licensure, registration, or certification. If an applicant is seeking licensure based on reciprocity pursuant to L. 2011, ch. 114, sec. 13 (a)(2) and amendments thereto, the applicant shall ensure that documentation covering the five years of continuous licensure, registration, or certification as an addiction counselor that immediately precede the date of the application is submitted to the board by the licensing agency for each jurisdiction in which the applicant was licensed, registered, or certified during that five-year period; and

(C) a complete history of any disciplinary action of a serious nature brought by the licensing agency against the applicant. For purposes of this regulation, “disciplinary action of a serious nature” shall mean the revocation or suspension of a license, registration, or certification issued by the licensing board or the voluntary surrender of a license, registration, or certification in lieu of the completion of an investigation or final disciplinary action.

(3) The applicant either shall provide verification that the standards for licensure, certification, or registration as an addiction counselor in that jurisdiction are substantially equivalent to the standards in Kansas or shall meet the following requirements:

(A)(i) Demonstrate completion of a baccalaureate or master’s degree in addiction counseling as specified in K.A.R. 102-7-3; or

(ii) demonstrate completion of a baccalaureate or master’s degree in a related field that included all required addiction counseling coursework requirements as specified in K.A.R. 102-7-3; and

(B) arrange for the applicant’s transcripts covering all applicable college or university coursework to be sent directly from each academic institution to the board office. Each applicant who graduated from a college or university outside the United States also shall arrange for the applicant’s transcript to be translated and evaluated for degree equivalency by a source and in a manner that are acceptable to the board.

(4) The applicant shall submit an attestation that the applicant engaged in the professional practice of addiction counseling an average of at least 15 hours each week for nine months during each of the five years immediately preceding the date of application for licensure based on reciprocity.

(c) In addition to meeting the requirements of subsection (b), each applicant for licensure as a clinical addiction counselor shall demonstrate competence to diagnose and treat substance use disorders by submitting at least two of the following forms of documentation:

(1)(A) A transcript sent directly from a regionally accredited university or college documenting satisfactory completion of 15 graduate credit hours supporting diagnosis or treatment of substance use disorders, including the following coursework:

(i) Three graduate semester hours of discrete coursework in ethics;

(ii) three graduate semester hours of discrete coursework in the diagnosis of substance use disorders that includes studies of the established diagnostic criteria for substance use disorders; and

(iii) coursework that addresses interdisciplinary referrals, interdisciplinary collaborations, and treatment approaches; or

(B) verification from either the licensing agency or the testing service that the applicant passed a national clinical examination approved by the board, including the applicant’s score on the exam and the passing score established for the exam;

(2) one or both of the following types of documentation, which shall cover periods of time totaling at least three years:

(A) An attestation by a supervisor or other designated representative of the applicant’s employer that the applicant has at least three years of clinical practice, including at least eight hours of client contact each week during nine months or more of each year, in a treatment facility, community mental health center or its affiliate, state mental hospital, or another employment setting in which the applicant engaged in clinical practice that included diagnosis or treatment of substance use disorders; or

(B) an attestation by the applicant that the applicant engaged in at least three years of independent clinical practice that included diagnosis or treatment of substance use disorders, as well as supporting documentation in the form of a published job description, a description of the applicant’s practice in a public information brochure, a description of services in an informed consent document, or other similar published statements demonstrating that the applicant has engaged in independent clinical practice for at least three years; or

(3) an attestation that the applicant has demonstrated competence in diagnosis or treatment of

substance use disorders, which shall be signed by either a professional licensed to practice medicine and surgery or a professional licensed psychologist, a licensed clinical social worker, or another professional licensed to diagnose and treat mental disorders or substance use disorders, or both, in independent practice. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §7, as amended by 2011 HB 2182, §13; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

102-7-5. Examination for addiction counselor or clinical addiction counselor. (a) (1) Each applicant for licensure as an addiction counselor who does not meet the requirements of K.A.R. 102-7-4a or 102-7-4b shall be required to pass a nationally administered, standardized written examination approved by the board.

(2) An applicant shall not be authorized to register for an examination until the applicant is within at least four months of anticipated completion of the applicable academic degree requirements and has satisfied the board that the applicant merits the public trust. Each applicant who has not completed the applicable academic degree requirements on the date that the application is submitted shall arrange for the required transcripts to be sent to the board when the academic degree is awarded to the applicant.

(3) The applicant's required written examination may be waived by the board if the applicant obtained a passing score as determined by the examination company on a nationally administered, standardized written examination deemed by the board to be substantially equivalent to the examination used in this state.

(b)(1) Each applicant for licensure as a clinical addiction counselor who does not meet the requirements of K.A.R. 102-7-4a or 102-7-4b shall be required to pass a nationally administered, standardized written clinical examination approved by the board.

(2) An applicant shall not be authorized to register for the clinical examination or to qualify for a waiver of the examination until the applicant has fulfilled all educational requirements and has satisfied the board that the applicant merits the public trust.

(3) The applicant's required written clinical examination may be waived by the board if the applicant obtained a passing score as determined

by the examination company on a standardized written examination deemed by the board to be substantially equivalent to the examination used in this state. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §4, as amended by 2011 HB 2182, §12; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

102-7-6. Professional postgraduate supervised experience requirement for a clinical addiction counselor. For each applicant for licensure as a clinical addiction counselor, the postgraduate supervised professional experience of addiction counseling shall meet all of the following requirements:

(a) The postgraduate supervised professional experience of addiction counseling shall consist of 4,000 hours of professional experience, including 1,500 hours of direct client contact conducting substance abuse assessments and treatment.

(b) Except as provided in subsection (c), clinical supervision shall be provided throughout the entirety of the postgraduate supervised professional experience at a ratio of one hour of clinical supervision for each 20 hours of direct client contact, specified as follows:

(1) At least 50 hours of one-on-one, individual clinical supervision occurring with the supervisor and supervisee in the same physical space;

(2) at least 100 hours of clinical supervision with one supervisor and no more than six supervisees, which may be obtained in person or, if confidentiality is technologically protected, person-to-person contact by interactive video or other telephonic means; and

(3) at least two separate clinical supervision sessions per month, at least one of which shall be one-on-one individual supervision.

(c) Each applicant with a doctor's degree in addiction counseling or a related field as defined in K.A.R. 102-7-1(s) shall be required to complete, after the doctoral degree is granted, at least one-half of the postgraduate supervised professional experience requirements as follows:

(1) At least 25 hours of one-on-one, individual clinical supervision occurring with the supervisor and supervisee in the same physical space;

(2) at least 50 hours of clinical supervision with one supervisor and no more than six supervisees, which may be obtained in person or, if confidentiality is technologically protected,

person-to-person contact by interactive video or other telephonic means; and

(3) at least two separate clinical supervision sessions per month, at least one of which shall be one-on-one individual supervision.

(d) The clinical supervisor of each person attaining the 4,000 hours of postgraduate supervised professional experience required for licensure as a clinical addiction counselor shall meet one of the following requirements while the individual is providing supervision:

(1) The clinical supervisor shall be a clinical addiction counselor who is licensed in Kansas or is certified or licensed in another jurisdiction and, on and after January 1, 2014, who has engaged in the independent practice of clinical addiction counseling, including the diagnosis and treatment of substance use disorders, for at least two years beyond the supervisor's certification or licensure date as a clinical addiction counselor.

(2) If a licensed clinical addiction counselor is not available, the clinical supervisor may be a person who is certified or licensed at the graduate level to practice in one of the behavioral sciences and whose authorized scope of practice permits the diagnosis and treatment of mental disorders independently. The qualifying individual shall have had at least two years of clinical professional experience beyond the date of the supervisor's certification or licensure.

(e) In addition to the requirements of subsection (d), each clinical supervisor shall meet the following requirements:

(1) Have professional authority over and responsibility for the supervisee's clinical functioning in the practice of addiction counseling;

(2) not have a harmful dual relationship with the supervisee;

(3) not be under any sanction from a disciplinary proceeding, unless the board waives this prohibition for good cause shown by the proposed supervisor;

(4) have knowledge of and experience with the supervisee's client population;

(5) have knowledge of and experience with the methods of practice that the supervisee employs;

(6) have an understanding of the organization and the administrative policies and procedures of the supervisee's practice setting; and

(7) be a member of the practice setting staff or meet the requirements of subsection (f).

(f) If a qualified clinical supervisor is not available from among staff in the supervisee's practice

setting, the supervisee may secure an otherwise qualified clinical supervisor outside the practice setting if all of the following conditions are met:

(1) The supervisor has an understanding of the practice setting's mission, policies, and procedures.

(2) The extent of the supervisor's responsibility for the supervisee is clearly defined in terms of client cases to be supervised, role in personnel evaluation within the practice setting, and other aspects of the clinical supervision training plan.

(3) The responsibility for payment for supervision is clearly defined.

(4) If the supervisee pays the supervisor directly for the supervision, the supervisor maintains responsibility for the client and to the practice setting.

(g) Each clinical supervisor shall perform the following duties:

(1) Provide oversight, guidance, and direction for the supervisee's clinical practice of addiction counseling by assessing and evaluating the supervisee's performance;

(2) conduct supervision as a process distinct from personal therapy, didactic instruction, or addiction counseling consultation;

(3) provide documentation of supervisory qualifications to the supervisee;

(4) periodically evaluate the supervisee's clinical functioning;

(5) provide supervision in accordance with the clinical supervision training plan;

(6) maintain documentation of supervision in accordance with the clinical supervision training plan;

(7) provide the documentation required by the board when the supervisee completes the postgraduate supervised professional experience. The supervisor shall submit this documentation on board-approved forms and in a manner that will enable the board to evaluate the extent and quality of the supervisee's professional experience and assign credit for that experience;

(8) provide a level of supervision that is commensurate with the education, training, experience, and ability of both the supervisor and the supervisee; and

(9) ensure that each client knows that the supervisee is practicing addiction counseling under supervision.

(h)(1) In order for an applicant for a clinical addiction counselor license to obtain credit for hours accrued before August 1, 2011 toward the

required 4,000 hours of clinical supervision, the applicant shall provide an attestation that the clinical supervision occurred in accordance with a plan that meets the following conditions:

(A) The supervision was scheduled and formalized.

(B) The supervision included review and examination of cases.

(C) Assessment of the supervisee's competencies was addressed by the supervisor.

(2) The attestation shall be signed by one of the following:

(A) The supervisor, if available; or

(B) if the supervisor is not available, another person who was in the supervisee's practice setting with knowledge of the supervisee's clinical supervision.

(i) For supervision hours accrued on and after August 1, 2011, each supervisor and supervisee shall develop and cosign a written clinical supervision training plan on forms provided by the board at the beginning of the supervisory relationship. The supervisee shall submit an official position description and the training plan to the board and shall receive board approval of the plan before any supervised professional experience hours for clinical licensure can begin to accrue. This plan shall clearly define and delineate the following items:

(1) The supervisory context, which shall include the purpose of supervision;

(2) a summary of the anticipated types of clients and the services to be provided, as evidenced by the supervisee's official position description;

(3) a plan that describes the supervision goals and objectives and the means to attain and evaluate progress towards the goals;

(4) the supervisor's responsibilities;

(5) the supervisee's responsibilities;

(6) the format and schedule of supervision;

(7) a plan for documenting the following information:

(A) The date of each supervisory meeting;

(B) the length of each supervisory meeting;

(C) a designation of each supervisory meeting as an individual or group meeting;

(D) a designation of each supervisory meeting as conducted in the same physical space or by another means as specified in paragraph (b)(2);

(E) the 4,000 hours of postgraduate supervised clinical addiction counseling experience, which shall include specifically documenting the 1,500 hours of direct client contact conducting substance abuse assessments and treatment; and

(F) an evaluation of the supervisee's progress under clinical supervision;

(8) a plan to address and remedy circumstances in which there is a conflict between the supervisor and the supervisee;

(9) a plan to notify clients of the following information:

(A) The fact that the supervisee is practicing addiction counseling under supervision;

(B) the limits of client confidentiality within the supervisory process; and

(C) the name, address, and telephone number of the clinical supervisor;

(10) the date on which the parties entered into the clinical supervision training plan and the time frame that the plan is intended to encompass;

(11) an agreement to amend or renegotiate the terms of the clinical supervision training plan, if warranted, including written notification of these changes to the board office, as provided in subsection (j);

(12) the supervisee's informed consent for the supervisor to discuss supervision or performance issues with the supervisee's clients, the supervisee's other addiction counseling or employment supervisors, the board, or any other individual or entity to which either the supervisee or the supervisor is professionally accountable; and

(13) a statement signed by each supervisor and supervisee acknowledging that each person has read and agrees to the postgraduate supervised professional experience requirements specified in this regulation.

(j) All changes to the clinical supervision training plan shall be submitted by the supervisee to the board for its approval. The changes shall be submitted no more than 45 days after the date on which the changes took effect. If the supervisee fails to submit the changes to the board within that 45-day period, no supervised hours of practice shall be accrued or credited for any practice, beginning on the date the changes took effect through the date on which the changes to the plan are approved by the board. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2010, ch. 45, §4, as amended by 2011 HB 2182, §12; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

102-7-7. Renewal; late renewal. (a) To be considered for license renewal, each licensed addiction counselor and each licensed clinical addic-

tion 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 num-

ber 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 per-

formance and functioning, or the ability to act in the client's best interests;

(h) failing or refusing to cooperate in a timely manner with any request from the board for a response, information, or assistance with respect to the board's investigation of any report of an alleged violation filed against oneself or any other applicant or professional who is required to be licensed or registered by the board. Each person taking longer than 30 days to provide the requested response, information, or assistance shall have the burden of demonstrating that the person has acted in a timely manner;

(i) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, or experience or with accepted professional standards;

(j) engaging in any behavior that is abusive or demeaning to a client, student, or supervisee;

(k) imposing one's personal values, spiritual beliefs, or lifestyle on a client, student, or supervisee;

(l) discriminating against any client, student, directee, or supervisee on the basis of color, race, gender, age, religion, national origin, or disability;

(m) failing to inform each client of that client's rights as those rights relate to the addiction counseling relationship;

(n) failing to provide each client with a description of the services, fees, and payment expectations, or failing to reasonably comply with that description;

(o) failing to provide each client with a description of the possible effects of the proposed treatment if the treatment is experimental or if there are clear and known risks to the client;

(p) failing to inform each client, student, or supervisee of any financial interests that might accrue to the licensee or applicant if the licensee or applicant refers a client, student, or supervisee to any other service or if the licensee or applicant uses any tests, books, or apparatus;

(q) failing to inform each client that the client can receive services from a public agency if one is employed by that public agency and also offers services privately;

(r) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of the following actions:

(1) Electronically recording sessions with that client;

(2) permitting a third-party observation of their activities; or

(3) releasing information concerning a client to a third person, unless required or permitted by law;

(s) failing to exercise due diligence in protecting the information regarding the client from disclosure by other persons in one's work or practice setting;

(t) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(u) using alcohol or any illegal drug or misusing any substance that could cause impairment while performing the duties or services of an addiction counselor;

(v) engaging in a harmful dual relationship or exercising undue influence;

(w) making sexual advances toward or engaging in physical intimacies or sexual activities with either of the following:

(1) Any person who is a client, supervisee, or student; or

(2) any person who has a significant relationship with the client and that relationship is known to the licensee;

(x) making sexual advances toward or engaging in physical intimacies or sexual activities with any person who meets either of the following conditions:

(1) Has been a client within the past 24 months; or

(2) has had a significant relationship with a current client or a person who has been a client within the past 24 months and that relationship is known to the licensee;

(y) directly or indirectly offering or giving to a third party or soliciting, receiving, or agreeing to receive from a third party any fee or other consideration for referring the client or in connection with performing professional services;

(z) permitting any person to share in the fees for professional services, other than a partner, an employee, an associate in a professional firm, or a consultant authorized to practice addiction counseling or clinical addiction counseling;

(aa) soliciting or assuming professional responsibility for clients of another agency or colleague without attempting to coordinate the continued provision of client services by that agency or colleague;

(bb) making claims of professional superiority that one cannot substantiate;

(cc) guaranteeing that satisfaction or a cure will result from performing or providing any professional service;

(dd) claiming or using any secret or special

method of treatment or techniques that one refuses to disclose to the board;

(ee) continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the client's condition, best interests, or preferences;

(ff) taking credit for work not personally performed, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information;

(gg) if engaged in research, failing to meet these requirements:

(1) Considering carefully the possible consequences for human beings participating in the research;

(2) protecting each participant from unwarranted physical and mental harm;

(3) ascertaining that each participant's consent is voluntary and informed; and

(4) preserving the privacy and protecting the anonymity of each subject of the research within the terms of informed consent;

(hh) making or filing a report that one knows to be false, distorted, erroneous, incomplete, or misleading;

(ii) failing to notify the client promptly if one anticipates terminating or interrupting service to the client;

(jj) failing to seek continuation of service, or abandoning or neglecting a client under or in need of professional care, without making reasonable arrangements for that care;

(kk) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;

(ll) failing to terminate addiction counseling services if it is apparent that the relationship no longer serves the client's needs or best interests;

(mm) when supervising, failing to provide accurate and current information, timely evaluations, and constructive consultation;

(nn) when applicable, failing to inform a client that addiction counseling services are provided or delivered under supervision;

(oo) failing to inform a client that addiction counseling services are delivered under supervision as a student or an individual seeking clinical licensure;

(pp) failing to report unprofessional conduct of a licensed addiction counselor, licensed clinical addiction counselor, or any individual licensed by the board;

(qq) intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing another person from filing a report or record that is required by state or federal law, or inducing another person to take any of these actions;

(rr) offering to perform or performing any service, procedure, or therapy that, by the accepted standards of addiction counseling practice in the community, would constitute experimentation on human subjects without first obtaining the full, informed, and voluntary written consent of the client or the client's legal representative or representatives;

(ss) practicing addiction counseling after one's license expires;

(tt) using without a license, or continuing to use after a license has expired, any title or abbreviation defined by regulation; and

(uu) violating any provision of the addictions counselor licensure act or any implementing regulation. (Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2011, ch. 114, §15; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)

102-7-11a. Recordkeeping. (a) Each licensed addiction counselor and each licensed clinical addiction counselor shall maintain a record for each client that accurately reflects the licensee's contact with the client and the results of the addiction counseling or clinical addiction counseling services provided. Each licensee shall have ultimate responsibility for the content of the licensee's records and the records of those persons under the licensee's supervision. These records may be maintained in a variety of formats, if reasonable steps are taken to maintain the 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," fifth edition, published by the American psychiatric association, shall be designated as the manual to diagnose and treat substance use disorders. (Authorized by K.S.A. 65-6608 and 74-7507; implementing K.S.A. 65-6608 and 65-6610; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012; amended March 15, 2019.)

Article 8.—APPLIED BEHAVIOR ANALYSIS

102-8-1. Definitions. Each of the following terms, as used in the act and this article of the board's regulations, shall have the meaning specified in this regulation:

(a) "Academic equivalent of a semester credit hour" means the prorated proportionate credit for formal academic coursework if that coursework is completed on the basis of trimester or quarter hours rather than semester hours.

(b) "Act" means applied behavior analysis licensure act.

(c) "Client" means a person who is a direct recipient of applied behavior analysis services.

(d) "Continuing education" means formally organized programs or activities that are designed for and have content intended to enhance the licensee's skill, values, ethics, and ability to practice applied behavior analysis.

(e) “Fraudulent representation” shall include the following:

- (1) Deceit;
- (2) misrepresentation; and
- (3) concealing a material fact.

(f) “Harmful dual relationship” means a professional relationship between a licensee and a client, student, supervisee, or any person who has had a significant relationship with either a current client or a person who has been a client within the past 24 months if that relationship is known to the licensee, in which the objectivity or competency of the licensee is impaired or compromised because of any of the following types of present or previous relationships:

- (1) Familial;
- (2) social;
- (3) emotional;
- (4) financial;
- (5) supervisory; or
- (6) administrative.

(g) “Malfeasance” means the performance of an act by a licensee that is prohibited or that constitutes wrongdoing or misconduct.

(h) “Misfeasance” means the improper performance of a lawful act by a licensee.

(i) “Nonfeasance” means the omission of an act that a licensee is required to do.

(j) “Practice setting” means the public or private agency or delivery system within which applied behavior analysis is practiced or delivered.

(k) “Related field” means a degree program in a helping profession and shall include the following:

- (1) Counseling;
- (2) education;
- (3) engineering;
- (4) healing arts;
- (5) human services;
- (6) marriage and family therapy;
- (7) natural sciences;
- (8) social work; and
- (9) psychology.

(l) “Undue influence” means misusing one’s professional position of confidence, trust, or authority over a client or supervisee or taking advantage of a client’s vulnerability, weakness, infirmity, or distress for any of the following purposes:

- (1) To improperly influence or change a client’s or supervisee’s actions or decisions;
- (2) to exploit a client or supervisee for the licensee’s or a third party’s financial gain, personal gratification, or advantage; or
- (3) to impose one’s personal values, spiritual be-

liefs, or lifestyle on a client, student, or supervisee. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

102-8-2. Fees. (a) Each applicant for licensure as an assistant behavior analyst or a behavior analyst shall pay the appropriate fee or fees as follows:

- (1) Initial assistant behavior analyst license, \$70;
- (2) initial behavior analyst license, \$70;
- (3) renewal of an assistant behavior analyst license, \$70; or
- (4) renewal of a behavior analyst license, \$120.

(b) Fees paid to the board shall not be refundable. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

102-8-4. Application for licensure. (a) Each applicant for licensure as an assistant behavior analyst or a behavior analyst shall request the appropriate forms from the executive director of the board.

(b) Each applicant for licensure as an assistant behavior analyst shall submit the completed application materials to the board and perform the following:

(1) Submit the application fee as specified in K.A.R. 102-8-2;

(2) submit proof that the applicant has met the requirements for certification to practice applied behavior analysis at the assistant level; and

(3)(A) Arrange for the applicant’s transcripts covering all applicable college or university coursework, including the required baccalaureate degree, to be sent directly from each academic institution to the board office. Each applicant who graduated from a college or university outside the United States shall also arrange for the applicant’s transcript to be translated and evaluated for degree equivalency by a source and in a manner acceptable to the board; or

(B) arrange for a copy of the applicant’s transcripts covering all applicable college or university coursework, including the required baccalaureate degree, to be sent directly to the board from the certifying entity.

(c) Each applicant for licensure as a behavior analyst shall submit the completed application materials to the board and perform the following:

(1) Submit the application fee as specified in K.A.R. 102-8-2;

(2) submit proof that the applicant has met the requirements for certification to practice applied behavior analysis; and

(3)(A) Arrange for the applicant's transcripts covering all applicable college or university coursework, including the required graduate degree, to be sent directly from each academic institution to the board office. Each applicant who graduated from a college or university outside the United States shall also arrange for the applicant's transcript to be translated and evaluated for degree equivalency by a source and in a manner acceptable to the board; or

(B) arrange for a copy of the applicant's transcripts covering all applicable college or university coursework, including the required graduate degree, to be sent directly to the board from the certifying entity.

(d) Each applicant who has met all requirements for licensure pursuant to the act and this article of the board's regulations and has paid the initial license fee specified in K.A.R. 102-8-2 shall be licensed by the board. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

102-8-6. Supervision. (a) Each licensed assistant behavior analyst shall be supervised by a licensed behavior analyst.

(b) Each licensed assistant behavior analyst shall receive at least 12 supervision sessions annually. Each supervision session shall require two-way interactions involving real-time visual and auditory contact. The supervision shall include the following:

(1) At least one monthly supervision session of at least one hour each. At least two of the 12 supervision sessions shall be conducted with the supervisee in person and shall include direct observation of the supervisee's provision of applied behavior analysis services to clients. Except as specified in this paragraph, no more than half of the supervision sessions may be conducted in group supervision. Under extenuating circumstances approved by the board, additional group supervision may be allowed. The licensee shall submit a written request to the board with a detailed explanation of the extenuating circumstances that are the basis of the licensee's request, which shall be submitted no later than 30 days before the request would take effect; and

(2) review, discussion, and recommendations focusing on the supervisee's practice of applied behavior analysis.

(c) Each supervisor and each supervisee shall maintain documentation of the supervision for three years after the date of supervision. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

102-8-7. License; expiration and renewal. (a) Each license issued pursuant to the act shall expire 24 months after the date of issuance unless revoked before that time.

(b) To be considered for license renewal, each licensed assistant behavior analyst and each licensed behavior analyst shall submit the following items to the board:

- (1) A completed renewal application;
- (2) the continuing education reporting form;
- (3) the renewal fee specified in K.A.R. 102-8-2; and

(4) for each licensed assistant behavior analyst, the following proof of supervision required in K.A.R. 102-8-6:

(A) The name and identifying information of any licensed behavior analyst providing supervision; and

(B) documentation that supervision was provided, including dates, format, and length of time as verified by the supervisor.

(c) Each licensee who fails to renew the license before its expiration and who subsequently applies for late renewal of the license shall indicate on the late renewal application form whether the individual has continued to engage in the practice of applied behavior analysis in Kansas or has continued to represent that individual in Kansas as a licensed assistant behavior analyst or licensed behavior analyst and, if so, under what circumstances. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

102-8-8. Renewal audit. (a) Each licensee selected for a random audit shall submit the following to the board within 30 days after the license expiration date:

- (1) The completed renewal audit forms; and
- (2) either the original continuing education documents that validate all continuing education hours claimed for credit during the current renewal period or other documentation of completed continuing education hours approved by the board.

(b) Continuing education hours that a renewal applicant earns after board receipt of the re-

newal application form shall not be approved for continuing education credit for the period being audited.

(c) Failure to comply with this regulation shall be considered unprofessional conduct. (Authorized by K.S.A. 2015 Supp. 65-7505; implementing K.S.A. 2015 Supp. 65-7504 and 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

102-8-9. Continuing education. (a) Each licensed assistant behavior analyst shall complete 30 hours of documented and approved continuing education oriented to the enhancement of the licensee's practice, values, ethics, skills, or knowledge during each two-year renewal period. Continuing education hours accumulated in excess of the requirement shall not be carried over to the next renewal period.

(b) Each licensed behavior analyst shall complete 30 hours of documented and approved continuing education oriented to the enhancement of the licensee's practice, values, ethics, skills, or knowledge during each two-year renewal period. Continuing education hours accumulated in excess of the requirement shall not be carried over to the next renewal period.

(c) During each two-year renewal period and as a part of the required continuing education hours, each licensee shall complete four hours of professional ethics. These hours shall be obtained from any of the activities specified in paragraphs (e)(1), (e)(2), (e)(3), (e)(4), (e)(9), and (e)(10).

(d) One hour of continuing education credit shall consist of at least 50 minutes of classroom instruction or at least one clock-hour of any other type of acceptable continuing education experience listed in subsection (e). One-quarter hour of continuing education credit may be granted for each 15 minutes of acceptable continuing education. Credit shall not be granted for fewer than 15 minutes.

(e) Acceptable continuing education, whether taken in Kansas or outside the state, shall consist of the following:

(1) An academic applied behavior analysis course or an academic course oriented to the enhancement of the licensee's practice, values, ethics, skills, or knowledge that is taken for academic credit. Each licensee shall be granted 15 continuing education hours for each semester credit hour or the academic equivalent of a semester credit hour that the licensee successfully completes;

(2) an academic applied behavior analysis course or an academic course oriented to the enhancement of the licensee's practice that is audited. Each licensee shall receive continuing education credit on the basis of the actual contact time that the licensee spends attending the course, up to a maximum of 15 hours per academic credit hour;

(3) a seminar, institute, conference, workshop, or course;

(4) an activity consisting of completing a computerized interactive learning module, viewing a telecast or videotape, listening to an audiotape, or reading with a posttest;

(5) an activity consisting of completing a computerized interactive learning module, viewing a telecast or videotape, listening to an audiotape, or reading without a posttest;

(6) a cross-disciplinary offering in medicine, law, a foreign or sign language, computer science, professional or technical writing, business administration, management sciences, or any other discipline if the offering is clearly related to the enhancement of the licensee's practice, values, ethics, skills, or knowledge. The maximum number of allowable continuing education hours shall be 10;

(7) a self-directed learning project preapproved by the board. The maximum number of allowable continuing education hours shall be 10;

(8) providing supervision to practicum or intern students. The maximum number of allowable continuing education hours shall be 10;

(9) the first-time preparation and presentation of an applied behavior analysis seminar, institute, conference, workshop, or course, or the substantial revision of an applied behavior analysis 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 applied behavior analysis article published for the first time in a professional journal, a book chapter published by a recognized publisher, or a written presentation given for the first time at a statewide or national professional meeting. If more than one licensee or other professional authored the material, the continuing education credit shall be prorated among the authors. The maximum number of allowable continuing education hours shall be 10; and

(11) participation in a professional organization or appointment to a professional credentialing

board, if the goals of the organization or board are clearly related to the enhancement of applied behavior analysis practice, values, ethics, skills, and knowledge. Participation may include holding office or serving on committees of the organization or board. The maximum number of allowable continuing education hours shall be 10.

(f) Continuing education credit approval shall not be granted for identical programs if the programs are completed within the same renewal period.

(g) Continuing education credit shall not be granted for the following:

(1) In-service training, if the training is for job orientation or job training or is specific to the employing agency; and

(2) any activity for which the licensee cannot demonstrate to the board's satisfaction that the program's goals and objectives are to enhance the licensee's practice, values, ethics, skills, or knowledge in applied behavior analysis.

(h) Each licensee shall maintain individual, original continuing education records for three years after the renewal date. These records shall document the licensee's continuing education activity attendance, participation, or completion as specified in K.A.R. 102-8-10. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

102-8-10. Documentation of continuing education. Each of the following forms of documentation shall be accepted as proof that a licensee has completed the continuing education activity:

(a) An official transcript or other written proof indicating the licensee's passing grade for an academic course;

(b) a statement signed by the instructor indicating the number of actual contact hours that the licensee attended for an audited academic course;

(c) a signed statement from the provider of a seminar, institute, conference, workshop, or course indicating that the licensee attended the program;

(d) for each videotape, audiotape, computerized interactive learning module, or telecast that the licensee utilized for continuing education purposes, a written statement from the licensee specifying the media format, content title, presenter or sponsor, content description, length, and activity date;

(e) a copy of a self-directed project. The licensee shall submit this copy to the board to evaluate and certify the number of credit hours that the board may grant;

(f) written, signed verification from the university practicum or intern instructor or other official training director for whom the licensee supervised undergraduate or graduate students or from the postgraduate supervisee for whom the licensee provided supervision;

(g) a copy of an academic course syllabus and verification that the licensee presented the course;

(h) a copy of a letter from the presentation sponsor or a copy of the brochure announcing the licensee as the presenter, the agenda of the presentation, and verification that the licensee presented the seminar, institute, conference, workshop, or course;

(i) a copy of an article or book chapter written by the licensee and verification of publication or written presentation at a professional meeting. The licensee shall submit these materials to the board to evaluate and certify the number of hours of credit to be granted; and

(j) a signed letter from a professional organization or certifying entity outlining the licensee's participation in that professional organization or credentialing board. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

102-8-11. Unprofessional conduct. Each of the following acts shall be considered unprofessional conduct for a licensed assistant behavior analyst, a licensed behavior analyst, or an applicant for an assistant behavior analyst license or a behavior analyst license:

(a) Except when the information has been obtained in the context of confidentiality, failing to notify the board, within a reasonable period of time, that the licensee or applicant or any other person regulated by the board or applying for licensure has met any of the following conditions:

(1) Has had a professional license, certificate, permit, registration, certification, or professional membership granted by any jurisdiction, professional association, or professional organization that has been limited, conditioned, qualified, restricted, suspended, revoked, refused, voluntarily surrendered, or allowed to expire in lieu of or during investigatory or disciplinary proceedings;

(2) has been subject to any other disciplinary

action by any credentialing board, professional association, or professional organization;

(3) has been demoted, terminated, suspended, reassigned, or asked to resign from employment or has resigned from employment, for some form of misfeasance, malfeasance, or nonfeasance; or

(4) has violated any provision of the act or any implementing regulation;

(b) knowingly allowing another person to use one's license;

(c) impersonating another person holding a license or registration issued by the board or any other agency;

(d) having been convicted of a crime resulting from or relating to one's professional practice of applied behavior analysis;

(e) knowingly aiding or abetting any individual who is not credentialed by the board to represent that individual as a person who was or is licensed by the board;

(f) failing to recognize, seek intervention, and otherwise appropriately respond when one's own personal problems, psychosocial distress, or mental health difficulties interfere with or negatively impact professional judgment, professional performance and functioning, or the ability to act in the client's best interests;

(g) failing or refusing to cooperate within 30 days with any request from the board for a response, information, or assistance with respect to the board's investigation of any report of an alleged violation filed against oneself or any other applicant or professional who is required to be licensed by the board. Each person taking longer than 30 days to provide the requested response, information, or assistance shall have the burden of demonstrating that the person has acted in a timely manner;

(h) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, or experience or with accepted professional standards;

(i) engaging in any behavior that is abusive or demeaning to a client, student, or supervisee;

(j) discriminating against any client, student, directee, or supervisee on the basis of age, gender, race, culture, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status;

(k) failing to advise and explain to each client the respective rights, responsibilities, and duties involved in the licensee's professional relationship with the client;

(l) failing to provide each client with a description of the services, fees, and payment expectations or failing to reasonably comply with that description;

(m) failing to provide each client with a description of the possible effects of the proposed treatment if the treatment is experimental or if there are clear and known risks to the client;

(n) failing to inform each client, student, or supervisee of any financial interests that might accrue to licensee or applicant if the licensee or applicant refers a client, student, or supervisee to any other service or if the licensee or applicant uses any tests, books, or apparatus;

(o) failing to inform each client that the client can receive services from a public agency if one is employed by that public agency and also offers services privately;

(p) failing to provide copies of reports or records to a licensed healthcare provider authorized by the client following the licensee's receipt of a formal written request, unless the release of that information is restricted or exempted by law or by this article of the board's regulations, or the disclosure of the information would be injurious to the welfare of the client;

(q) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of the following actions:

(1) Electronically recording sessions with the client;

(2) permitting a third-party observation of the licensee's provision of applied behavior analysis services to the client; or

(3) releasing information concerning a client to a third person, unless required or permitted by law;

(r) failing to exercise due diligence in protecting the information regarding the client from disclosure by other persons in one's work or practice setting;

(s) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(t) revealing information, a confidence, or a secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records, unless at least one of the following conditions is met:

(1) Disclosure is required or permitted by law;

(2) failure to disclose the information presents a serious danger to the health or safety of an individual or the public;

(3) the licensee is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of applied behavior analysis, in which case disclosure shall be limited to that action; or

(4) payment for services is needed;

(u) using alcohol or any illegal drug or misusing any substance that could cause impairment while performing the duties or services of a licensee;

(v) engaging in a harmful dual relationship or exercising undue influence;

(w) making sexual advances toward or engaging in physical intimacies or sexual activities with any of the following:

(1) Any person who is a client, supervisee, or student; or

(2) any person who has a significant relationship with the client and that relationship is known to the licensee;

(x) making sexual advances toward or engaging in physical intimacies or sexual activities with any person who meets either of the following conditions:

(1) Has been a client within the past 24 months; or

(2) has had a significant relationship with a current client or a person who has been a client within the past 24 months and that relationship is known to the licensee;

(y) directly or indirectly offering or giving to a third party or soliciting, receiving, or agreeing to receive from a third party any fee or other consideration for referring the client or in connection with performing professional services;

(z) permitting any person to share in the fees for professional services, other than a partner, an employee, an associate in a professional firm, or a consultant authorized to practice applied behavior analysis;

(aa) soliciting or assuming professional responsibility for any clients of another agency or colleague without attempting to coordinate the continued provision of client services by that agency or colleague;

(bb) making claims of professional superiority that one cannot substantiate;

(cc) guaranteeing that satisfaction or a cure will result from performing or providing any professional service;

(dd) claiming or using any secret or special method of treatment or techniques that one refuses to disclose to the board;

(ee) continuing or ordering tests, procedures, or treatments or using treatment facilities or services

not warranted by the client's condition, best interests, or preferences;

(ff) taking credit for work not personally performed, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information;

(gg) if engaged in research, failing to meet the following requirements:

(1) Considering carefully the possible consequences for human beings participating in the research;

(2) protecting each participant from unwarranted physical and mental harm;

(3) ascertaining that each participant's consent is voluntary and informed; and

(4) preserving the privacy and protecting the anonymity of each subject of the research within the terms of informed consent;

(hh) making or filing a report that one knows to be false, distorted, erroneous, incomplete, or misleading;

(ii) failing to notify the client promptly if one anticipates terminating or interrupting service to the client;

(jj) failing to seek continuation of service, or abandoning or neglecting a client under or in need of professional care, without making reasonable arrangements for that care;

(kk) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;

(ll) failing to terminate applied behavior analysis services if it is apparent that the relationship no longer serves the client's needs or best interests;

(mm) when supervising, failing to provide accurate and current information, timely evaluations, and constructive consultation;

(nn) when applicable, failing to inform a client that applied behavior analysis services are provided or delivered under supervision;

(oo) failing to report unprofessional conduct of a licensed assistant behavior analyst, a licensed behavior analyst, or any other individual licensed by the board;

(pp) intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing another person from filing a report or record that is required by state or federal law, or inducing another person to take any of these actions;

(qq) offering to perform or performing any service, procedure, treatment, or therapy that, by

the accepted standards of applied behavior analysis practice in the community, would constitute experimentation on human subjects without first obtaining the full, informed, and voluntary written consent of the client or the client's legal representative or representatives;

(rr) practicing applied behavior analysis after one's license expires; and

(ss) using without a license, or continuing to use after a license has expired, any title or abbreviation defined by regulation. (Authorized by K.S.A. 2015 Supp. 65-7505; implementing K.S.A. 2015 Supp. 65-7504 and 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

102-8-12. Recordkeeping. (a) Each licensed assistant behavior analyst and each licensed behavior analyst shall maintain a record for each client that accurately reflects the licensee's contact with the client and the client's progress. Each licensee shall have ultimate 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) For an adult, at least six years after the date of termination of one or more contacts; and
- (2) for a client who is a minor on the date of termination of the contact or contacts, at least until the later of the following two dates:

(A) Two years past the date on which the client reaches the age of 18; or

(B) six years after the date of termination of the contact or contacts with the minor. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

Agency 103
**State Bank Commissioner and
Savings and Loan Commissioner
Joint Regulations**

Articles

103-1. SECURITY FOR DEPOSIT OF PUBLIC FUNDS.

**Article 1.—SECURITY FOR
DEPOSIT OF PUBLIC FUNDS**

103-1-1. Security for deposit of public funds. The market value of negotiable promissory notes secured by first lien mortgages on real estate and pledged and assigned by a bank or savings and loan association as security for deposits of municipal or quasi-municipal corporations shall be determined in the following manner:

- (1) Determine the average interest rate for all such notes pledged by the institution;
- (2) Obtain the current GNMA bid rate for comparable obligations; and
- (3) Multiply the total of real estate loans pledged by the GNMA bid quotation to ascertain the current value of the pledged real estate loans. (Authorized by and implementing K.S.A. 9-1402; effective, T-83-18, July 1, 1982; effective May 1, 1983.)

Agency 104

**Consumer Credit Commissioner,
Credit Union Administrator,
Savings and Loan Commissioner and
Bank Commissioner
Joint Regulations**

Articles

104-1. ADJUSTABLE RATE NOTES.

Article 1.—ADJUSTABLE RATE NOTES

104-1-1. (Authorized by and implementing L. 1982, ch. 94; effective, T-83-29, Sept. 22, 1982; effective May 1, 1983; revoked, T-88-28, Aug. 19, 1987; revoked May 1, 1988.)

104-1-2. Consumer-purpose adjustable rate real estate transactions. (a) A creditor may use any interest-rate index that is readily verifiable by the borrower if it is beyond the control of the creditor to adjust the interest rate on any of the following:

(1) consumer-purpose adjustable rate notes secured by a real estate mortgage; or

(2) consumer-purpose contracts for deed to real estate which contain an adjustable interest rate provision.

(b) Adjustments to the interest rate shall correspond directly to the movement of the index, subject to any rate-adjustment limitations that a creditor may provide.

(c) When the movement of the index permits an interest-rate increase, the creditor may decline to increase the interest rate by the indicated amount. The creditor may decrease the interest rate at any time.

(d) The creditor may implement adjustments to the interest rate through adjustments to the outstanding principal loan balance, loan term, payment amount, or any combination of the above.

(e) The creditor shall not charge the borrower any costs or fees in connection with regularly-scheduled adjustments to the interest rate, payment, outstanding principal loan balance, or loan term.

(f) For purposes of this regulation, “consumer-purpose” means primarily for personal, family or household purposes. (Authorized by and implementing K.S.A. 16-207d; effective, T-88-28, Aug. 19, 1987; effective May 1, 1988; amended Aug. 9, 1996.)

Agency 105

State Board of Indigents' Defense Services

Articles

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Article 1.—GENERAL

105-1-1. Legal representation provided.

(a) Legal representation, at state expense, shall be provided to all persons who are financially unable to obtain adequate representation without substantial hardship to themselves or their families in the following cases:

- (1) felony cases at the trial court level;
- (2) habeas corpus cases arising out of an extradition proceeding pursuant to K.S.A. 22-2710;
- (3) habeas corpus cases arising from a mental commitment pursuant to K.S.A. 1997 Supp. 22-3428;
- (4) probation revocation hearings in felony cases;
- (5) habeas corpus cases as authorized by K.S.A. 1997 Supp. 22-4503 and K.S.A. 1997 Supp. 22-4506;
- (6) motions attacking sentence pursuant to K.S.A. 60-1507;
- (7) motions to modify sentence pursuant to K.S.A. 21-4603;
- (8) appeals from felony convictions or habeas corpus findings, as authorized by K.S.A. 1997 Supp. 22-4503 and K.S.A. 1997 Supp. 22-4506, to the appellate courts of Kansas;
- (9) appeals from an order of the court waiving jurisdiction of a juvenile offender to the criminal courts;
- (10) habeas corpus cases arising out of an involuntary commitment pursuant to K.S.A. 1997 Supp. 59-2965;

(11) grand jury witnesses called to testify pursuant to K.S.A. 22-3009;

(12) material witnesses committed to custody as authorized by K.S.A. 1997 Supp. 22-2805; and

(13) any other cases in which legal representation at state expense is required by law.

(b) Legal representation at state expense shall not be provided in the following types of cases:

(1) services on behalf of juvenile offenders, unless the juvenile is charged with commission of a felony offense as an adult under the criminal laws of Kansas;

(2) services on behalf of a defendant charged with a misdemeanor or a defendant appealing a misdemeanor conviction;

(3) any case in which the defendant or other person represented has not been determined to be indigent or partially indigent by a judge, using guidelines developed by the board of indigents' defense services; and

(4) any case in which an attorney has not been appointed by a judge to represent the defendant.

(c) Legal representation shall continue until final resolution of the cause for which appointed. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 1997 Supp. 22-2805, K.S.A. 22-3009, 22-3716, K.S.A. 1997 Supp. 22-4503, K.S.A. 1997 Supp. 22-4505, K.S.A. 1997 Supp. 22-4506, K.S.A. 1997 Supp. 22-4522 and K.S.A. 1997 Supp. 38-1681; effective May 1, 1984; amended Aug. 20, 1999.)

Article 2.—TERMS DEFINED

105-2-1. Definitions. Unless the context otherwise requires, terms used in K.A.R. 105-1-1 et seq., forms, and instructions shall have the following meanings.

(a) "Board" means the state board of indigents' defense services.

(b) "Director" means the state director of indigents' defense services appointed by the board.

(c) "District" means judicial district.

(d) "Legal representation" means representation of indigent defendants by a qualified and effective attorney, as well as transcript preparation and other related defense services by investigators, expert witnesses, and others when requested by the attorney and properly approved in accordance with K.A.R. 105-7-1, 105-7-2, and 105-7-3.

(e) "Panel" means the list of qualified attorneys in a county or judicial district who are eligible for appointment or assignment to represent indigent defendants and who voluntarily request to be considered for appointment or assignment.

(f) "Public defender" means an attorney selected and employed on a full-time basis by the board to provide quality legal representation to indigent defendants.

(g) "State appellate defender" means an attorney selected and employed on a full-time basis by the board to provide appellate representation to indigent defendants in the appellate courts of Kansas.

(h) "Trial counsel" means an attorney or public defender appointed or assigned under the terms of these regulations to provide legal representation to indigent defendants in the district courts of Kansas and as provided by K.A.R. 105-3-9.

(i) "Conflicts attorney office" means the office designated by the board to provide indigent felony and related defense services for cases that cannot be handled by a public defender office due to potential conflicts of interest.

(j) "Contract counsel or attorney" means an attorney who has entered into a contract with the board to provide representation to indigent defendants in the district and appellate courts of Kansas.

(k) "Assigned counsel or attorney" means a panel attorney appointed by the court to represent an indigent defendant in a case in which a public defender, contract counsel, or designated conflicts office has a conflict of interest and the public defender, the designated conflicts office, or contract

counsel is not able to undertake representation. (Authorized by and implementing K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended Oct. 31, 1988; amended March 28, 1994; amended Aug. 20, 1999.)

Article 3.—APPOINTED ATTORNEYS

105-3-1. Panel of attorneys. (a) The administrative judge of each district shall compile a list of volunteer attorneys eligible for assignment to represent indigent defendants for each county in the district. The list shall be known as the panel for indigent defense services.

(b) The administrative judge shall revise the panel annually, as incoming attorneys register with the clerk of the district court and when removal or withdrawal of attorneys from the panel or any other cause makes revision appropriate.

(c) Each attorney on the voluntary panel shall accept felony appointments for a minimum period of one year, with renewable one-year service terms thereafter. The administrative judge may waive this requirement for good cause shown.

(d) In compiling the list, the administrative judge shall consider the criteria contained in K.A.R. 105-3-2, the training, the resources and the experience of each attorney. The judge may consider any other relevant factor or factors relating to the attorney's ability to provide effective assistance of counsel to indigent defendants.

(e) An administrative judge may refuse to place an attorney on a panel. Should the administrative judge refuse to place an attorney on a panel, that judge shall promptly notify the attorney and the board of this decision. The decision shall become effective upon notice to the attorney and shall remain effective until the board or administrative judge places the attorney on the panel.

(f) An attorney who is refused placement on a panel may inform the board that the attorney wishes to appear and offer evidence for placement on the panel at a hearing before the board. Any such evidence shall be reviewed by the board for determination of whether or not the administrative judge abused that individual's discretion in refusing to place the attorney on the panel. The hearing shall be conducted as a summary proceeding. (Authorized by and implementing K.S.A. 22-4501 and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended, T-105-6-13-88, July 1, 1988; amended Oct. 31, 1988; amended Aug. 20, 1999.)

105-3-2. Eligibility to serve. (a) Each licensed attorney engaged in the private practice of law shall be eligible to serve on the panel if the following criteria are met:

(1) Each attorney on the voluntary panel representing an indigent defendant shall have completed 12 hours of continuing legal education in the area of criminal law within three years of appointment or have graduated from an accredited law school during the three years immediately before appointment.

(2) Each attorney assigned to the defense of any felony classified as a non-drug grid offense with severity level of 3 or 4 or any felony classified as a drug grid offense with a severity level of 1, 2, or 3 shall have tried to a verdict, either as defense counsel or prosecutor, five or more felony jury trials.

(3) Each attorney assigned to the defense of any felony classified as an off-grid offense or a non-drug grid offense with a severity level of 1 or 2 shall have tried to verdict, either as defense counsel or prosecutor, five or more jury trials involving the following:

(A) Non-drug offenses of severity levels 1 through 4 or drug grid offenses of severity levels 1 through 3; or

(B) any off-grid offenses.

(4) Each attorney assigned or appointed to the defense of any indigent person accused of a capital murder, as defined by K.S.A. 2011 Supp. 21-5401 and amendments thereto, shall be a prequalified death penalty attorney. Each attorney shall be screened by the board to determine the attorney's qualifications to serve as defense counsel to an indigent person accused of a capital murder, pursuant to "guideline 5.1 qualifications of defense counsel," as published on pages 35 and 36 in the February 2003 edition of the American bar 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.)

105-3-3. Rotation of appointments. All appointments shall be made in an orderly manner to avoid patronage, or the appearance of patronage, and to ensure fair distribution of appointments among all whose names appear on the panel. Names on the panel shall be in alphabetical order and appointments shall be made in sequence with the following exceptions: (a) When the court determines there is a conflict of interest, the next listed attorney shall be appointed.

(b) When the court determines the attorney lacks sufficient experience in a serious felony case, the next qualified attorney shall be appointed.

(c) When the court determines an emergency appointment of counsel is required, the first available attorney may be appointed; or

(d) When the court determines the attorney is unavailable to promptly handle the case, the next listed attorney shall be appointed.

Any attorney who is passed over shall be first in sequence for the next appointment. (Authorized by K.S.A. 1983 Supp. 22-4501 and 22-4522; implementing K.S.A. 1983 Supp. 22-4501 and 22-4522; effective May 1, 1984.)

105-3-4. (Authorized by K.S.A. 1983 Supp. 22-4501 and 22-4522; implementing K.S.A. 1983 Supp. 22-4501 and 22-4522; effective May 1, 1984; revoked Aug. 20, 1999.)

105-3-5. Removal from panel. (a) An administrative judge may remove any attorney from a panel. The administrative judge shall promptly notify the board of a decision to remove an attorney from any panel.

(b) An attorney may be removed from any panel by the board after it confers with the administrative judge.

(c) The decision to remove shall become effective upon notice to the attorney and shall remain effective until the board or administrative judge reinstates the attorney to the panel.

(d) An attorney removed from the panel may inform the board that the attorney wishes to appear and offer evidence for reinstatement at a hearing before the board. Any such evidence shall be reviewed by the board to determine whether or not the administrative judge abused the judge's discretion in removing the attorney from the panel. The hearing shall be conducted as a summary proceeding. (Authorized by and implementing K.S.A. 22-4501 and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended Aug. 20, 1999.)

105-3-6. Distribution of panels. The administrative judge of each district shall distribute the list of panel members to judges of the district court, law enforcement officials within the district and the board. The list of panel members shall be distributed annually and as it is revised. (Authorized by K.S.A. 1983 Supp. 22-4501; implementing K.S.A. 1983 Supp. 22-4501; effective May 1, 1984.)

105-3-7. Appointments prior to court appearance. (a) When legal representation is requested by a person entitled to counsel under K.S.A. 1982 Supp. 22-4503 and who is detained by law enforcement officials in districts with a public defender, the law enforcement officials

shall contact the public defender to provide legal representation, prior to appearance before a court. The public defender shall provide the court with a completed affidavit of indigency from the detainee.

(b) When legal representation is requested by a person entitled to counsel under K.S.A. 1982 Supp. 22-4503 and who is detained by law enforcement officials in districts without a public defender, law enforcement officials shall contact a judge of the district court to appoint a panel attorney to provide legal representation, prior to appearance before a court. Law enforcement officials shall provide a judge of the district court with information from the completed affidavit of indigency. If the judge finds that the detainee is indigent, the judge shall appoint an attorney from the panel. (Authorized by K.S.A. 1983 Supp. 22-4502; implementing K.S.A. 1983 Supp. 22-4501, 22-4503; effective May 1, 1984.)

105-3-8. (Authorized by K.S.A. 1984 Supp. 22-4507 and 22-4522; implementing K.S.A. 1984 Supp. 22-4507; effective, T-86-33, Oct. 23, 1985; effective May 1, 1986; revoked Aug. 20, 1999.)

105-3-9. Duties of trial counsel following sentencing. (a) In order to protect a convicted defendant's right to appeal, it shall be the duty of each trial counsel to prepare, file, or both, the following documents:

(1) file a motion for modification of sentence pursuant to K.S.A. 21-4603(2), when appropriate;

(2) file a motion for release on appeal bond pursuant to K.S.A. 22-2804, when appropriate;

(3) file a notice of appeal in a timely manner, unless a waiver of the right to appeal has been signed by the defendant;

(4) upon filing the notice of appeal, obtain a court order for the trial transcript, and a transcript of any pretrial or posttrial proceedings from which a claim of error may arise;

(5) upon filing the notice of appeal, obtain an order from the district court appointing the state appellate defender as counsel for the appeal and file the order of appointment with the clerk of the district court within five days of the filing of the notice of appeal;

(6) submit a draft of the docketing statement and all documents necessary to docket the appeal required by supreme court rule 2.041 to the appellate defender within 10 days of the filing of the notice of appeal; and

(7) submit a listing of all hearings in which a record was taken to the appellate defender, including dates, within 10 days of the filing of the notice of appeal.

(b) Requests for compensation for services set forth in subsection (a) shall be included in the claim filed with the board. (Authorized by and implementing K.S.A. 22-4507, as amended by L. 1998, ch. 52, sec. 5, and K.S.A. 1997 Supp. 22-4522; effective, T-86-33, Oct. 23, 1985; effective May 1, 1986; amended May 1, 1987; amended Jan. 11, 1993; amended Aug. 20, 1999.)

105-3-10. Appointments generally. Each court appointment funded by the board shall be made in accordance with the rules and regulations adopted by the board for providing legal defense services for indigent persons as prescribed by the board. (Authorized by K.S.A. 1984 Supp. 22-4501, 22-4507 and 22-4522; implementing K.S.A. 1984 Supp. 22-4507 and 22-4522; effective, T-86-33, Oct. 23, 1985; effective May 1, 1986.)

105-3-11. Conflict cases. (a) If a conflict of interest will not permit the public defender to represent a defendant, the court shall appoint the designated conflicts office for that county or an assigned attorney who has entered into a contract to represent defendants in conflict cases. If a conflicts office has not been designated for that county, if a contract attorney has not been designated to handle conflicts cases, or if the nature of the conflict requires it, the court shall appoint a qualified attorney from the panel. Each court-appointed attorney in conflict cases shall work independently of the public defender.

(b) Requests for investigative, expert, and other services by court-appointed attorneys shall be made in accordance with K.A.R. 105-7-1. (Authorized by K.S.A. 22-4501 and K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 1997 Supp. 22-4522; effective March 28, 1994; amended Aug. 20, 1999.)

105-3-12. Appointments in capital cases. (a) In each case in which the death penalty may be imposed and the defendant is unable to afford counsel, the court shall appoint the capital defender to represent the defendant.

(1) Subject to K.A.R. 105-5-4, the court may appoint co-counsel from the capital appointments panel list to represent the defendant in accordance with the system established by these regulations for providing legal defense services for

indigent persons charged with capital felonies. The court, however, shall not appoint any attorney as co-counsel without prior notice to the chief capital defender and the board.

(2) The court shall not appoint any attorney to provide representation in a capital felony without prior notice to the chief capital defender.

(3) Eligibility to serve on the capital appointments panel shall be limited to attorneys who have been screened pursuant to K.A.R. 105-3-2(a)(5).

(b) The court shall appoint counsel for any indigent person accused of homicide pursuant to K.S.A. 21-3401, 21-3402, or 21-3403 from panel lists approved by the board. The court shall not appoint any attorney to provide representation to an indigent person accused of a felony pursuant to K.S.A. 21-3401, 21-3402, or 21-3403 without prior notice to the chief capital defender.

(c) Appeals. The court shall appoint the state appellate defender to represent an indigent defendant in each appeal of a capital felony conviction in accordance with K.A.R. 105-10-2. (Authorized by K.S.A. 22-4501, K.S.A. 1997 Supp. 22-4503, and K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 1997 Supp. 22-4503, K.S.A. 1997 Supp. 22-4505 and K.S.A. 1997 Supp. 22-4522; effective Nov. 1, 1996; amended Aug. 20, 1999.)

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 there-

to. 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.)

105-4-4. Finding of indigency. If the court finds a defendant who is entitled to counsel to be indigent, as defined by statute and these regulations, the court shall appoint counsel to provide legal representation. A court order authorizing legal representation at state expense shall be made on a form approved by the board. (Authorized by K.S.A. 1983 Supp. 22-4504 and 22-4522; implementing K.S.A. 1983 Supp. 22-4503, 22-4504, 22-4505, 22-4506 and 22-4512a; effective May 1, 1984.)

105-4-5. Partial indigency. (a) The court shall find any defendant to be partially indigent if the defendant is able to pay some part of the cost of legal representation and if the payment or payments does not impose manifest hardship on the defendant or the defendant's household. Any defendant may be found to be partially indigent if the defendant's combined household income and liquid assets are greater than the defendant's reasonable and necessary living expenses but less than the sum of the defendant's reasonable and necessary living expenses plus the anticipated cost of private legal representation.

(b) A defendant found to be partially indigent may be ordered by the court to pay, to the clerk of the district court, a sum not more than the amount expended by the board on behalf of the defendant. (Authorized by K.S.A. 1983 Supp. 22-4504 and 22-4522; implementing K.S.A. 1983 Supp. 22-4504 and 22-4513; effective May 1, 1984; amended May 1, 1985.)

Article 5.—ATTORNEY COMPENSATION

105-5-1. General provisions. Subject to availability of funding, and with the approval of the appropriate judge as provided in K.S.A. 1982 Supp. 22-4507(b), attorneys appointed to represent indigent defendants pursuant to K.S.A. 22-4501, *et seq.*, shall be compensated for time spent in case preparation and presentation in court, at the rate set forth in K.A.R. 105-5-2.

Compensation shall be subject to maximum compensation limitations as set forth in K.A.R. 105-5-6 and K.A.R. 105-5-7. (Authorized by K.S.A. 1983 Supp. 22-4507 and 22-4522; implementing K.S.A. 1983 Supp. 22-4507; effective May 1, 1984.)

105-5-2. Rates of compensation. (a) Each appointed counsel shall be compensated at the rate of \$80 per hour.

(b) Contract counsel shall be compensated at the rate or rates specified in the contract between the board and the appointed counsel. (Authorized by and implementing K.S.A. 22-4507 and 22-4522; effective May 1, 1984; amended May 1, 1988; amended, T-105-6-13-88, July 1, 1988; amended Oct. 31, 1988; amended July 1, 1993; amended, T-105-6-15-93, July 1, 1993; amended Aug. 16, 1993; amended March 28, 1994; amended Aug. 20, 1999; amended, T-105-7-5-06, July 5, 2006; amended Nov. 13, 2006; amended, T-105-8-16-10, Aug. 16, 2010; amended Nov. 5, 2010; amended Dec. 11, 2015; amended Nov. 14, 2016; amended April 26, 2019; amended March 20, 2020.)

105-5-3. Appellate courts; compensation.

(a) For authorized services performed in appealing a case to the court of appeals or the Kansas supreme court, compensation shall be paid at the rate prescribed in K.A.R. 105-5-2 as approved by the court.

(b) Compensation for attorneys' services in cases appealed to the Kansas supreme court or the court of appeals shall not exceed \$1,920. However, additional compensation may be approved by the board as approved by the court. (Authorized by and implementing K.S.A. 22-4507 and 22-4522; effective May 1, 1984; amended May 1, 1985; amended Aug. 20, 1999; amended, T-105-7-5-06, July 5, 2006; amended Nov. 13, 2006; amended, T-105-8-16-10, Aug. 16, 2010; amended Nov. 5, 2010; amended Dec. 11, 2015; amended Nov. 14, 2016; amended April 26, 2019; amended March 20, 2020.)

105-5-4. Multiple attorneys. No more than one attorney shall be compensated for services rendered at the same stage of proceedings, unless the judge determines that co-counsel is essential to the accused's effective defense. (Authorized by K.S.A. 22-4507 and 22-4522; implementing K.S.A. 22-4507; effective May 1, 1984; amended Nov. 1, 1996.)

105-5-5. Overpayments. If it is determined by the director that an attorney has been paid an amount in excess of what is allowable according to the current regulations regarding compensation, the director shall notify the attorney to immediately reimburse the board for a like amount. If not paid on demand, the director may recoup that amount from a subsequently approved claim from that attorney. (Authorized by K.S.A. 1983 Supp.

22-4507 and 22-4522; implementing K.S.A. 1983 Supp. 22-4507; effective May 1, 1984.)

105-5-6. Reasonable compensation; non-tried cases. (a) Each appointed attorney shall be compensated for time expended in representing indigent defendants and other indigent persons at the hourly rate prescribed in K.A.R. 105-5-2. Except as provided in K.A.R. 105-5-8, reasonable compensation shall not exceed \$1,600 in the following cases:

(1) Those felony cases in the trial court that are classified as non-drug offenses of severity levels 1 through 5 that are not submitted to a judge or jury, including services at a preliminary hearing and sentencing, if applicable; and

(2) those felony cases in the trial court that are classified as drug offenses, that have not been submitted to a judge or jury, and in which there have been six hours or more spent in court in defense of the indigent defendant, including services at a preliminary hearing and sentencing, if applicable.

(b) Except as provided in K.A.R. 105-5-8 and K.A.R. 105-5-6(a), reasonable compensation shall not exceed \$1,200 in the following cases:

(1) Those felony cases in the trial court that are not submitted to a judge or jury, including services at a preliminary hearing and sentencing, if applicable, and are classified as severity levels 6 through 10 non-drug offenses; and

(2) those felony cases in the trial court that are not submitted to a judge or jury, that are classified as drug offenses, and in which there have been fewer than six hours spent in court in defense of the indigent defendant, including services at a preliminary hearing and sentencing, if applicable.

(c) Except as provided in K.A.R. 105-5-8, K.A.R. 105-5-6(a), and K.A.R. 105-5-6(b), reasonable compensation shall not exceed \$800 in the following types of cases:

(1) Habeas corpus cases as authorized by K.S.A. 22-4503 and K.S.A. 22-4506 and amendments thereto;

(2) cases filed pursuant to K.S.A. 60-1507 and K.S.A. 22-4506 and amendments thereto;

(3) habeas corpus cases as authorized by K.S.A. 22-2710 and amendments thereto;

(4) habeas corpus cases as authorized by K.S.A. 22-3428 and K.S.A. 22-3428a and amendments thereto; and

(5) habeas corpus cases as authorized by K.S.A. 59-2960 and amendments thereto.

(d) Except as provided in K.A.R. 105-5-8, rea-

sonable compensation shall not exceed \$427 in the following types of cases:

(1) Representation of grand jury witnesses determined to be indigent and called to testify pursuant to K.S.A. 22-3009 and amendments thereto;

(2) representation of indigent persons committed to custody as material witnesses pursuant to K.S.A. 22-2805 and amendments thereto;

(3) probation revocation hearings; and

(4) motions to modify sentence pursuant to K.S.A. 2019 Supp. 21-6702 and amendments thereto. (Authorized by and implementing K.S.A. 22-4507 and 22-4522; effective May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended, T-105-6-13-88, July 1, 1988; amended Nov. 1, 1988; amended Oct. 30, 1989; amended July 1, 1993; amended, T-105-6-15-93, July 1, 1993; amended Aug. 16, 1993; amended Aug. 20, 1999; amended, T-105-7-5-06, July 5, 2006; amended Nov. 13, 2006; amended, T-105-8-16-10, Aug. 16, 2010; amended Nov. 5, 2010; amended Dec. 11, 2015; amended Nov. 14, 2016; amended April 26, 2019; amended March 20, 2020.)

105-5-7. Reasonable compensation; tried cases. Each appointed attorney shall be compensated for time expended in representing indigent defendants at the hourly rate prescribed in K.A.R. 105-5-2. Except as provided in K.A.R. 105-5-8, reasonable compensation for felony cases tried on pleas of not guilty and submitted to a judge or jury for adjudication, including compensation for services at the preliminary hearing, sentencing, and motions to modify the sentence, shall not exceed the following:

(a) \$2,560 for felonies classified as non-drug offenses of severity levels 5 through 10;

(b) \$3,200 for felonies classified as non-drug offenses of severity level 4 and felonies classified as drug offenses of severity levels 2 through 5; and

(c) \$8,000 for felonies classified as non-drug offenses of severity levels 1 through 3, off-grid felonies, and felonies classified as drug offenses of severity level 1. (Authorized by and implementing K.S.A. 22-4507 and 22-4522; effective May 1, 1984; amended, T-105-6-13-88, July 1, 1988; amended Nov. 1, 1988; amended Oct. 30, 1989; amended July 1, 1993; amended, T-105-6-15-93, July 1, 1993; amended Aug. 16, 1993; amended Aug. 20, 1999; amended, T-105-7-5-06, July 5, 2006; amended Nov. 13, 2006; amended, T-105-8-16-10, Aug. 16, 2010; amended Nov. 5, 2010;

amended Dec. 11, 2015; amended Nov. 14, 2016; amended April 26, 2019; amended March 20, 2020.)

105-5-8. Compensation; exceptional cases. (a) Any compensation for attorneys' services in excess of the amounts specified in K.A.R. 105-5-6 and K.A.R. 105-5-7 may be approved only in exceptional cases. A finding by the court that a case is exceptional shall be subject to final approval by the board. An exceptional case shall mean any of the following:

(1) Any case involving a felony charge in the trial court that is off-grid;

(2) any felony case tried on a not guilty plea in which there have been 25 or more hours spent in court in defense of the indigent defendant;

(3) any felony case not submitted to a judge or jury in which there have been 10 hours or more of in-court time spent in defense of the indigent defendant; or

(4) any case that has been declared an exceptional case by the court due to its complexity or other significant characteristics.

(b) Each claim for compensation in an exceptional case shall be accompanied by a specific finding in a court order specifying the basis for the declaration that the case is exceptional.

(c) Reasonable compensation for attorneys' services in exceptional cases shall not exceed \$8,000 per case. However, additional compensation may be approved by the board if warranted by the extreme complexity of the case. (Authorized by and implementing K.S.A. 22-4507 and 22-4522; effective May 1, 1984; amended, T-105-6-13-88, July 1, 1988; amended Nov. 1, 1988; amended Oct. 30, 1989; amended July 1, 1993; amended, T-105-6-15-93, July 1, 1993; amended Aug. 16, 1993; amended Aug. 20, 1999; amended, T-105-7-5-06, July 5, 2006; amended Nov. 13, 2006; amended, T-105-8-16-10, Aug. 16, 2010; amended Nov. 5, 2010; amended Dec. 11, 2015; amended Nov. 14, 2016; amended April 26, 2019; amended March 20, 2020.)

105-5-9. Factors in determining compensation in exceptional cases. The following factors shall be considered by the board in its determination of reasonable compensation in exceptional cases:

(a) the amount and the type of services rendered;

(b) the amount of time expended on the case;

(c) the character and importance of the litigation;

(d) the amount of money or value of the property affected;

(e) the legal skills and experience required for the particular case;

(f) the ratio of out-of-court preparation time to in-court time;

(g) the reasonableness of client contact; and

(h) the proximity of the client to attorney defense services. (Authorized by and implementing K.S.A. 22-4507 and 22-4522; effective Aug. 16, 1993.)

Article 6.—REIMBURSEMENT OF EXPENSES

105-6-1. Reimbursement generally. Appointed attorneys shall be reimbursed for expenses reasonably incurred in performance of duties when approved by the appropriate judge as provided in K.S.A. 1982 Supp. 22-4507(b). Expense reimbursements shall not be considered within the maximum amounts of compensation set out in K.A.R. 105-5-6 and K.A.R. 105-5-7. (Authorized by K.S.A. 1983 Supp. 22-4507 and 22-4522; implementing K.S.A. 1983 Supp. 22-4507 and 22-4522; effective May 1, 1984.)

105-6-2. Expenses allowed. Expense reimbursements shall include reimbursement for the following expenses:

(a) the cost of photocopying prepared briefs;

(b) the cost of binding appellate briefs for each case;

(c) in-state travel and subsistence by appointed attorneys, not to exceed the rate set by the secretary of the department of administration for state employees in accordance with K.S.A. 75-3201, et seq. and K.S.A. 75-4601, et seq.;

(d) expenses incurred by appointed attorneys in obtaining computerized legal research if the case presents a unique question of law to be researched. Such expenses shall not exceed \$200;

(e) expenses incurred by appointed attorneys in taking depositions, if found to be authorized by statute and necessary in order to provide an adequate defense and when prior approval has been obtained from the court;

(f) costs of mailing briefs; and

(g) expenses incurred by appointed attorneys which would otherwise have been approved and paid by the board directly to a third party in accordance with statute or rule and regulation. (Authorized by and implementing K.S.A. 22-4507, as

amended by L. 1998, ch. 52, sec. 5, and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended Aug. 20, 1999.)

**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.)

105-7-5. Psychiatric or psychological services. Each individual performing psychiatric or psychological services shall be compensated at a rate approved in advance by the director. (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 Oct. 30, 1989; amended Aug. 20, 1999.)

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.)

105-7-7. Other services. Each individual performing other allowable defense services shall be compensated at a rate approved in ad-

vance by the director. (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 Aug. 20, 1999.)

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.)

105-7-9. Services not compensable. The following services shall not be compensable unless approved by the director: (a) polygraph examinations;

(b) psychological stress evaluation exams;

(c) psychiatric or other services arising out of proceedings to determine competency to stand trial;

(d) other expert tests unless the results are admissible as evidence; and

(e) any other expert services not necessary for an adequate defense of the case. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 1997 Supp. 22-4508 and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended Aug. 20, 1999.)

Article 8.—COURT REPORTERS; TRANSCRIPTS

105-8-1. Generally. (a) When an attorney appointed to represent an indigent defendant at trial determines that a transcript or partial transcript of the trial will be necessary to prosecute an appeal, the attorney shall request a court order for the transcript. Attorneys shall order complete transcripts only when absolutely necessary for the appeal, in accordance with supreme court rules.

(b) Each court order for a transcript shall be made on a form approved by the board. A copy of the order shall be mailed to the board promptly. The order shall specify whether a full or partial transcript is to be prepared. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 1997 Supp. 22-4505, K.S.A. 22-4509 and K.S.A. 22-4512a; effective May 1, 1984; amended May 1, 1986; amended Aug. 20, 1999.)

105-8-2. Claims. Each claim for transcript fees shall be made on a form approved by the board. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 22-4512a; effective May 1, 1984; amended Aug. 20, 1999.)

105-8-3. Compensation. (a) Court reporters shall receive compensation for one original transcript in a single-defendant case appealed to the appellate courts. In multi-defendant cases appealed to the appellate courts, court reporters shall be compensated for one original transcript and one transcript copy for each additional co-defendant.

(b) Compensation shall be at the rate set for transcripts pursuant to the rules of the supreme court relating to official court reports. (Authorized by K.S.A. 1997 Supp. 22-4522; implementing K.S.A. 1997 Supp. 22-4522, K.S.A. 1997 Supp. 22-4505, K.S.A. 22-4507, as amended by L. 1998, ch. 52, sec. 5, and K.S.A. 22-4509; effective May 1, 1984; amended Aug. 20, 1999.)

105-8-4. Claims not allowed. Claims by court reporters for transcripts of pleas of guilty or nolo contendere, preliminary hearings, voir dire proceedings, opening statements or closing statements shall not be compensated except when the defendant alleges that it is necessary to enable the person to present the appeal adequately. (Authorized by K.S.A. 22-4507; implementing K.S.A. 22-4509; effective May 1, 1984; amended Oct. 30, 1989.)

Article 9.—CLAIMS GENERALLY

105-9-1. General provisions. (a) All claims for payment for legal representation provided to an indigent defendant by attorneys, court reporters, investigators and all others shall be submitted to the board for payment not later than 60 days after the termination of services.

(b) Unless otherwise specified, all claims that comply with these rules and regulations shall be processed for payment by the director.

(c) Claims not conforming with rules and regulations prescribed by the board may be denied payment. (Authorized by K.S.A. 1983 Supp. 22-4507 and 22-4522; implementing K.S.A. 1983 Supp. 22-4507 and 22-4522; effective May 1, 1984.)

105-9-2. Approval of claims. (a) Each claimant shall complete and sign the necessary claim forms and submit them to the court for approval.

(b) The judge shall examine each claim and determine if it is reasonable and in accordance with rules and regulations adopted by the board. In determining the reasonableness, the judge shall consider the nature and complexity of the factual

and legal issues involved and the time reasonably necessary to prepare and present the case.

(c) The judge may reduce the amount of any claim submitted for approval. (Authorized by K.S.A. 1983 Supp. 22-4507 and 22-4522; implementing K.S.A. 1983 Supp. 22-4507 and 22-4522; effective May 1, 1984.)

105-9-3. Claims from attorneys. Each claim from an attorney for compensation and reimbursement of allowable expenses shall be filed with the board on a voucher form approved by the board. Each claim shall be accompanied by a timesheet, in a form approved by the board, detailing:

- (a) the date of each compensable activity;
- (b) the purpose of the activity performed;
- (c) the type of activity performed;
- (d) the amount of time, in tenths of hours, spent on each activity; and
- (e) the amount of compensation received for the same services from any other source. (Authorized by K.S.A. 1983 Supp. 22-4507 and 22-4522; implementing K.S.A. 1983 Supp. 22-44507 and 22-4522; effective May 1, 1984.)

105-9-4. (Authorized by K.S.A. 1987 Supp. 22-4507 and 22-4522; implementing K.S.A. 1987 Supp. 22-4507 and 22-4522; effective May 1, 1984; revoked, T-105-6-13-88, June 13, 1988; revoked Oct. 31, 1988.)

105-9-5. Proration. (a) The payment of attorney claims may be prorated by the board if the board determines that funding in any fiscal year is insufficient to pay all claims in full.

(b) Prior to a decision by the board to prorate claims pursuant to K.S.A. 22-4507(c) and K.A.R. 105-9-5(a), a public hearing shall be conducted by the board to determine the impact such a decision would have on the quality of representation afforded to indigent defendants and the availability of sufficient numbers of attorneys on the county and district panels.

(c) A decision by the board to prorate claims may consist of an equitable reduction in the hourly rate of compensation on all pending and anticipated claims. The reduced hourly rate of compensation shall be set at an amount that will enable the agency to process the reduced hourly rate on all pending and anticipated claims for the remainder of the fiscal year in which the claims are submitted for payment.

(d) Upon a decision to prorate claims but not sooner than 30 days prior to the effective date of

the proration plan, the following information shall be published by the board in the Kansas Register:

- (1) the beginning and ending dates of the period in which proration will be implemented;
- (2) the revised hourly rate of compensation to be paid to appointed attorneys; and
- (3) the anticipated savings from the board's proration plan. (Authorized by and implementing K.S.A. 22-4507 and 22-4522; effective Aug. 16, 1993.)

Article 10.—SYSTEMS FOR PROVIDING LEGAL DEFENSE SERVICES FOR INDIGENT PERSONS

105-10-1. (Authorized by K.S.A. 22-4501 and 22-4522; implementing K.S.A. 22-4503 and 22-4522; effective, T-86-33, Oct. 23, 1985; effective May 1, 1986; amended Nov. 1, 1988; amended, T-105-6-22-89, June 22, 1989; amended Oct. 30, 1989; revoked March 28, 1994.)

105-10-1a. Public defender systems at the trial level. (a) Except as provided in K.A.R. 105-3-11, each public defender office shall provide all indigent felony and related defense services at the trial level.

(b) If the director has provided notice pursuant to K.A.R. 105-10-3, to the administrative judge of the judicial district in which a case is filed, of the board's designation of a conflicts office for a county, the designated conflicts attorney office shall be appointed and shall provide indigent felony and related defense services at the trial level for those cases that cannot be handled by the public defender office due to potential conflicts of interest, with the exception of those cases that the designated conflicts attorney office cannot handle due to a potential conflict of interest.

(c) Each trial court shall appoint the public defender to provide felony defense services in all felony and other cases set forth in K.A.R. 105-1-1(a), with the following exceptions:

- (1) if the director has not designated a public defender office to provide defense services in the county;
- (2) if the director has designated a public defender office to provide defense services in only selected felony severity levels;
- (3) if K.A.R. 105-10-2 requires the appointment of the state appellate defender;
- (4) if a conflict of interest will not permit the public defender to represent the defendant and

the conflicts attorney office or contract attorney designated to handle conflicts cases is not available; or

(5) if the public defender office withdraws from the case or declines the case as provided in K.A.R. 105-21-3.

(d) If one of the exceptions stated above prevents the appointment of the public defender, the court shall appoint an attorney as provided in K.A.R. 105-3-11 on a form approved by the board. (Authorized by and implementing K.S.A. 1997 Supp. 22-4522; effective March 28, 1994; amended Aug. 20, 1999.)

105-10-2. Public defender system for appeals. (a) The state appellate defender office shall provide defense services in the appellate courts of Kansas for all indigent appeals taken from cases described in subsection (b) in all district courts of Kansas.

(b) The court shall appoint the state appellate defender to provide appellate representation to persons determined to be indigent in the following cases:

(1) all felony appeals;

(2) appeals from the denial of a motion pursuant to K.S.A. 60-1507;

(3) appeals from the denial of a petition for a writ of habeas corpus pursuant to K.S.A. 22-2710; and

(4) appeals pursuant to K.S.A. 1985 Supp. 38-1681(a).

(c) The state appellate defender office may represent a defendant in an appeal on a question reserved by the prosecution pursuant to K.S.A. 22-3602(b)(3), as amended by L. 1986, Ch. 115. (Authorized by K.S.A. 1985 Supp. 22-4501 and 22-4522; implementing K.S.A. 1985 Supp. 22-4505, 22-4506 and 38-1681; effective, T-86-33, Oct. 23, 1985; effective May 1, 1986; amended May 1, 1987.)

105-10-3. Implementation schedule for public defender system. (a) The district court judge shall appoint the public defender, or any other attorney under the system established by the board, to represent all persons entitled to counsel under K.S.A. 22-4501, *et seq.* who have not, before the system implementation date, had counsel appointed in the action pending before the court. The system implementation date in a particular county shall be the date provided in written notice by the director to the following persons:

(1) the judicial administrator for the Kansas unified judicial branch; and

(2) the district court administrative judge.

(b) The district court judge shall appoint the public defender, or any other attorney under the system established by the board, to represent any persons entitled to counsel under K.S.A. 22-4501, *et seq.* who have, before the system implementation date, had counsel appointed in the action pending before the court if appointed private counsel withdraws or is removed from the case after the implementation date.

(c) The district court judge shall appoint the public defender to cases with matters pending before notice of the change in the indigents' defense system if the public defender requests the appointment and appointed private counsel does not object.

(d) The district court judge may appoint the public defender to cases with matters pending before notice of the change in the indigents' defense system if it is the judgement of the court that it is in the best interests of the defendant to do so and if the public defender consents to the appointment.

(e) Until notice is given pursuant to the provisions of this regulation that a county shall be served by a public defender office, the district court judge has discretion to appoint counsel under the previously existing system for the county or district. (Authorized by and implementing K.S.A. 1997 Supp. 22-4522; effective March 28, 1994; amended Aug. 20, 1999.)

105-10-4. Notification of designation of conflicts office. (a) The director shall provide notice of the board's designation of a conflicts office to the administrative judge of the judicial district by certified letter, return receipt requested, at least 30 calendar days prior to the time the designation becomes effective. The notice shall include:

(1) the county for which such office is designated as the conflicts office;

(2) the effective date of the designation; and

(3) the name, address and phone number of the designated conflicts office.

(b) If the written notice of designation of a conflicts office is received at a date less than 30 calendar days prior to the effective date of designation contained in the notice, the effective date of designation will be 30 calendar days after the actual receipt of the written notice of the designation.

(c) If the board changes the designated conflicts office for a particular county, the board shall provide written notice to the administrative judge of the judicial district 10 calendar days prior to the effective date of the change, by certified letter, return receipt requested. The notice shall state:

- (1) the effective date of the change;
- (2) the name, address and phone number of the new conflicts office; and
- (3) the manner in which current open cases are to be handled. (Authorized by K.S.A. 22-4501 and 22-4522; implementing K.S.A. 22-4503 and 22-4522; effective March 28, 1994.)

105-10-5. Assigned counsel contracts. A public defender, the state appellate defender, and the designated conflicts office may, upon written authorization by the director, contract for services with qualified attorneys to undertake representation of indigent defendants to which each office has been appointed. (Authorized by and implementing K.S.A. 1997 Supp. 22-4522; effective March 28, 1994; amended Aug. 20, 1999.)

Article 11.—REIMBURSEMENT FROM DEFENDANT

105-11-1. (Authorized by K.S.A. 22-4504; implementing K.S.A. 22-4522; effective, T-105-10-3-05, Oct. 3, 2005; effective Feb. 17, 2006; amended, T-105-7-5-06, July 5, 2006; amended Nov. 13, 2006; amended, T-105-7-26-07, July 26, 2007; amended Nov. 26, 2007; amended, T-105-8-12-08, Aug. 12, 2008; amended Dec. 29, 2008; amended, T-105-6-26-09, June 26, 2009; amended Oct. 16, 2009; amended, T-105-8-16-10, Aug. 16, 2010; amended Nov. 5, 2010; amended, T-105-7-22-11, July 22, 2011; amended Nov. 14, 2011; amended Dec. 14, 2012; amended Dec. 29, 2014; amended Dec. 11, 2015; amended Nov. 14, 2016; revoked April 26, 2019.)

Article 21.—PUBLIC DEFENDER GUIDELINES

105-21-1. Qualifications. Each public defender shall be an attorney licensed to practice law in Kansas and shall be selected on the basis of merit. Primary qualifications shall be: (a) demonstrated commitment to the provision of quality legal representation for eligible persons charged with or convicted of criminal conduct;

(b) demonstrated ability to properly administer a law office of similar size and responsibility to that of the public defender office; and

(c) demonstrated knowledge of criminal law and effective ability to provide actual representation. (Authorized by K.S.A. 1983 Supp. 22-4522; implementing K.S.A. 1983 Supp. 22-4522; effective May 1, 1984.)

105-21-2. Scope of representation. Except as otherwise provided by law or by ethical considerations, each public defender shall accept and undertake representation of all persons assigned to that office and determined to be eligible for the services of the public defender in accordance with K.S.A. 1982 Supp. 22-4501, et seq. (Authorized by K.S.A. 1983 Supp. 22-4522; implementing K.S.A. 1983 Supp. 22-4522; effective May 1, 1984.)

105-21-3. Withdrawing from cases. (a) Any public defender may withdraw from any court-appointed case when that defender determines that there exists a possible conflict of interest in further representation of the defendant.

(b) The public defender may refuse to accept court-appointed cases when it is determined jointly by the public defender and the director that the current active caseload would preclude the public defender from providing adequate representation to new clients.

(c) When a decision is made to withdraw from a case or to not accept cases due to current caseloads, the public defender shall communicate this decision to the administrative judge of the district, who shall appoint attorneys, in sequence, from the panel for a period established by the director. (Authorized by and implementing K.S.A. 22-4501 and K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended Aug. 20, 1999.)

105-21-4. Misdemeanor or juvenile appointments. Any public defender, with the approval of the director, may elect to accept misdemeanor or juvenile appointments not covered by agreement or contract in the district or county of jurisdiction. However, the public defender shall make a record of time expended both in court and in preparation of such a case and shall submit this timesheet with a bill for services rendered to be computed at the rate set out in K.A.R. 105-5-2. The timesheet and bill shall be submitted to the clerk of district court of the county in which the case was heard. A copy of this billing and timesheet shall be sent promptly to the di-

rector. The bill shall designate the state board of indigents' defense services as the payee and shall include the title of the case, case number and any other identifying information needed by the clerk for processing, as well as the total amount due according to the timesheet. Expenses incurred by the public defender office may also be included in this billing.

The public defender may, at any time, refuse to accept misdemeanor or juvenile appointments. (Authorized by K.S.A. 1983 Supp. 22-4522; implementing K.S.A. 1983 Supp. 22-4522; effective May 1, 1984.)

105-21-5. (Authorized by K.S.A. 1982 Supp. 22-4507 and 22-4522; implementing K.S.A. 1982 Supp. 22-4508 and 22-4522; effective May 1, 1984; revoked May 1, 1985.)

105-21-6. Records and reports. Each public defender shall keep accurate records of cases assigned and make reports in the form and with the content prescribed by the director. (Authorized by and implementing K.S.A. 1997 Supp. 22-4522; effective May 1, 1984; amended Aug. 20, 1999.)

**Article 31.—CONTRACT
COUNSEL GUIDELINES**

105-31-1. General provisions. (a) The board may elect to contract with one or more private attorneys for the delivery of indigent defense services in any county, counties, or district when there is evidence that such contracting may be cost effective or that the assigned counsel panel lacks attorneys of sufficient expertise or number.

(b) The duration of the contract shall be set forth in the contract and shall be subject to availability of funds. (Authorized by K.S.A. 1983 Supp. 22-4522; implementing K.S.A. 1983 Supp. 22-4522 and 22-4523; effective May 1, 1984.)

105-31-2. Awarding the contract. (a) The board shall not pursue a contract through the competitive bidding process but only through negotiation.

(b) Contracts to individual attorneys or firms shall be awarded on the basis of:

(1) the experience and qualifications of the attorney or firm;

(2) the willingness and ability of the attorney or firm to comply with the performance criteria and statistical reporting provisions of the contract; and

(3) the negotiated rate of compensation. (Authorized by K.S.A. 1983 Supp. 22-4522; implementing K.S.A. 1983 Supp. 22-4522 and 22-4523; effective May 1, 1984.)

105-31-3. Qualifications. Each attorney qualified to serve on the panel shall be qualified to enter into a contract for the purpose of providing legal representation to indigents. (Authorized by K.S.A. 1983 Supp. 22-4522; implementing K.S.A. 1983 Supp. 22-4522 and 22-4523; effective May 1, 1984.)

105-31-4. (Authorized by K.S.A. 1983 Supp. 22-4522; implementing K.S.A. 1983 Supp. 22-4505, 22-4522; effective May 1, 1984; revoked Aug. 20, 1999.)

105-31-5. Exceptional cases. Subject to board approval, any contract attorney may be provided compensation in addition to the contract compensation for cases determined to be exceptional in nature as defined by K.A.R. 105-5-8. (Authorized by K.S.A. 1983 Supp. 22-4522; implementing K.S.A. 1983 Supp. 22-4522; effective May 1, 1984.)

105-31-6. Other provisions. The procedure for withdrawing from cases and procuring investigative, expert or other services shall be set forth in the contract. (Authorized by K.S.A. 1983 Supp. 22-4522; implementing K.S.A. 1983 Supp. 22-4508 and 22-4522; effective May 1, 1984.)

Agency 106

Kansas Commission on Peace Officers' Standards and Training (KSCPOST)

Editor's Note:

The Kansas Commission on Peace Officers' Standards and Training (KSCPOST) was created pursuant to L. 2006, Ch. 170, which became effective July 1, 2006. KSCPOST is the successor in authority to the Law Enforcement Training Commission. L. 2006, Ch. 170 also transferred certain powers, duties and functions from the Law Enforcement Training Center (Agency 107) to the KSCPOST.

Articles

106-1. *PEACE OFFICERS STANDARDS AND TRAINING. (Not in active use.)*

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 hu-

man 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 al-

ways 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 Officers' 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 to the KSCPOST (Agency 106).

Articles

- 107-1. *CERTIFICATION OF LAW ENFORCEMENT OFFICERS AND TRAINING SCHOOLS.* (Not in active use.)
- 107-2. *CONTINUING EDUCATION.* (Not in active use.)
- 107-3. *PRE-TRAINING EVALUATION.* (Not in active use.)

Article 1.—CERTIFICATION OF LAW ENFORCEMENT OFFICERS AND TRAINING SCHOOLS

107-1-1. (Authorized by and implementing K.S.A. 1984 Supp. 74-5603 and 74-5604a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985; amended May 1, 1986; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

107-1-2. (Authorized by K.S.A. 1984 Supp. 74-5603 and 74-5604a; implementing K.S.A. 1984 Supp. 74-5607a, 74-5605, 74-5604a, and K.S.A. 74-5608a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985; amended May 1, 1986; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

107-1-3. (Authorized by K.S.A. 1984 Supp. 74-5604a and 74-5603; implementing K.S.A. 1984 Supp. 74-5604a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985; amended May 1, 1986; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

107-1-4. (Authorized by K.S.A. 1984 Supp. 74-5603 and 74-5604a; implementing K.S.A. 1984 Supp. 74-5604a; effective, T-85-5, Feb. 21, 1984;

effective May 1, 1985; amended May 1, 1986; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

107-1-5. (Authorized by K.S.A. 1983 Supp. 74-5603 and 74-5604a; implementing K.S.A. 1983 Supp. 74-5603, 74-5607a and 74-5604a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

Article 2.—CONTINUING EDUCATION

107-2-1. (Authorized by and implementing K.S.A. 1984 Supp. 74-5607a; effective, T-85-5, Feb. 21, 1984; effective May 1, 1985; amended May 1, 1986; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

Article 3.—PRE-TRAINING EVALUATION

107-3-1. (Authorized by K.S.A. 1984 Supp. 74-5603 and 74-5604a; implementing K.S.A. 1984 Supp. 74-5604a, K.S.A. 1984 Supp. 74-5605, and K.S.A. 1984 Supp. 74-5618; effective May 1, 1985; amended May 1, 1986; revoked, T-106-6-28-12, July 1, 2012; revoked Oct. 12, 2012.)

Agency 108

Kansas State Employees Health Care Commission

Articles

108-1. ELIGIBILITY REQUIREMENTS.

Article 1.—ELIGIBILITY REQUIREMENTS

108-1-1. Eligibility. (a) Definitions. Each of the following terms, as used in this regulation, shall have the meaning specified in this subsection:

(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) Eligibility upon beginning employment. 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 on the first day of work for the state of Kansas. Each person shall have 31 days after becoming eligible to elect coverage.

(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. 75-6501 and K.S.A. 75-6510; implementing K.S.A. 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; amended Jan. 3, 2022.)

108-1-2. Student health care benefits plan. (a) Each student shall be eligible to participate in the student health care benefits component of the state health care benefits program. Eligibility and participation shall be subject to terms, conditions, limitations, exclusions, and other provisions established by the commission. Participation in the student health care benefits component shall be voluntary.

(b)(1) "Commission" means the Kansas state employees health care commission.

(2) "Student" means any individual who is enrolled in one of the regents institutions, who is not eligible for coverage under K.A.R. 108-1-1, and who meets any criteria established by the commission regarding the minimum number of hours of coursework in which the individual must be enrolled or similar reasonable provisions related to the individual's status as a student.

(3) "Regents institution" means a state educational institution as defined in K.S.A. 76-711, and amendments thereto.

(c) Each student participating in the student health benefits component shall pay the costs of the coverage on a direct bill basis.

(d) Any student enrolled in the student health care benefits component of the state health care benefits program may enroll a spouse and eligible dependent children, subject to the same conditions and limitations that apply to the student enrolled in accordance with this regulation.

(e) An employer contribution in an amount determined by the commission shall be paid toward the cost of coverage under the student health care benefits component of the state health care benefits program for any student who meets both of the following conditions:

(1) The student is enrolled in the student health care benefits component of the state health care benefits program.

(2) The student is appointed for the current semester to a graduate teaching assistant or graduate research assistant position that is at least a 50% appointment. At the option of the regents institution appointing the student, concurrent appointments to more than one graduate teaching or graduate research positions that total at least a 50% appointment may be considered to meet this condition. (Authorized by and implementing K.S.A. 75-6501 and 75-6510; effective July 1, 1998; amended July 5, 2002.)

108-1-3. School district employee health care benefits plan. (a) Definitions. Each of the following terms, as used in this regulation, shall have the meaning specified in this subsection:

(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. 74-32,456, 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) Eligibility upon beginning employment. 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 on the first day of work for the qualified school district. Each school district employee shall have 31 days after becoming eligible to elect coverage.

(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 partic-

ipates 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. 75-6501 and K.S.A. 75-6510; implementing K.S.A. 75-6501 and K.S.A. 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; amended Jan. 3, 2022.)

108-1-4. Local unit of government employee health care benefits plan.

(a) Definitions. Each of the following terms, as used in this regulation, shall have the meaning specified in this subsection:

(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 includ-

ing 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. 12-1276, and amendments thereto;

(vi) any public library established by a unified school district under the authority of K.S.A. 72-1418, 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. 65-205, 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) Eligibility upon beginning employment. 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 on the first day of work for the qualified local unit. Each local unit employee shall have 31 days after becoming eligible to elect coverage.

(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, for 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. 75-6501 and K.S.A. 75-6510; implementing K.S.A. 75-6501 and K.S.A. 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; amended Jan. 3, 2022.)

Agency 109

Emergency Medical Services Board

Editor's Note:

The Emergency Medical Services Council was abolished on April 14, 1988. Powers, duties, and functions were transferred to its successor, the Emergency Medical Services Board. See K.S.A. 1988 Supp. 65-6101.

Articles

- 109-1. DEFINITIONS.
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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 advanced emergency medical technician or paramedic.

(c) "Air ambulance" means a fixed-wing or rotor-wing aircraft that is specially designed, constructed or modified, maintained, and equipped to provide air medical transportation and emergency care of patients.

(d) "Air medical director" means a physician as defined by K.S.A. 65-6112, and amendments thereto, who meets the following requirements:

(1) Is trained and experienced in care consistent with the air ambulance service's mission statement; and

(2) is knowledgeable in altitude physiology and the complications that can arise due to air medical transport.

(e) "Air medical personnel" means the EMS providers listed on the EMS provider roster, health care personnel identified on the service health care personnel roster of the air ambulance service, specialty patient care providers specific to the mission, and the pilot or pilots necessary for the operation of the aircraft.

(f) "Airway maintenance," as used in K.S.A. 65-6121 and amendments thereto and as applied to the authorized activities of an advanced emergency medical technician, means the use of any invasive oral equipment and procedures necessary to ensure the adequacy and quality of ventilation and oxygenation.

(g) "Attendant" means EMS provider.

(h) "Basic life support" and "BLS" mean the statutorily authorized activities and interventions that may be performed by an emergency medical responder or emergency medical technician.

(i) “CAPCE” means the commission on accreditation for pre-hospital continuing education.

(j) “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.

(k) “Class” means the period during which a group of students meets.

(l) “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.

(m) “Course of instruction” means a body of prescribed EMS studies approved by the board.

(n) “Critical care transport” means the transport by an ambulance of a critically ill or injured patient who receives care commensurate with the care rendered by health care personnel as defined in this regulation or a paramedic with specialized training as approved by service protocols and the medical director.

(o) “Emergency” means a serious medical or traumatic situation or occurrence that demands immediate action.

(p) “Emergency call” means an immediate response by an ambulance service to a medical or trauma incident that happens unexpectedly.

(q) “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.

(r) “EMR” means emergency medical responder.

(s) “EMS” means emergency medical services.

(t) “EMS provider” means emergency medical service provider.

(u) “EMT” means emergency medical technician.

(v) “Ground ambulance” means a ground-based vehicle that is specially designed and equipped for emergency medical care and transport of sick and injured persons and meets the requirements in K.A.R. 109-2-8.

(w) “Health care personnel” and “health care provider,” as used in the board’s regulations, means a physician, physician assistant, licensed

professional nurse, advanced practice registered nurse, or respiratory therapist.

(x) “Incompetence,” as applied to EMS providers 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 EMS provider’s level of certification.

(y) “Incompetence,” as applied to instructor-coordinators and as used in K.S.A. 65-6129b and amendments thereto, means a pattern of practice or other behavior that demonstrates a manifest incapacity, inability, or failure to coordinate or to instruct EMS provider training programs.

(z) “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.

(aa) “Instructor-coordinator” and “I-C” mean any of the following individuals who are certified to instruct and coordinate EMS provider training programs:

- (1) Emergency medical technician;
- (2) physician;
- (3) physician’s assistant;
- (4) advanced practice registered nurse;
- (5) licensed professional nurse;
- (6) advanced emergency medical technician; or
- (7) paramedic.

(bb) “Interoperable” means that one system has the ability to communicate or work with another.

(cc) “Lab assistant” means an individual who is assisting a primary instructor in the instruction and evaluation of students in classroom laboratory training sessions.

(dd) “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.

(ee) “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.

(ff) “Primary instructor” means an instructor-coordinator who is listed by the sponsoring organization as the individual responsible for the com-

petent 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.

(gg) "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.

(hh) "Program manager" means an individual who has been appointed, employed, or designated by a sponsoring organization, as defined in K.S.A. 65-6112 and amendments thereto, to ensure that the sponsoring organization is in conformance with applicable regulations and to ensure that quality EMS education is provided by the sponsoring organization's qualified instructors.

(ii) "Public call" means the request for an ambulance to respond to the scene of a medical emergency or accident by an individual or agency other than any of the following:

- (1) A ground ambulance service;
- (2) the Kansas highway patrol or any law enforcement officer who is at the scene of an accident or medical emergency;
- (3) a physician, as defined by K.S.A. 65-6112 and amendments thereto, who is at the scene of an accident or medical emergency; or
- (4) an EMS provider who has been dispatched to provide emergency first response and who is at the scene of an accident or medical emergency.

(jj) "Quality management plan" means a written plan developed by a sponsoring organization that describes all processes utilized by the sponsoring organization to ensure that the EMS education provided meets the requirements of the community's EMS training needs assessment or meets the training needs of the intended audience. Each quality management plan shall, at a minimum, include a review and analysis by the medical director and program manager of each completed course and the instructor evaluations.

(kk) "Reinstatement" means the process by which a person may be issued a certificate at the same level of certification as that of an expired certificate.

(ll) "Retroactively approved continuing education" means credit issued to an EMS provider after attending a program workshop, conference, seminar, or other offering that is reviewed and sub-

sequently approved by the executive director, in accordance with criteria established by the board.

(mm) "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 ambulance service EMS providers.

(nn) "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.

(oo) "Single-program provider approval" means that the sponsoring organization has been granted approval to offer a specific continuing education program.

(pp) "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.

(qq) "Teach" means instruct or coordinate training, or both.

(rr) "Unprofessional conduct," as applied to EMS providers 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 EMS 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 EMS provider; or

(9) failing to cooperate with the board and its agents in the investigation of complaints or possible violations of the EMS statutes or board regulations, including failing to furnish any documents or information legally requested by the board. EMS providers 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.

(ss) “Unprofessional conduct,” as applied to instructor-coordinators and as used in K.S.A. 65-6129b and amendments thereto, means any of the following:

(1) Engaging in behavior that demeans a student. This behavior shall include ridiculing a student in front of other students or engaging in any inhumane or discriminatory treatment of any student or group of students;

(2) verbally or physically abusing a student;

(3) failing to take appropriate action to safeguard a student;

(4) falsifying any document relating to a student or the sponsoring organization;

(5) violating any statutes or regulations concerning the confidentiality of student records;

(6) obtaining or seeking to obtain any benefit, including a sexual favor, from a student through duress, coercion, fraud, or misrepresentation, or creating an environment that subjects a student to unwelcome sexual advances, which shall include physical touching or verbal expressions;

(7) an inability to instruct because of alcoholism, excessive use of drugs, controlled substances, or any physical or mental condition;

(8) reproducing or duplicating a state examination for certification without board authority;

(9) engaging in any fraudulent or dishonest act that is related to the qualifications, functions, or duties of an instructor-coordinator;

(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 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. 2020 Supp. 65-6110 and K.S.A. 2020 Supp. 65-6111; implementing K.S.A. 2020 Supp. 65-6110, K.S.A. 2020 Supp. 65-6111, K.S.A. 2020 Supp. 65-6129, K.S.A. 2020 Supp. 65-6129b, K.S.A. 65-6132, and K.S.A. 2020 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; amended April 29, 2016; amended Dec. 29, 2017; amended Dec. 31, 2021.)

109-1-1a. (Authorized by K.S.A. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked March 15, 2013.)

109-1-2. Medical director. Each air ambulance service shall have an air medical director who is responsible for advising the air ambulance service on policies and procedures that ensure that the appropriate aircraft, medical personnel, and equipment are provided during air ambulance transport. When necessary, the air medical director may designate another licensed physician to perform the air medical director’s duties. (Authorized by K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81; implementing K.S.A. 65-6126, as amended by L. 2011, ch. 114, sec. 87; effective Jan. 31, 1997; amended Jan. 27, 2012.)

Article 2.—AMBULANCE SERVICES; PERMITS AND REGULATIONS

109-2-1. Ambulance service operator. (a) Each operator of an ambulance service shall perform the following:

(1) Notify the board of any change in the service director within seven days of the change; and

(2) designate a person as the ambulance service director to serve as an agent of the operator.

(b) The ambulance service director shall meet the following requirements:

(1) Be responsible for the operation of the ambulance service;

(2) be available to the board regarding permit, regulatory, and emergency matters;

(3) be responsible for maintaining a current list of the ambulance service's attendants;

(4) notify the board of each addition or removal of an attendant from the attendant roster within seven days of the addition or removal;

(5) notify the board of any known resignation, termination, incapacity, or death of a medical adviser once known and the plans for securing a new medical director; and

(6) submit written notification of each change in the medical director within 30 days of the change. (Authorized by K.S.A. 2020 Supp. 65-6110 and K.S.A. 2020 Supp. 65-6111; implementing K.S.A. 2020 Supp. 65-6110 and K.S.A. 2020 Supp. 65-6130; effective May 1, 1985; amended July 17, 1989; amended Jan. 31, 1997; amended Jan. 27, 2012; amended April 29, 2016; amended Dec. 31, 2021.)

109-2-2. Application for ambulance service permit and ambulance license; permit renewal and license renewal. (a)(1) An applicant may apply for only one ambulance service permit for each ambulance service that the applicant seeks to operate. Each applicant shall indicate the type of service for the permit requested as ground ambulance service or air ambulance service.

(2) An applicant may apply for only one ambulance license for each ambulance that the applicant seeks to operate.

(3) Any operator may apply for a temporary license for an ambulance. Each temporary license shall be valid for 60 days. Any temporary license may be extended by the executive director.

(b) All ambulance service permit and ambulance license application and renewal forms shall be submitted in a format required by the executive director.

(c)(1) Each initial and each renewal applicant for a ground ambulance service permit and ambulance license shall meet one of the following requirements:

(A) Obtain a mechanical and safety inspection from a person doing business as or employed by a vehicle maintenance service or a city, county, or township or from a certified mechanic as defined in K.A.R. 109-1-1, for each ambulance within 180 days before the date of ambulance service application renewal; or

(B) have a long-term vehicle maintenance program with requirements equivalent to or exceeding the requirements of the mechanical and safety inspection form.

(2) In order for an ambulance license to be renewed, the mechanical safety inspection forms shall not contain any deficiencies identified that would compromise the safe transport of patients.

(d) Each initial and each renewal application for an air ambulance shall include a valid standard airworthiness certificate for each aircraft, evidence of an air safety training program, and an informational publication.

(e)(1) Each new ground ambulance shall meet one of the following requirements:

(A) Be required to have a mechanical or safety inspection submitted on forms required by the board or shall require documentation from the manufacturer indicating that the vehicle has undergone a predelivery inspection without deficiencies; or

(B) have a long-term vehicle maintenance program with requirements equivalent to or exceeding the requirements of the mechanical and safety inspection form.

(2) Each used or retrofitted ground ambulance shall be required to have a mechanical and safety inspection.

(f) Each ambulance service permit and non-temporary ambulance license shall expire on April 30 of each year. Any such permit or license may be renewed annually in accordance with this regulation. If the board receives a complete application for renewal of an ambulance service permit or an ambulance license on or before April 30, the existing permit or license shall not expire until the board has taken final action upon the renewal application or, if the board's action is unfavorable, until the last day for seeking judicial review.

(g) If the board receives an insufficient initial application or renewal application for an ambulance service permit or ambulance license, the applicant or operator shall be notified by the board of any errors or omissions. If the applicant or operator fails to correct the deficiencies and submit a sufficient application within 30 days from the date of written notification, the application may be considered by the board as withdrawn.

(h) An application for ambulance service permit or permit renewal shall be deemed sufficient if all of the following conditions are met:

(1) The applicant or operator either completes all forms provided with the application for ambulance service permit or permit renewal or provides all requested information online. No additional information is required by the board to complete the processing of the application.

(2) Each operator submits the list of supplies and equipment carried on each ambulance validated by the signature of the ambulance service's medical director to the board each year with the operator's application for an ambulance service permit.

(3) The applicant or operator submits payment of the fee in the correct amount for the ambulance service permit or permit renewal and ambulance license fees.

(4) Each operator provides the inspection results to the board on forms provided by the executive director with the application for renewal.

(i) Each publicly subsidized operator shall provide the following statistical information to the board with the application for renewal of a permit:

(1) The number of emergency and nonemergency ambulance responses and the number of patients transported for the previous calendar year;

(2) the operating budget and, if any, the tax subsidy;

(3) the charge for emergency and nonemergency patient transports, including mileage fees; and

(4) the number of full-time, part-time, and volunteer staff.

(j) Each private operator shall provide the following statistical information to the board with the application for renewal of a permit:

(1) The number of emergency and nonemergency ambulance responses and the number of patients transported for the previous calendar year;

(2) the charge for emergency and nonemergency patient transports, including mileage fees; and

(3) the number of full-time, part-time, and volunteer staff.

(k) As a condition of issuance of an initial ambulance service permit, each ambulance service operator shall provide with the application the ambulance service's operational policies and approved medical protocols pursuant to K.A.R. 109-2-5.

(l) The operator of each ground ambulance service or air ambulance service shall develop a list of the supplies and equipment that are carried on each ambulance. This list shall include the supplies and equipment required by the board for the license type and any additional supplies or equipment necessary to carry out the patient care activities as indicated in the ambulance service's medical protocols, in accordance with K.S.A. 65-6112 and amendments thereto. (Authorized by K.S.A. 2015 Supp. 65-6110 and 65-6111; implementing K.S.A. 2015 Supp. 65-6110, K.S.A. 65-6127, and K.S.A. 65-6128; effective May 1, 1985; amended July 17, 1989; amended Jan. 31, 1997;

amended Dec. 29, 2000; amended Jan. 27, 2012; amended Jan. 3, 2014; amended April 29, 2016.)

109-2-3. (Authorized by and implementing K.S.A. 1984 Supp. 65-4318; effective May 1, 1985; revoked Jan. 31, 1997.)

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. Types of ambulance services and staffing. (a) Permits shall be issued for two types of ambulance service. These types shall be known as air ambulance and ground ambulance.

(b) Each air ambulance service shall meet the following requirements:

- (1) Provide advanced life support or critical care transport as defined in K.A.R. 109-1-1;
- (2) have at least one licensed air ambulance; and
- (3) not be subject to public call as defined in K.A.R. 109-1-1.

(c)(1) Each ground ambulance service shall meet the following requirements:

(A) Provide basic life support at a minimum as defined in K.A.R. 109-1-1;

(B) have at least one licensed ambulance that meets all requirements of K.A.R. 109-2-8;

(C) staff each ambulance with, at a minimum, either two attendants or one attendant and a health care provider, as defined in K.A.R. 109-1-1, and ensure that an attendant certified pursuant to K.S.A. 65-6119, 65-6120, or 65-6121, and amendments thereto, or a health care provider is in the patient compartment during patient transport; and

(D) have a method of receiving calls and dispatching ambulances that ensures that an ambulance leaves the station within an annual average of five minutes from the time an emergency call is received by the ambulance service.

(2) Any ground ambulance service operator may provide advanced life support or critical care transport as defined in K.A.R. 109-1-1 and described in K.S.A. 65-6123, 65-6120, and 65-6119, and amendments thereto, if all of the following conditions are met:

(A) At a minimum, an attendant certified pursuant to K.S.A. 65-6119, 65-6120, or 65-6123, and amendments thereto, or a health care provider is in the patient compartment during patient transport.

(B) The ambulance or personnel, or both, are adequately equipped.

(C) The treatment is approved by medical protocols or medical control pursuant to K.S.A. 65-6119, 65-6120, and 65-6123, and amendments thereto. (Authorized by K.S.A. 2015 Supp. 65-6110; implementing K.S.A. 2015 Supp. 65-6110, K.S.A. 65-6128, and K.S.A. 2015 Supp. 65-6135; effective May 1, 1985; amended May 1, 1987; amended, T-88-24, July 15, 1987; amended May 1, 1988; amended July 17, 1989; amended Jan. 31, 1997; amended Jan. 27, 2012; amended April 29, 2016.)

109-2-7. (Authorized by K.S.A. 2013 Supp. 65-6110; implementing K.S.A. 2013 Supp. 65-6110, K.S.A. 65-6128, and K.S.A. 2013 Supp. 65-6135; effective May 1, 1985; amended May 1, 1987; amended, T-88-24, July 15, 1987; amended May 1, 1988; amended Aug. 27, 1990; amended Feb. 3, 1992; amended Jan. 31, 1997; amended July 7, 2014; revoked April 29, 2016.)

109-2-8. Standards for ground ambulances and equipment. (a) Each ground ambulance shall meet the vehicle and equipment standards that are applicable to that type of ambulance.

(b) Each ground ambulance shall have the ambulance license prominently displayed in the patient compartment.

(c) The patient compartment size shall meet or exceed the following specifications:

- (1) Headroom: 60 inches; and
- (2) length: 116 inches.

(d) Each ambulance shall have a heating and cooling system that is controlled separately for the patient and the driver compartments. The air conditioners for each compartment shall have separate evaporators.

(e) Each ambulance shall have separate ventilation systems for the driver and patient compartments. These systems shall be separately controlled within each compartment. Fresh air intakes shall be located in the most practical, contaminant-free air space on the ambulance. The patient compartment shall be ventilated through the heating and cooling systems.

(f) The patient compartment in each ambulance shall have adequate lighting so that patient care can be given and the patient's status monitored without the need for portable or hand-held lighting. A reduced lighting level shall also be provided. A patient compartment light and step-well

light shall be automatically activated by opening the entrance doors. Interior light fixtures shall not protrude more than 1½ inches.

(g) Each ambulance shall have an electrical system to meet maximum demand of the electrical specifications of the vehicle. All conversion equipment shall have individual fusing that is separate from the chassis fuse system.

(h) Each ground ambulance shall have lights and sirens as required by K.S.A. 8-1720 and K.S.A. 8-1738, and amendments thereto.

(i) Each ground ambulance shall have an exterior patient loading light over the rear door, which shall be activated both manually by an inside switch and automatically when the door is opened.

(j) The operator shall mark each ground ambulance licensed by the board as follows:

(1) The name of the ambulance service shall be in block letters, not less than four inches in height, and in a color that contrasts with the background color. The service name shall be located on both sides of the ambulance and shall be placed in such a manner that it is readily identifiable to other motor vehicle operators.

(2) Any operator may use a decal or logo that identifies the ambulance service in place of lettering. The decal or logo shall be at least 10 inches in height and shall be in a color that contrasts with the background color. The decal or logo shall be located on both sides of the ambulance and shall be placed in such a manner that the decal or logo is readily identifiable to other motor vehicle operators.

(3) Each ground ambulance initially licensed by the board before January 1, 1995 that is identified either by letters or a logo on both sides of the ground ambulance shall be exempt from the minimum size requirements in paragraphs (1) and (2) of this subsection.

(k) Each ground ambulance shall have a communications system that is readily accessible to both the attendant and the driver and is in compliance with K.A.R. 109-2-5(a).

(l) An operator shall equip each ground ambulance as follows:

(1) At least two annually inspected ABC fire extinguishers or comparable fire extinguishers, which shall be secured;

(2) either two portable, functional flashlights or one flashlight and one spotlight;

(3) one four-wheeled or six-wheeled, all-purpose, multilevel cot with an elevating head and at least two safety straps with locking mechanisms;

(4) one urinal;

- (5) one bedpan;
- (6) one emesis basin or convenience bag;
- (7) one complete change of linen;
- (8) two blankets;
- (9) one waterproof cot cover;
- (10) one pillow;
- (11) a no-smoking sign posted in the patient compartment and the driver compartment; and
- (12) mass-casualty triage tags.

(m) The operator shall equip each ground ambulance with the following internal medical systems:

(1) An oxygen system with at least two outlets located within the patient compartment and at least 2,000 liters of storage capacity, with a minimum oxygen level of 200 psi. The cylinder shall be in a compartment that is vented to the outside. The pressure gauge and regulator control valve shall be readily accessible to the attendant from inside the patient compartment; and

(2) a functioning, on-board, electrically powered suction aspirator system with a vacuum of at least 300 millimeters of mercury at the catheter tip. The unit shall be easily accessible with large-bore, nonkinking suction tubing and a large-bore, semirigid, nonmetallic oropharyngeal suction tip.

(n) The operator shall equip each ground ambulance with the following medical equipment:

(1) A portable oxygen unit of at least 300-liter storage capacity, complete with pressure gauge and flowmeter and with a minimum oxygen level of 200 psi. The unit shall be readily accessible from inside the patient compartment;

(2) a functioning, portable, self-contained battery or manual suction aspirator with a vacuum of at least 300 millimeters of mercury at the catheter tip and a transparent or translucent collection bottle or bag. The unit shall be fitted with large-bore, nonkinking suction tubing and a large-bore, semirigid, nonmetallic oropharyngeal suction tip, unless the unit is self-contained; and

(3) currently dated supplies, medications, and equipment as authorized by the scope of practice and protocols, in accordance with the applicable list of supplies, medications, and equipment approved by the medical director.

(o) The operator shall equip each ground ambulance with the following blood-borne and body fluid pathogen protection equipment in a quantity sufficient for crew members:

- (1) Surgical or medical protective gloves;
- (2) protective goggles, glasses or chin-length clear face shields;
- (3) filtering masks that cover the mouth and nose;

(4) nonpermeable, full-length, long-sleeve protective gowns;

(5) a leakproof, rigid container clearly marked as "Biohazard" for the disposal of sharp objects; and

(6) a leakproof, closeable container for soiled linen and supplies.

(p) If an operator's medical protocols or equipment list is amended, a copy of these changes shall be submitted to the board by the ambulance service operator within 15 days of implementation of the change. Equipment and supplies obtained on a trial basis or for temporary use by the operator shall not be required to be reported to the board by an operator. (Authorized by K.S.A. 2016 Supp. 65-6110; implementing K.S.A. 2016 Supp. 65-6110 and K.S.A. 65-6128; effective May 1, 1985; amended, T-88-24, July 15, 1987; amended May 1, 1988; amended July 17, 1989; amended Aug. 16, 1993; amended Jan. 31, 1997; amended Jan. 27, 2012; amended Feb. 13, 2015; amended April 29, 2016; amended June 30, 2017.)

109-2-9. Variances. (a) A temporary variance from any or all portions of an identified regulation may be granted for a time period determined by the board to an applicant, based upon the nature of the variance requested and the needs of the applicant.

(b) Each applicant for a variance shall submit a written request, no later than 30 calendar days before a regularly scheduled board meeting, that contains the following information:

(1) The name, address, and certificate level or license type of the applicant;

(2) a statement of the reason for the variance request;

(3) the specific portion or portions of an identified regulation from which a variance is requested;

(4) the period of time for which a variance is requested;

(5) the number of units or persons involved;

(6) an explanation of how adherence to each portion or portions of the regulation from which the variance is requested would result in a serious hardship to the applicant; and

(7) an explanation and, if applicable, supportive documents indicating how a variance would not result in an unreasonable risk to the public interest, safety, or welfare.

(c) In addition to meeting the requirements in subsection (b), each sponsoring organization that requests a variance shall describe how granting

a variance will not jeopardize the quality of instruction.

(d) Periodic evaluations of the variance after it is granted may be conducted by the board.

(e) Conditions may be imposed by the board on any variance granted as necessary to protect the public interest, safety, or welfare, including conditions to safeguard the quality of the instruction provided by a sponsoring organization. (Authorized by and implementing K.S.A. 2016 Supp. 65-6111; effective May 1, 1985; amended July 17, 1989; amended Jan. 31, 1997; amended July 10, 2009; amended Dec. 29, 2017.)

109-2-10. (Authorized by and implementing K.S.A. 1988 Supp. 65-6110; effective May 1, 1987; revoked July 17, 1989.)

109-2-10a. Air safety program and informational publication. (a) Each operator of an air ambulance service shall have an air safety training program for all air medical personnel. The program shall include the following:

- (1) Air medical and altitude physiology;
- (2) aircraft orientation, including specific capabilities, limitations, and safety measures for each aircraft used;
- (3) depressurization procedures for fixed-wing aircraft;
- (4) safety in and around the aircraft for all air medical personnel, patients, and lay individuals;
- (5) rescue and survival techniques appropriate to the terrain and the conditions under which the air ambulance service operates;
- (6) hazardous scene recognition and response for rotor-wing aircraft;
- (7) aircraft evacuation procedures, including the rapid loading and unloading of patients;
- (8) refueling procedures for normal and emergency situations; and
- (9) in-flight emergencies and emergency landing procedures.

(b) Each operator of an air ambulance service shall maintain documentation demonstrating the initial completion and annual review of the air safety training program for all air medical personnel and shall provide this documentation to the board on request.

(c) Each operator of an air ambulance service shall provide an informational publication that promotes the proper use of air medical transport, upon request, to all ground-based ambulance services, law enforcement agencies, and hospitals

that use the air ambulance service. Each publication shall address the following topics:

- (1) Availability, accessibility, and scope of care of the air ambulance service;
- (2) capabilities of air medical personnel and patient care modalities afforded by the air ambulance service;
- (3) patient preparation before air medical transport;
- (4) landing zone designation and preparation;
- (5) communication and coordination between air and ground medical personnel; and
- (6) safe approach and conduct around the aircraft. (Authorized by and implementing K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81, and K.S.A. 2010 Supp. 65-6111; effective Jan. 27, 2012.)

109-2-11. Standards for air ambulances and equipment. (a) The operator shall ensure

that the patient compartment in each air ambulance is configured in such a way that air medical personnel have adequate access to the patient in order to begin and maintain care commensurate with the patient's needs. The operator shall ensure that the air ambulance has adequate access and necessary space to maintain the patient's airway and to provide adequate ventilatory support by an attendant from the secured, seat-belted position within the air ambulance.

(b) Each air ambulance operator shall have a policy that addresses climate control of the aircraft for the comfort and safety of both the patient and air medical personnel. The air medical crew shall take precautions to prevent temperature extremes that could adversely affect patient care.

(c) The operator shall equip each air ambulance with the following:

- (1) Either two portable functioning flashlights or a flashlight and one spotlight;
- (2) either a cot with an elevating head and at least three safety straps with locking mechanisms or an isolette;
- (3) one emesis basin or convenience bag;
- (4) one complete change of linen;
- (5) one blanket;
- (6) one waterproof cot cover; and
- (7) a no-smoking sign posted in the aircraft.

(d) Each air ambulance shall have a two-way communications system that is readily accessible to both the medical personnel and the pilot and that meets the following requirements:

- (1) Allows communication between the aircraft and air traffic control systems; and

(2) allows air medical personnel to communicate at all times with medical control, exclusive of the air traffic control system.

(e) The pilot or pilots shall be sufficiently isolated from the patient care area to minimize in-flight distractions and interference.

(f) The operator shall equip each air ambulance with an internal medical system that includes the following:

(1) An internal oxygen system with at least one outlet per patient located inside the patient compartment and with at least 2,500 liters of storage capacity with a minimum of 200 psi. The pressure gauge, regulator control valve, and humidifying accessories shall be readily accessible to attendants and medical personnel from inside the patient compartment during in-flight operations;

(2) an electrically powered suction aspirator system with an airflow of at least 30 liters per minute and a vacuum of at least 300 millimeters of mercury. The unit shall be equipped with large-bore, nonkinking suction tubing and a semirigid, nonmetallic oropharyngeal suction tip; and

(3) oxygen flowmeters and outlets that are padded, flush-mounted, or located to prevent injury to air medical personnel, unless helmets are worn by all crew members during all phases of flight operations.

(g) The operator shall equip each air ambulance with the following:

(1) A portable oxygen unit of at least 300-liter storage capacity complete with pressure gauge and flowmeter with a minimum of 200 psi. The unit shall be readily accessible from inside the patient compartment;

(2) a portable, self-contained battery or manual suction aspirator with an airflow of at least 28 liters per minute and a vacuum of at least 300 millimeters of mercury. The unit shall be fitted with large-bore, nonkinking suction tubing and a semirigid, nonmetallic, oropharyngeal suction tip;

(3) medical supplies and equipment that include the following:

(A) Airway management equipment, including tracheal intubation equipment, adult, pediatric, and infant bag-valve masks, and ventilatory support equipment;

(B) a cardiac monitor capable of defibrillating and an extra battery or power source;

(C) cardiac advanced life support drugs and therapeutic modalities, as indicated by the ambulance service's medical protocols;

(D) neonate specialty equipment and supplies

for neonatal missions and as indicated by the ambulance service's medical protocols;

(E) trauma advanced life support supplies and treatment modalities, as indicated in the ambulance service's medical protocols; and

(F) a pulse oximeter and an intravenous infusion pump; and

(4) blood-borne and body fluid pathogen protection equipment as described in K.A.R. 109-2-8.

(h) If an operator's medical protocols are amended, the operator shall submit these changes to the board with a letter of approval pursuant to K.S.A. 65-6112 (r), and amendments thereto, within 15 days of implementation of the change.

(i) Equipment and supplies obtained on a trial basis or for temporary use by the operator shall not be required to be reported to the board by the operator. If the operator's medical equipment list is amended, the operator shall submit these changes to the board within 15 days with a letter of approval from the ambulance service's medical director.

(j) Each air ambulance operator shall ensure that each air ambulance has on board, at all times, appropriate survival equipment for the mission and terrain of the ambulance service's geographic area of operations.

(k) Each air ambulance operator shall ensure that the aircraft has an adequate interior lighting system so that patient care can be provided and the patient's status can be monitored without interfering with the pilot's vision. The air ambulance operator shall ensure that the aircraft cockpit is capable of being shielded from light in the patient care area during night operations or that red lighting or a reduced lighting level is also provided for the pilot and air ambulance personnel.

(l) Each aircraft shall have at least one stretcher that meets the following requirements:

(1) Accommodates a patient who is up to six feet tall and weighs 212 pounds;

(2) is capable of elevating the patient's head at least 30 degrees for patient care and comfort;

(3) has three securing straps for adult patients; and

(4) has a specifically designed mechanism for securing pediatric patients.

(m) Each air ambulance operator shall ensure that all equipment, stretchers, and seating are so arranged as not to block rapid egress by air medical personnel or patients from the aircraft. The operator shall ensure that all equipment on board the aircraft is affixed or secured in either approved

racks or compartments or by strap restraint while the aircraft is in operation.

(n) The aircraft shall have an electric inverter or appropriate power source that is sufficient to power patient-specific medical equipment without compromising the operation of any electrical aircraft equipment.

(o) When an isolette is used during patient transport, the operator shall ensure that the isolette is able to be opened from its secured in-flight position in order to provide full access to the infant.

(p) Each air ambulance operator shall ensure that all medical equipment is maintained according to the manufacturer's recommendations and does not interfere with the aircraft's navigation or onboard systems.

(q)(1) Each operator of an air ambulance service shall staff each air ambulance with a pilot and one of the following groups of individuals, who shall remain in the patient compartment during patient transport:

(A) At least two of the following: physician, physician assistant, advanced practice registered nurse, or professional nurse; or

(B) one of the individuals listed in paragraph (q)(1)(A) and one of the following:

(i) A paramedic; or

(ii) an optional staff member commensurate with the patient's care needs, as determined by the ambulance service's medical director or as described in the ambulance service's medical protocols, who shall be health care personnel as defined in K.A.R. 109-1-1. The medical personnel shall remain in the patient compartment during patient transport.

(2)(A) When providing critical care transports as defined in K.A.R. 109-1-1, at least one of the medical personnel specified in paragraphs (q)(1)(A) and (B) shall be currently certified in advanced cardiac life support by a certifying entity approved by the board.

(B) When performing neonatal or pediatric missions, at least one of the medical personnel specified in paragraphs (q)(1)(A) and (B) shall be currently certified in advanced life support for neonatal and pediatric patients by a certifying entity approved by the board.

(C) When responding to the scene of an accident or medical emergency, not including transports between medical facilities, at least one of the medical personnel specified in paragraphs (q)(1)(A) and (B) shall be certified in one of the following areas by a certifying entity approved by the board:

(i) International trauma life support-advanced (ITLSA);

(ii) transport professional advanced trauma course (TPATC);

(iii) trauma nurse core course (TNCC);

(iv) certified flight registered nurse (CFRN);

(v) certified transport registered nurse (CTRN);

(vi) pre-hospital trauma life support (PHTLS);

(vii) advanced care and trauma transport (ACTT);

(viii) critical care emergency medical technician paramedic (CCEMTP); or

(ix) flight paramedic-certification (FP-C). (Authorized by and implementing K.S.A. 2015 Supp. 65-6110; effective May 1, 1987; amended July 17, 1989; amended Jan. 31, 1997; amended Jan. 27, 2012; amended July 7, 2014; amended April 29, 2016.)

109-2-12. Standards for rotor-wing ambulance aircraft and equipment. (a) Each operator of an air ambulance service shall comply with the requirements in K.A.R. 109-2-11.

(b) The aircraft configuration shall not compromise patient stability during any part of flight operations. The aircraft shall have an entry that allows loading and unloading of the patient without maneuvering the patient more than 45 degrees about the lateral axis and 30 degrees about the longitudinal axis and does not compromise the functioning of monitoring systems, intravenous lines, or manual or mechanical ventilation.

(c) The aircraft shall have an external search light, which shall meet the following requirements:

(1) Provide at least 400,000-candlepower illumination at 200 feet;

(2) be separate from the aircraft landing lights;

(3) be moveable 90 degrees longitudinally and 180 degrees laterally; and

(4) be capable of being controlled from inside the aircraft.

(d) Each rotor-wing aircraft shall have a two-way interoperable communications system that is readily accessible to both the attendants and the pilot and meets the following requirements:

(1) Allows communications between the aircraft and a hospital for medical control, exclusive of the air traffic control system; and

(2) allows communications between the aircraft and ground-based ambulance services, exclusive of the air traffic control system. (Authorized by and implementing K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81; effective May 1, 1987;

amended July 17, 1989; amended Jan. 31, 1997; amended Jan. 27, 2012.)

109-2-13. Standards for fixed-wing ambulance aircraft and equipment. (a) Each operator shall ensure that each fixed-wing air ambulance is pressurized during patient transports according to the ambulance service's medical protocols and operational policies.

(b) The pilot or pilots shall be sufficiently isolated from the patient care area to minimize inflight distractions and interference.

(c) Each fixed-wing air ambulance shall have a two-way, interoperable communications system that is readily accessible to both the attendants and the pilot and that meets the following requirements:

(1) Allows communications between the aircraft and a hospital; and

(2) allows an attendant to communicate at all times with medical control, exclusive of the air traffic control system.

(d) Fixed-wing ambulance aircraft shall have on board patient comfort equipment including the following:

(1) One urinal; and

(2) one bedpan. (Authorized by and implementing K.S.A. 2013 Supp. 65-6110; effective Jan. 31, 1997; amended Jan. 27, 2012; amended July 7, 2014.)

109-2-14. Temporarily certified attendants. No operator shall be allowed more than one temporarily certified attendant for every 10 currently certified attendants who are listed on the service roster. (Authorized by and implementing K.S.A. 65-6129; effective Jan. 31, 1997.)

109-2-15. Ambulances based outside of Kansas. (a) Any ambulance licensed by a state other than Kansas may respond to an emergency request for care and transportation of a patient within Kansas when this care and transportation is being provided at the request of an operator as defined in K.S.A. 65-6112, and amendments thereto, or the operator's designee.

(b) Each operator shall report to the board, on a monthly basis, all emergency requests for care and transportation from any ambulance not licensed in Kansas. Each operator shall report each month's requests within fifteen days of the end of that month.

(c) Each operator shall report the following information concerning each emergency request

for care and transportation from any ambulance not licensed in Kansas, on a form approved by the administrator:

(1) the date and time of the request;

(2) the name of the ambulance service requested;

(3) the nature of the accident or medical emergency;

(4) the reason for the request; and

(5) a copy of any quality improvement reports as described by K.A.R. 109-2-5. (Authorized by K.S.A. 65-6136; implementing K.S.A. 65-6136; effective Jan. 9, 1998.)

Article 3.—STANDARDS FOR AMBULANCE ATTENDANTS, FIRST RESPONDERS, AND DRIVERS

109-3-1. (Authorized by and implementing K.S.A. 65-6110; effective July 17, 1989; amended Jan. 31, 1997; amended July 10, 2009; revoked Dec. 31, 2021.)

109-3-2. Outpatient medical emergencies. (a) If the requirements specified in subsections (b) and (c) are met, any emergency medical technician may manage an outpatient medical emergency by providing the following patient care:

(1) Administering aspirin for chest pain;

(2) monitoring the saturation level of arterial oxygen in the blood by using a pulse oximeter;

(3) administering a bronchodilator by nebulization; and

(4) monitoring blood glucose levels.

(b) Each emergency medical technician shall successfully complete a course of instruction on outpatient medical emergencies approved by the board.

(c) When providing any of the services listed in subsection (a), each emergency medical technician shall act pursuant to medical protocols. (Authorized by K.S.A. 65-6110 and 65-6111; implementing K.S.A. 65-6110 and 65-6121; effective March 5, 2004.)

109-3-3. Emergency medical responder; authorized activities. Each emergency medical responder shall be authorized to perform any intervention specified in K.S.A. 65-6144, and amendments thereto, and as further specified in this regulation:

(a) Emergency vehicle operations:

(1) Operating each ambulance in a safe manner in nonemergency and emergency situations.

“Emergency vehicle” shall mean ambulance, as defined in K.S.A. 65-6112 and amendments thereto; and

(2) stocking an ambulance with supplies in accordance with regulations adopted by the board and the ambulance service’s approved equipment list to support local medical protocols;

(b) initial scene management:

(1) Assessing the scene, determining the need for additional resources, and requesting these resources;

(2) identifying a multiple-casualty incident and implementing the local multiple-casualty incident management system;

(3) recognizing and preserving a crime scene;

(4) triaging patients, utilizing local triage protocols;

(5) providing safety for self, each patient, other emergency personnel, and bystanders;

(6) utilizing methods to reduce stress for each patient, other emergency personnel, and bystanders;

(7) communicating with public safety dispatchers and medical control facilities;

(8) providing a verbal report to receiving personnel;

(9) providing a written report to receiving personnel;

(10) completing a prehospital care report;

(11) setting up and providing patient and equipment decontamination;

(12) using personal protection equipment;

(13) practicing infection control precautions;

(14) moving patients without a carrying device; and

(15) moving patients with a carrying device;

(c) patient assessment and stabilization:

(1) Obtaining consent for providing care;

(2) communicating with bystanders, other health care providers, and patient family members while providing patient care;

(3) communicating with each patient while providing care; and

(4) assessing the following: blood pressure manually by auscultation or palpation or automatically by noninvasive methods; heart rate; level of consciousness; temperature; pupil size and responsiveness to light; absence or presence of respirations; respiration rate; and skin color, temperature, and condition;

(d) cardiopulmonary resuscitation and airway management:

(1) Applying cardiac monitoring electrodes;

(2) performing any of the following:

(A) Manual cardiopulmonary resuscitation for an adult, child, or infant, using one or two attendants;

(B) cardiopulmonary resuscitation using a mechanical device;

(C) postresuscitative care to a cardiac arrest patient;

(D) cricoid pressure by utilizing the sellick maneuver;

(E) head-tilt maneuver or chin-lift maneuver, or both;

(F) jaw thrust maneuver;

(G) modified jaw thrust maneuver for injured patients;

(H) modified chin-lift maneuver;

(I) mouth-to-barrier ventilation;

(J) mouth-to-mask ventilation;

(K) mouth-to-mouth ventilation;

(L) mouth-to-nose ventilation;

(M) mouth-to-stoma ventilation;

(N) manual airway maneuvers; or

(O) manual upper-airway obstruction maneuvers, including patient positioning, finger sweeps, chest thrusts, and abdominal thrusts; and

(3) suctioning the oral and nasal cavities with a soft or rigid device;

(e) control of bleeding, by means of any of the following:

(1) Elevating the extremity;

(2) applying direct pressure;

(3) utilizing a pressure point;

(4) applying a tourniquet;

(5) utilizing the trendelenberg position; or

(6) applying a pressure bandage;

(f) extremity splinting, by means of any of the following:

(1) Soft splints;

(2) anatomical extremity splinting without return to position of function;

(3) manual support and stabilization; or

(4) vacuum splints;

(g) spinal immobilization, by means of any of the following:

(1) Cervical collar;

(2) full-body immobilization device;

(3) manual stabilization;

(4) assisting an EMT, an AEMT, or a paramedic with application of an upper-body spinal immobilization device;

(5) helmet removal; or

(6) rapid extrication;

(h) oxygen therapy by means of any of the following:

- (1) Humidifier;
- (2) nasal cannula;
- (3) non-rebreather mask;
- (4) partial rebreather mask;
- (5) regulators;
- (6) simple face mask;
- (7) blow-by;
- (8) using a bag-valve-mask with or without supplemental oxygen; or
- (9) ventilating an inserted supraglottic or subglottic airway;
 - (i) administration of medications according to the board's "approved medication list," dated June 4, 2021, 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 pre-liminary 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. 2020 Supp. 65-6111; implementing K.S.A. 65-6144; effective March 9, 2012; amended May 5, 2017; amended Jan. 24, 2020; amended Nov. 12, 2021.)

109-3-4. Emergency medical technician; authorized activities. Each emergency medical technician shall be authorized to perform any intervention specified in the following:

- (a) K.S.A. 65-6144, and amendments thereto, and as further specified in K.A.R. 109-3-3; and

(b) K.S.A. 65-6121, and amendments thereto, and as further specified in the following paragraphs:

(1) Airway maintenance by means of any of the following:

(A) Blind insertion of a supraglottic airway, with the exception of the laryngeal mask airway;

(B) oxygen venturi mask;

(C) gastric decompression by orogastric or nasogastric tube with any authorized airway device providing that capability;

(D) auscultating the quality of breath sounds;

(E) pulse oximetry;

(F) automatic transport ventilator;

(G) manually triggered ventilator;

(H) flow-restricted oxygen-powered ventilation device;

(I) bag-valve-mask with in-line small-volume nebulizer;

(J) carbon dioxide colorimetric detection;

(K) capnometry; or

(L) suctioning a stoma; and

(2) administration of patient-assisted and non-patient-assisted medications according to the board's "approved medication list," which is adopted by reference in K.A.R. 109-3-3. (Authorized by K.S.A. 65-6111; implementing K.S.A. 65-6121; effective March 9, 2012; amended May 5, 2017; amended Jan. 24, 2020.)

109-3-5. Advanced emergency medical technician; authorized activities. Each advanced emergency medical technician shall be authorized to perform any intervention specified in the following:

(a) K.S.A. 65-6144, and amendments thereto, and as further specified in K.A.R. 109-3-3;

(b) K.S.A. 65-6121, and amendments thereto, and as further specified in K.A.R. 109-3-4; and

(c) K.S.A. 65-6120, and amendments thereto, and as further specified in the following paragraphs:

(1) Advanced airway management, except for endotracheal intubation; and

(2) administration of patient-assisted and non-patient-assisted medications according to the board's "approved medication list," which is adopted by reference in K.A.R. 109-3-3. (Authorized by K.S.A. 2020 Supp. 65-6111; implementing K.S.A. 2020 Supp. 65-6120; effective March 9, 2012; amended Nov. 2, 2012; amended Aug. 29, 2014; amended Nov. 12, 2021.)

Article 4.—AIR AMBULANCE SERVICE

109-4-1. (Authorized by and implementing K.S.A. 1988 Supp. 65-6110; effective May 1, 1986; amended July 17, 1989; revoked Jan. 31, 1997.)

109-4-2. (Authorized by and implementing K.S.A. 1988 Supp. 65-6110; effective May 1, 1986; amended July 17, 1989; revoked Jan. 31, 1997.)

109-4-3. (Authorized by and implementing K.S.A. 1988 Supp. 65-6110; effective May 1, 1986; amended, T-87-7, May 1, 1986; amended May 1, 1987; amended July 17, 1989; revoked Jan. 31, 1997.)

Article 5.—CONTINUING EDUCATION

109-5-1. Continuing education. (a) “Continuing education” shall mean a formally organized learning experience that has education as its explicit principal intent and is oriented towards the enhancement of EMS practice, values, skills, and knowledge.

(b) Continuing education credit shall be awarded in quarter-hour increments and shall not be issued for more than one hour of credit for a 60-minute period.

(c) Acceptable continuing education programs shall include the following:

(1) Initial courses of instruction and prior-approved continuing education provided by a sponsoring organization;

(2) programs approved or accredited by CAPCE, which shall be presumptively accepted by the board unless the board determines that a particular program does not meet board requirements; and

(3) programs or courses approved by another state’s EMS regulatory or accrediting body, which shall be presumptively accepted by the board unless the board determines that a particular program does not meet board requirements.

(d) Any program not addressed in subsection (c) may be submitted for approval by the EMS provider as specified in K.A.R. 109-5-5.

(e) The amount of continuing education credit obtained in one calendar day shall not exceed 12 clock-hours.

(f) Each EMS provider 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.

(g) Documentation of completion of approved continuing education shall verify the following for each continuing education course completed:

(1) The name of the provider of the continuing education course;

(2) the name of the individual being issued the continuing education credit;

(3) the title of the continuing education course;

(4) the date or dates on which the course was conducted;

(5) the location where the course was conducted;

(6) the amount of continuing education credit issued to the individual; and

(7) the course identification number. (Authorized by K.S.A. 2020 Supp. 65-6110 and K.S.A. 2020 Supp. 65-6111; implementing K.S.A. 2020 Supp. 65-6129; effective, T-88-122, May 18, 1987; amended, T-88-24, July 15, 1987; amended May 1, 1988; amended July 17, 1989; amended Feb. 3, 1992; amended Aug. 16, 1993; amended Dec. 19, 1994; amended Nov. 1, 1996; amended Nov. 12, 1999; amended, T-109-8-8-00, Aug. 8, 2000; amended Nov. 13, 2000; amended Aug. 30, 2002; amended Sept. 10, 2010; amended, T-109-2-7-11, Feb. 7, 2011; amended June 3, 2011; amended Jan. 4, 2016; amended Dec. 29, 2017; amended March 1, 2019; amended Dec. 31, 2021.)

109-5-1a. Emergency medical responder (EMR) continuing education. Each applicant for certification renewal as an EMR shall meet one of the following requirements:

(a) Have earned at least 16 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter to meet the requirements for the EMR specified in the “Kansas continuing education plan,” as adopted by the board in February 2019, which is hereby adopted by reference; or

(b) have met both of the following requirements within the 11 months before the expiration of certification:

(1) Passed the board-approved EMR cognitive assessment; and

(2) either passed a board-approved psychomotor skills assessment or received validation of the applicant’s psychomotor skills by a medical director affiliated with an ambulance service or a sponsoring organization. (Authorized by K.S.A. 65-6110 and 65-6111; implementing K.S.A. 65-6129 and 65-6144; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Jan. 4,

2016; amended Nov. 14, 2016; amended Dec. 29, 2017; amended Jan. 24, 2020.)

109-5-1b. Emergency medical technician (EMT) continuing education. Each applicant for certification renewal as an EMT shall meet one of the following requirements:

(a) Have earned at least 28 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter to meet the requirements for the EMT specified in the “Kansas continuing education plan,” which is adopted by reference in K.A.R. 109-5-1a; or

(b) have met both of the following requirements within the 11 months before the expiration of certification:

(1) Passed the board-approved EMT cognitive assessment; and

(2) either passed a board-approved psychomotor skills assessment or received validation of the applicant’s psychomotor skills by a medical director affiliated with an ambulance service or a sponsoring organization. (Authorized by K.S.A. 2016 Supp. 65-6110 and 65-6111; implementing K.S.A. 2016 Supp. 65-6129; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Jan. 4, 2016; amended Nov. 14, 2016; amended Dec. 29, 2017.)

109-5-1c. Advanced emergency medical technician (AEMT) continuing education. Each applicant for certification renewal as an AEMT shall meet one of the following requirements:

(a) Have earned at least 44 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter to meet the requirements for the AEMT specified in the “Kansas continuing education plan,” which is adopted by reference in K.A.R. 109-5-1a; or

(b) have met both of the following requirements within the 11 months before the expiration of certification:

(1) Passed the board-approved AEMT cognitive assessment; and

(2) either passed a board-approved psychomotor skills assessment or received validation of the applicant’s psychomotor skills by a medical director affiliated with an ambulance service or a sponsoring organization. (Authorized by K.S.A. 2016 Supp. 65-6110, 65-6111, and 65-6123; implementing K.S.A. 2016 Supp. 65-6120, 65-6123,

and 65-6129; effective March 9, 2012; amended Jan. 4, 2016; amended Nov. 14, 2016; amended Dec. 29, 2017.)

109-5-1d. Paramedic continuing education. Each applicant for certification renewal as a paramedic shall meet one of the following requirements:

(a) Have earned at least 60 clock-hours of board-approved continuing education during the initial certification period and during each biennial period thereafter to meet the requirements for the paramedic as specified in the “Kansas continuing education plan,” which is adopted by reference in K.A.R. 109-5-1a; or

(b) have met both of the following requirements within the 11 months before the expiration of certification:

(1) Passed the board-approved paramedic cognitive assessment; and

(2) either passed a board-approved psychomotor skills assessment or received validation of the applicant’s psychomotor skills by a medical director affiliated with an ambulance service or a sponsoring organization. (Authorized by K.S.A. 2016 Supp. 65-6110, 65-6111, and 65-6119; implementing K.S.A. 2016 Supp. 65-6119 and 65-6129; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Jan. 4, 2016; amended Dec. 29, 2017.)

109-5-1e. Instructor-coordinator (I-C) continuing education. Each applicant for certification renewal as an I-C shall provide documentation of both of the following:

(a) The applicant is certified as an attendant at or above the level of EMT or is licensed as a physician or professional nurse, as defined by K.S.A. 65-1113 and amendments thereto.

(b) The applicant attended, during the biennial period immediately preceding the date of application for renewal, an educator conference approved by the board. (Authorized by K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6129b; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011.)

109-5-1f. (Authorized by K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6129c, as amended by L. 2010, ch. 119, sec. 9; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked Dec. 29, 2017.)

109-5-2. (Authorized by K.S.A. 65-6111, as amended by L. 2008, ch. 47, sec. 1; implementing K.S.A. 65-6129, as amended by L. 2008, ch. 78, sec. 2, K.S.A. 65-6129b, and K.S.A. 65-6129c; effective, T-88-12, July 15, 1987; amended May 1, 1988; amended July 17, 1989; amended Nov. 12, 1999; amended May 15, 2009; revoked Jan. 4, 2016.)

109-5-3. Continuing education approval for long-term providers. (a) Any sponsoring organization may submit an application to the board requesting approval as a long-term provider.

(b) Each sponsoring organization seeking long-term provider approval shall submit a continuing education training program management plan at least 30 calendar days before the first course offering as a long-term provider.

(c) Each continuing education training program management plan shall include a description of the plan and all policies or documents demonstrating how the sponsoring organization will utilize its quality management plan to ensure that each continuing education course provided meets the following requirements:

(1) Is provided in a manner that protects the health and safety of students and participants;

(2) is oriented towards the enhancement of EMS practice, values, skills, and knowledge; and

(3) issues continuing education credit as specified in K.A.R. 109-5-1. (Authorized by and implementing K.S.A. 2020 Supp. 65-6111; effective, T-88-12, May 18, 1987; amended, T-88-24, July 15, 1987; amended May 1, 1988; amended July 17, 1989; amended Nov. 12, 1999; amended May 15, 2009; amended Sept. 10, 2010; amended March 15, 2013; amended Dec. 29, 2017; amended Dec. 31, 2021.)

109-5-4. (Authorized by K.S.A. 65-6110, 65-6111, and 65-6129; implementing K.S.A. 65-6129, 65-6129b, and 65-6129c; effective Feb. 3, 1992; amended Nov. 12, 1999; amended, T-109-8-8-00, Aug. 8, 2000; amended Nov. 13, 2000; amended Oct. 31, 2003; revoked Feb. 12, 2010.)

109-5-5. Retroactive approval of continuing education course. (a) Any attendant may submit a request to the board for retroactive approval of a course for continuing education credit that was completed not more than 180 days before the request is received in the board office.

(b) Each request shall be submitted on a form provided by the board.

(c) In order for retroactive approval of a continuing education course to be granted, the attendant shall provide the following, in addition to the request form:

(1) (A) A certificate of attendance or certificate of completion that meets the requirements of K.A.R. 109-5-1; or

(B) An official college transcript showing the number of credit hours awarded for the course;

(2) documentation of the course objectives; and

(3) one of the following:

(A) The signature of the emergency medical services medical director for the ambulance service serving the emergency medical service response area in which the attendant lives or the emergency medical services medical director for the ambulance service, educational institution, or advisory board for which the attendant is currently employed or a member, on the form provided by the board; or

(B) verification that the objectives of the course meet or exceed the objectives of the Kansas education standards for EMR as adopted by reference in K.A.R. 109-10-1a, the Kansas education standards for the EMT as adopted by reference in K.A.R. 109-10-1b, the Kansas education standards for the AEMT as adopted by reference in K.A.R. 109-10-1c, or the Kansas education standards for paramedic as adopted by reference in K.A.R. 109-10-1d, whichever is applicable for the level of certification that the attendant is renewing.

(d) The amount of continuing education credit awarded shall be determined by one of the following:

(1) The number of hours listed on the certificate of attendance or certificate of completion; or

(2) for each college credit hour earned, 15 hours of continuing education credit.

(e) The applicant shall be notified in writing by the board of any errors or omissions in the request for approval. Failure to correct any deficiency cited in the written notice of error or omission within 15 calendar days shall constitute withdrawal of the request. (Authorized by K.S.A. 2015 Supp. 65-6111; implementing K.S.A. 2015 Supp. 65-6129; effective Oct. 31, 2008; amended Sept. 2, 2011; amended March 15, 2013; amended July 1, 2016.)

109-5-6. Continuing education approval for single-program provider. (a) Any sponsoring organization may submit an application to the board requesting approval as a single-program provider.

(b) Each sponsoring organization seeking single-program provider approval shall submit a complete application at least 30 days before the requested offering that provides the following:

(1) Course educational objectives that are oriented towards the enhancement of EMS practice, values, skills, and knowledge;

(2) name of each qualified instructor for the course; and

(3) date, title, and location of the course. (Authorized by and implementing K.S.A. 2020 Supp. 65-6111; effective May 15, 2009; amended Dec. 31, 2021.)

109-5-7a. (Authorized by K.S.A. 65-6110, K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6110, K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1, and K.S.A. 65-6144, as amended by L. 2010, ch. 119, sec. 11; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked Dec. 29, 2017.)

109-5-7b. (Authorized by K.S.A. 65-6110, K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6110, K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked Dec. 29, 2017.)

109-5-7c. (Authorized by K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81, and K.S.A. 2010 Supp. 65-6111; implementing K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81, K.S.A. 2010 Supp. 65-6111, and K.S.A. 2010 Supp. 65-6120, as amended by L. 2011, ch. 114, sec. 83; effective, T-109-2-10-12, Feb. 10, 2012; effective May 4, 2012; revoked Dec. 29, 2017.)

109-5-7d. (Authorized by K.S.A. 65-6110, K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked Dec. 29, 2017.)

Article 6.—TEMPORARY CERTIFICATION

109-6-1. Requirements for temporary certification for applicant with non-Kansas credentials. (a) An applicant for temporary certification who is certified or licensed as an attendant in another jurisdiction but whose coursework

is not substantially equivalent to that required in Kansas may be granted one-year temporary certification by meeting the following requirements:

(1) Providing verification of current attendant certification or licensure issued by that jurisdiction that is comparable to the certification level sought in Kansas; and

(2) providing either the name, address, and telephone number of or a signed statement from the physician, physician assistant, professional nurse, or attendant who is certified at the same or higher level as that of the applicant and who will directly supervise the applicant during the year of temporary certification.

(b) Within one year from the date on which the temporary certificate is issued, if the applicant provides verification of successful completion of the required coursework, attendant's certification shall be granted. If the applicant does not provide this verification within one year from the date on which the temporary certificate is issued, the temporary certificate shall expire and the application for an attendant's certificate shall be denied. (Authorized by K.S.A. 2008 Supp. 65-6111; implementing K.S.A. 2008 Supp. 65-6129; effective, T-88-24, July 15, 1987; amended May 1, 1988; amended Jan. 22, 1990; amended Nov. 1, 1996; amended Feb. 12, 2010.)

109-6-2. Renewal of EMS provider and instructor-coordinator certificates. (a) Each EMS provider certificate shall expire on December 31 of the second complete calendar year following the date of issuance.

(b) An EMS provider and an instructor-coordinator who is also an EMS provider may renew that person's certificate for each biennial period upon submission of a sufficient application for renewal as specified in subsection (d).

(c) Each application for certification renewal shall be submitted through the online license management system.

(d) Each application for renewal shall be deemed sufficient when all of the following conditions are met:

(1) The applicant provides in full the information requested 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.

(3) The applicant has completed the requirements in K.A.R. 109-5-1, K.A.R. 109-5-1a, K.A.R.

109-5-1b, K.A.R. 109-5-1c, K.A.R. 109-5-1d, and K.A.R. 109-5-1e that are applicable to the application being submitted.

(e) The date of receipt of the renewal application shall mean the electronic time stamp indicating when the renewal application is submitted in the license management system. (Authorized by K.S.A. 2020 Supp. 65-6111; implementing K.S.A. 2020 Supp. 65-6129 and 65-6129b; effective Nov. 1, 1996; amended Oct. 31, 1997; amended Nov. 12, 1999; amended, T-109-8-8-00, Aug. 8, 2000; amended Nov. 13, 2000; amended Feb. 12, 2010; amended Dec. 29, 2017; amended Dec. 31, 2021.)

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.)

109-6-4. Inactive certificate. (a) Before expiration of an active certificate, any emergency medical service provider may apply for an inactive certificate on a form provided by the board. The application shall be accompanied by the inactive certificate fee specified in K.A.R. 109-7-1.

(b) An inactive certificate may be renewed upon submission of a sufficient renewal application and the inactive certificate renewal fee specified in K.A.R. 109-7-1.

(c) The inactive certificate of a person may be reinstated to an active certificate 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) has completed any training necessitated by changes to the authorized activities specific to the person's level of certification that occurred after issuance of the inactive certificate; and

(4) meets either of the following requirements:

(A) Completed continuing education in an amount to meet or exceed 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 for each two-year period after issuance of the inactive certificate; or

(B) successfully completed the cognitive and psychomotor assessment for the person's level of

certification, within three attempts. (Authorized by K.S.A. 2020 Supp. 65-6110 and 65-6111; implementing K.S.A. 2020 Supp. 65-6129d; effective Dec. 31, 2021.)

Article 7.—FEES

109-7-1. Schedule of fees. (a) Attendant, I-C, and ambulance service application fees shall be nonrefundable.

(b) Emergency medical responder fees:

- (1) Application for certification fee \$15.00
- (2) certification renewal application fee if received before certificate expiration 20.00
- (3) certification reinstatement application fee if received within 31 calendar days after certificate expiration 40.00
- (4) certification reinstatement 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 reinstatement application fee if received within 31 calendar days after certificate expiration 100.00
- (4) certification reinstatement application fee if received on or after the 32nd calendar day after certificate expiration 200.00

(d) EMT and AEMT fees:

- (1) Application for certification fee 50.00
- (2) certification renewal application fee if received before certificate expiration 30.00
- (3) certification reinstatement application fee if received within 31 calendar days after certificate expiration 60.00
- (4) certification reinstatement application fee if received on or after the 32nd calendar day after certificate expiration 120.00

(e) Inactive certificate fees:

- (1) Application for inactive certificate 10.00
- (2) inactive certificate renewal fee 25.00

- (3) application fee for reinstatement of inactive certificate 20.00
- (f) Instructor-coordinator fees:
 - (1) Application for certification fee 65.00
 - (2) certification renewal application fee if received before certificate expiration 30.00
 - (3) certification reinstatement application fee if received within 31 calendar days after certificate expiration 60.00
 - (4) certification reinstatement application fee if received on or after the 32nd calendar day after certificate expiration 120.00
- (g) Ambulance service fees:
 - (1) Service permit application fee 100.00
 - (2) service permit renewal fee if received on or before permit expiration 100.00
 - (3) service permit renewal fee if received after permit expiration 200.00
 - (4) vehicle license application fee 40.00
 - (5) Temporary license for an ambulance 10.00
- (h) Each application for certification shall include payment of the prescribed application for certification fee to the board.
 - (i) 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.
 - (j) Payment submitted to the board for application for certification fee, reinstatement fee, or renewal fee for more than one attendant or I-C shall not be accepted, unless the fee amount is correct. (Authorized by K.S.A. 2020 Supp. 65-6110, K.S.A. 2020 Supp. 65-6111, K.S.A. 2020 Supp. 65-6127, K.S.A. 2020 Supp. 65-6129, and K.S.A. 2020 Supp. 65-6129b; implementing K.S.A. 2020 Supp. 65-6111, K.S.A. 2020 Supp. 65-6127, K.S.A. 65-6128, K.S.A. 2020 Supp. 65-6129, and K.S.A. 2020 Supp. 65-6129b; effective July 1, 1990; amended Feb. 3, 1992; amended Nov. 1, 1996; amended, T-109-8-8-00, Aug. 8, 2000; amended Nov. 13, 2000; amended Oct. 31, 2003; amended March 9, 2012; amended April 29, 2016; amended Dec. 29, 2017; amended Dec. 31, 2021.)

Article 8.—EXAMINATIONS

109-8-1. Examination. (a) The cognitive certification examination for emergency medical responders, emergency medical technicians, advanced emergency medical technicians, and paramedics shall be the national registry of emergency medical technicians' cognitive examination.

(b) The cognitive certification examination for instructor-coordinator shall be the final cognitive examination developed by the sponsoring organization and approved by the board.

(c) Any instructor-coordinator who fails the examination may retake it a maximum of three times. An applicant who has failed the examination three times shall not submit a new application for examination until documentation of successful completion of a new initial course has been received and reviewed by the executive director.

(d) Each emergency medical responder or emergency medical technician applicant shall be required to successfully complete the national registry of emergency medical technicians' cognitive examination and shall be required to demonstrate competency in psychomotor skills as evaluated by the psychomotor skills examination prescribed by the board.

(e) Each advanced emergency medical technician or paramedic applicant shall successfully complete the national registry of emergency medical technicians' cognitive examination and psychomotor skills evaluation.

(f) Any emergency medical responder or emergency medical technician applicant who is tested in psychomotor skills and who fails any psychomotor skill station may retest each failed station a maximum of three times.

(g) Each emergency medical responder, emergency medical technician, advanced emergency medical technician, and paramedic shall successfully complete both the cognitive examination and the psychomotor skills examination no later than 24 months after the last date of that individual's initial course of instruction.

Each individual specified in this subsection shall be required to successfully complete both the cognitive examination and the psychomotor skills examination within a 12-month period.

(h) Any examination for certification may be modified by the board as a pilot project to evaluate proposed changes to the psychomotor skills examination. (Authorized by K.S.A. 65-6110 and

65-6111; implementing K.S.A. 65-6111, 65-6129, 65-6129b; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Aug. 27, 1990; amended Feb. 3, 1992; amended Dec. 19, 1994; amended Jan. 5, 1996; amended Nov. 8, 1996; amended May 16, 1997; amended, T-109-2-7-11, Feb. 7, 2011; amended June 3, 2011; amended Jan. 4, 2016; amended Dec. 29, 2017; amended March 1, 2019.)

109-8-2. Scheduling examinations for certification. (a) Each provider of initial courses of instruction for attendants shall ensure the provision of certification examinations for those students successfully completing the course.

(b) This subsection shall apply to the cognitive knowledge examination.

(1) For emergency medical responder, emergency medical technician, advanced emergency medical technician, and paramedic, the following requirements shall apply:

(A) Each candidate shall register with the national registry of emergency medical technicians.

(B) Each candidate shall schedule examinations with the computer-adaptive testing vendor specified by the national registry of emergency medical technicians.

(2) Each sponsoring organization shall validate each candidate's successful course completion.

(c) The following scheduling requirements shall apply to the psychomotor skills examination:

(1) Each sponsoring organization shall schedule the examination for emergency medical responder and emergency medical technician with the board at least 60 days in advance of the desired examination date.

(2) Each sponsoring organization shall schedule the examination for advanced emergency medical technician and paramedic with the national registry of emergency medical technicians by performing the following:

(A) Negotiating a contractual agreement with a national registry representative to serve as facilitator;

(B) completing the examination host approval process and submitting the request for new examination with the national registry of emergency medical technicians;

(C) negotiating contractual agreements with examiners, as prescribed by the national registry representative, who have attained board approval following a review to ensure current certification, have no disciplinary actions taken or pending against their Kansas emergency medical services

certification or certifications, and have held the current certification level for at least two years;

(D) negotiating contractual agreements with currently certified attendant assistants in numbers prescribed by the national registry representative;

(E) ensuring availability of a sufficient number of rooms to be used for examination stations, national registry representative room, candidate waiting area, and other facilities as prescribed by the national registry representative; and

(F) providing sufficient quantities of equipment and supplies as prescribed by the national registry representative.

(d) Each candidate not successfully completing the examinations during the initial examination attempts shall schedule reexamination as follows:

(1) Cognitive knowledge examination reexaminations. For emergency medical responder, emergency medical technician, advanced emergency medical technician, and paramedic, the candidate shall schedule the examination with the national registry of emergency medical technicians.

(2) Psychomotor skills examination reexaminations.

(A) For emergency medical responder and emergency medical technician, the candidate shall schedule the examination by completing the board-approved application for the examination.

(B) For the psychomotor skills examination for advanced emergency medical technician or paramedic, the candidate shall schedule the examination with the national registry of emergency medical technicians. (Authorized by and implementing K.S.A. 65-6111; effective March 2, 2012; amended Dec. 29, 2017; amended March 1, 2019.)

Article 9.—INSTRUCTOR-COORDINATOR

109-9-1. Instructor-coordinator certification. (a) Each applicant for certification as an I-C shall apply to the executive director using forms approved by the board and shall meet the following requirements:

(1) Validate current certification as an attendant or licensure as a physician or professional nurse;

(2) complete an approved I-C initial course of instruction, except as specified in subsection (b);

(3) attain a score of 70% or higher on the final cognitive examination developed by the educational program and approved by the board; and

(4) complete, with a satisfactory evaluation, an assistant teaching experience in one EMT initial course of instruction applied for, approved, and taught in its entirety within one year after the completion of the instructor-coordinator course. The assistant teaching experience shall include evaluation of the candidate's ability to organize, schedule, implement, and evaluate educational experiences in the classroom, laboratory, clinical, and field environments and shall have been directly supervised by a certified I-C approved by either the executive director or any person so authorized by any state or United States territory and shall be verified on forms approved by the board.

(b) An applicant shall not be required to complete the department of transportation national highway traffic safety administration "emergency medical services instructor training program: national standard curriculum" or modules 2 through 23 of the national guidelines for educating EMS instructors, as specified in K.A.R. 109-10-1e, if the applicant establishes one of the following:

(1) Successful completion of a United States department of transportation EMS instructor training program national standard curriculum or a program that included the content from module 2 through 23 of the national guidelines for educating EMS instructors, as specified in K.A.R. 109-10-1;

(2) successful completion of a fire service instructor course approved by the national board on fire service professional qualifications or the international fire service accreditation;

(3) successful completion of any United States military instructor trainer course that is substantially equivalent to the United States department of transportation national highway traffic safety administration "emergency medical services instructor training program: national standard curriculum," or modules 2 through 23 of the national guidelines for educating EMS instructors as specified in K.A.R. 109-10-1; or

(4) attainment of a bachelor's, master's, or doctoral degree that focuses on the philosophy, scope, and nature of educating adults. This degree shall have been conferred by an accredited postsecondary education institution.

(c) If within two years following the date of expiration of an I-C's certificate, this person applies for renewal of the certificate, the certificate may be granted by the board if the applicant completes 40 contact hours in education theory and methodology approved by the board and successfully completes an educator conference approved by

the board. (Authorized by K.S.A. 65-6110, K.S.A. 2010 Supp. 65-6111; implementing K.S.A. 65-6129b; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Aug. 27, 1990; amended Feb. 3, 1992; amended Nov. 12, 1999; amended Nov. 9, 2001; amended Sept. 2, 2011.)

109-9-2. (Authorized by and implementing K.S.A. 1988 Supp. 65-6110; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; revoked Nov. 12, 1999.)

109-9-4. Requirements for acceptance into an instructor-coordinator initial course of instruction. (a) Each applicant shall successfully complete an evaluation of knowledge and skills as follows:

(1) The board-approved EMT cognitive assessment; and

(2) the board-approved psychomotor skills assessment at the EMT level.

(b) To be considered for acceptance into an instructor-coordinator initial course of instruction, each applicant shall achieve at least the following:

(1) A passing score in each area of the board-approved EMT cognitive assessment; and

(2) a passing score in each board-approved psychomotor skills assessment station described in paragraph (a)(2). (Authorized by K.S.A. 2016 Supp. 65-6110 and 65-6111; implementing K.S.A. 2016 Supp. 65-6110, 65-6111, and 65-6129b; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Feb. 3, 1992; amended Jan. 31, 1994; amended Nov. 12, 1999; amended Nov. 9, 2001; amended Sept. 2, 2011; amended Dec. 29, 2017.)

109-9-5. (Authorized by and implementing K.S.A. 65-6110 as amended by L. 1993, Ch. 71, Sec. 1; effective March 16, 1992; amended Jan. 31, 1994; revoked Nov. 12, 1999.)

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 ser-

vices education standards: emergency medical responder,” dated July 2010, is hereby adopted by reference pursuant to K.S.A. 65-6144, and amendments thereto, for emergency medical responder initial courses of instruction.

(b) Proposed curricula or proposed curricular revisions may be approved by the board to be taught as a pilot project, for a maximum of three initial courses of instruction, so that the board can evaluate the proposed curricula or proposed curricular revisions and consider permanent adoption of the proposed curricula or proposed curricular revisions. Students of each approved pilot project course shall, upon successful completion of the approved pilot project course, be eligible to take the board-approved examination for certification at the attendant level for the approved pilot project course. All examination regulations shall be applicable to students successfully completing an approved pilot project course. (Authorized by K.S.A. 2016 Supp. 65-6110 and 65-6111; implementing K.S.A. 2016 Supp. 65-6144; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Dec. 29, 2017.)

109-10-1b. Approved emergency medical technician education standards. (a) The document titled “Kansas emergency medical services education standards: emergency medical technician,” dated July 2010, is hereby adopted by reference pursuant to K.S.A. 65-6121, and amendments thereto, for emergency medical technician initial courses of instruction.

(b) Proposed curricula or proposed curricular revisions may be approved by the board to be taught as a pilot project, for a maximum of three initial courses of instruction, so that the board can evaluate the proposed curricula or proposed curricular revisions and consider permanent adoption of the proposed curricula or proposed curricular revisions. Students of each approved pilot project course shall, upon successful completion of the approved pilot project course, be eligible to take the board-approved examination for certification at the attendant level for the approved pilot project course. All examination regulations shall be applicable to students successfully completing an approved pilot project course. (Authorized by K.S.A. 2016 Supp. 65-6110 and 65-6111; implementing K.S.A. 2016 Supp. 65-6121; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Dec. 29, 2017.)

109-10-1c. Approved advanced emergency medical technician education standards. (a) The board’s document titled “Kansas emergency medical services education standards: advanced emergency medical technician,” dated October 2014, is hereby adopted by reference pursuant to K.S.A. 65-6120, and amendments thereto, for advanced emergency medical technician initial courses of instruction.

(b) Proposed curricula or proposed curricular revisions may be approved by the board to be taught as a pilot project, for a maximum of three initial courses of instruction, so that the board can evaluate the proposed curricula or proposed curricular revisions and consider permanent adoption of the proposed curricula or proposed curricular revisions. Students of each approved pilot project course shall, upon successful completion of the approved pilot project course, be eligible to take the board-approved examination for certification at the attendant level for the approved pilot project course. All examination regulations shall be applicable to students successfully completing an approved pilot project course. (Authorized by K.S.A. 2016 Supp. 65-6110 and 65-6111; implementing K.S.A. 2016 Supp. 65-6111; effective March 2, 2012; amended May 1, 2015; amended Dec. 29, 2017.)

109-10-1d. Approved paramedic education standards. (a) The document titled “Kansas emergency medical services education standards: paramedic,” dated July 2010, is hereby adopted by reference pursuant to K.S.A. 65-6119, and amendments thereto, for paramedic initial courses of instruction.

(b) Proposed curricula or proposed curricular revisions may be approved by the board to be taught as a pilot project, for a maximum of three initial courses of instruction, so that the board can evaluate the proposed curricula or proposed curricular revisions and consider permanent adoption of the proposed curricula or proposed curricular revisions. Students of each approved pilot project course shall, upon successful completion of the approved pilot project course, be eligible to take the board-approved examination for certification at the attendant level for the approved pilot project course. All examination regulations shall be applicable to students successfully completing an approved pilot project course. (Authorized by K.S.A. 2016 Supp. 65-6110 and 65-6111; implementing K.S.A. 2016 Supp. 65-6119; effective,

T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Dec. 29, 2017.)

109-10-1e. Approved instructor-coordinator standards. (a) Each instructor-coordinator initial course of instruction shall teach modules 2 through 23 in the “2002 national guidelines for educating EMS instructors,” dated August 2002 and published by the United States department of transportation, United States department of health and human services, and national association of EMS educators, excluding bibliographical references, which are hereby adopted by reference for instructor-coordinator (IC) initial courses of instruction.

(b) Each instructor-coordinator initial course of instruction shall include an evaluated assistant teaching experience for each student as specified in K.A.R. 109-9-1.

(c) Each instructor-coordinator initial course of instruction shall teach and require the student to demonstrate competency in the psychomotor skills examined for certification as EMR and EMT.

(d) Proposed curricula or proposed curricular revisions may be approved by the board to be taught as a pilot project, for a maximum of three initial courses of instruction, so that the board can evaluate the proposed curricula or proposed curricular revisions and consider permanent adoption of the proposed curricula or proposed curricular revisions. Students of each approved pilot project course shall, upon successful completion of the approved pilot project course, be eligible to take the board-approved examination for certification at the attendant level for the approved pilot project course. All examination regulations shall be applicable to students successfully completing an approved pilot project course. (Authorized by and implementing K.S.A. 2014 Supp. 65-6110 and 65-6111; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended May 1, 2015.)

109-10-1f. (Authorized by K.S.A. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-6129c, as amended by L. 2010, ch. 119, sec. 9; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked Dec. 29, 2017.)

109-10-1g. (Authorized by K.S.A. 65-6110 and K.S.A. 2009 Supp. 65-6111, as amended by L. 2010, ch. 119, sec. 1; implementing K.S.A. 65-

6129c, as amended by L. 2010, ch. 119, sec. 9; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; revoked Dec. 29, 2017.)

109-10-2. (Authorized by and implementing K.S.A. 1998 Supp. 65-6110 and 65-6111; effective Aug. 30, 1993; amended Nov. 12, 1999; revoked May 1, 2015.)

109-10-3. (Authorized by and implementing K.S.A. 2016 Supp. 65-6111; effective Jan. 31, 1994; amended Sept. 2, 2011; amended Dec. 29, 2017; revoked Dec. 31, 2021.)

109-10-4. Student transfers. (a) To transfer from one initial course of instruction to another initial course of instruction of the same certification level, the student shall provide the instructor-coordinator of the course of instruction into which the student desires to transfer with:

(1) a signed and dated document which outlines reasons why the student was unable to complete the original course of instruction in which the student was enrolled; and

(2) a summary of the portion of the original course of instruction which the student successfully completed, signed by the instructor-coordinator of the original course of instruction in which the student was enrolled.

(b) For a student to transfer into an initial course of instruction from another initial course of instruction the instructor-coordinator shall submit to the board:

(1) Documentation from the instructor-coordinator of the original course of instruction in which the student was enrolled, summarizing the portion of the original course of instruction in which the student was enrolled;

(2) a statement from the instructor-coordinator of the course into which the student desires to transfer, certifying that the instructor-coordinator will provide the remaining required material to the student and the student will be given a final evaluation of competencies of the required material of the total course; and

(3) a student form adding the student to the course.

(c) A student may transfer from one course of instruction to another if the student has been enrolled in the original course of instruction within the past 1 year and the instructor-coordinator agrees to accept this student and the requirements of subsections (a) and (b) of this regulation are met. (Authorized by and implementing K.S.A.

65-6110, as amended by L. 1993, Ch. 71, Sec. 1; effective Jan. 31, 1994.)

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. (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; revoked Dec. 31, 2021.)

109-10-7. (Authorized by and implementing K.S.A. 2016 Supp. 65-6110 and 65-6111; effective Feb. 12, 2010; amended May 1, 2015; amended Dec. 29, 2017; revoked Dec. 31, 2021.)

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 (EMR) course approval. (a) EMR 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 an EMR initial course of instruction shall submit a complete application at least 30 calendar days before the first scheduled course session.

(c) Each complete application shall include the following:

- (1) Name of the primary instructor;
- (2) name of each ambulance service and medical facility utilized for field or clinical training; and
- (3) a course schedule that identifies the following:
 - (A) The date and time of each class session;
 - (B) the title of the subject matter of each class session;
 - (C) the qualified instructor for each class session; and
 - (D) the number of psychomotor skills laboratory hours for each class session.

(d) Each approved EMR initial course shall meet or exceed each of the educational standards specified in K.A.R. 109-10-1a.

(e) Any approved course may be monitored by the executive director.

(f) 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. 2020 Supp. 65-6110, K.S.A. 2020 Supp. 65-6111; implementing K.S.A. 2020 Supp. 65-6110, K.S.A. 2020 Supp. 65-6111, K.S.A. 2020 Supp. 65-6129, and K.S.A. 65-6144; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended Dec. 29, 2017; amended Jan. 24, 2020; amended Dec. 31, 2021.)

109-11-2. (Authorized by K.S.A. 1990 Supp. 65-6110; implementing K.S.A. 1990 Supp. 65-6129; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Feb. 3, 1992; revoked Nov. 12, 1999.)

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) 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 an EMT initial course of instruction shall submit a complete application at least 30 days before the first scheduled course session.

(c) Each complete application shall include the following:

- (1) Name of the primary instructor;
- (2) name of each ambulance service and medical facility utilized for field or clinical training; and
- (3) a course schedule that identifies the following:
 - (A) The date and time of each class session;
 - (B) the title of the subject matter of each class session;
 - (C) the qualified instructor for each class session; and
 - (D) the number of psychomotor skills laboratory hours for each class session.

(d) In the absence of participatory field or clinical training, contrived experiences may be substituted. As used in this regulation, "contrived

experience” shall mean a simulated ambulance call and shall include dispatch communications; responding to the scene; assessment and management of the scene and the patient or patients; communications with medical control; ongoing assessment, care and transportation of the patient or patients; the transfer of the patient or patients to the staff of the receiving facility; completion of records; and preparation of the ambulance for return to service.

(e) Each approved EMT initial course shall meet or exceed each of the educational standards specified in K.A.R. 109-10-1b.

(f) Any approved course may be monitored by the executive director.

(g) 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. 2020 Supp. 65-6110 and K.S.A. 2020 Supp. 65-6111; implementing K.S.A. 2020 Supp. 65-6110, K.S.A. 2020 Supp. 65-6111, and K.S.A. 65-6121; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended May 1, 2015; amended Dec. 31, 2021.)

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 and shall be conducted only by sponsoring organizations.

(b) Each sponsoring organization requesting approval to conduct an AEMT initial course of instruction shall submit a complete application at least 30 calendar days before the first scheduled course session.

(c) Each complete application shall include the following:

- (1) Name of the primary instructor;
- (2) name of each ambulance service and medical facility utilized for field or clinical training; and
- (3) a course schedule that identifies the following:

(A) The date and time of each class session;

(B) the title of the subject matter of each class session;

(C) the qualified instructor for each class session; and

(D) the number of psychomotor skills laboratory hours for each class session.

(d) Each approved AEMT initial course shall meet or exceed each of the educational standards specified in K.A.R. 109-10-1c.

(e) Any approved course may be monitored by the executive director.

(f) 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. 2020 Supp. 65-6110 and K.S.A. 2020 Supp. 65-6111; implementing K.S.A. 2020 Supp. 65-6110, K.S.A. 2020 Supp. 65-6111, and K.S.A. 2020 Supp. 65-6129a; effective March 2, 2012; amended May 1, 2015; amended Dec. 31, 2021.)

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 a paramedic initial course of instruction shall submit a complete application at least 30 calendar days before the first scheduled class session.

(c) Each complete application shall include the following:

- (1) Name of the primary instructor;
- (2) name of each ambulance service and medical facility utilized for field internship or clinical training; and

(3) a course schedule that identifies the following:

- (A) The date and time of each class session;
- (B) the title of the subject matter of each class session;
- (C) the qualified instructor for each class session; and
- (D) the number of psychomotor skills laboratory hours for each class session.

(d) Each approved paramedic course shall meet or exceed each of the educational standards specified in K.A.R. 109-10-1d.

(e) Any approved course may be monitored by the executive director.

(f) 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. 2020 Supp. 65-6110 and K.S.A. 2020 Supp. 65-6111; implementing K.S.A. 2020 Supp. 65-6110, K.S.A. 2020 Supp. 65-6111, and K.S.A. 2020 Supp. 65-6129a; effective, T-109-2-7-11, Feb. 7, 2011; effective June 3, 2011; amended May 1, 2015; amended March 1, 2019; amended Dec. 31, 2021.)

109-11-7. Instructor-coordinator course approval. (a) Instructor-coordinator initial courses of instruction may be approved by the executive director and shall be conducted only by sponsoring organizations.

(b) Each sponsoring organization requesting approval to conduct an instructor-coordinator initial course of instruction shall submit a complete application at least 30 calendar days before the first scheduled class session.

(c) Each complete application shall include the following:

- (1) Name of the primary instructor; and
- (2) a course schedule that identifies the following:
 - (A) The date and time of each class session;
 - (B) the title of the subject matter of each class session;
 - (C) the qualified instructor for each class session; and
 - (D) the number of psychomotor skills laboratory hours for each class session.

(d) Each approved instructor-coordinator course shall meet or exceed each of the standards specified in K.A.R. 109-10-1e.

(e) Any approved course may be monitored by the executive director.

(f) 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 and implementing K.S.A. 2020 Supp. 65-6110 and K.S.A. 2020 Supp. 65-6111; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Dec. 31, 2021.)

109-11-8. Successful completion of a course of instruction. (a) To successfully complete an initial course of instruction for EMS provider or instructor-coordinator, each student shall meet the following requirements:

(1) Demonstrate application of a cognitive understanding of each EMS educational standard;

(2) demonstrate all practical skills to the satisfaction of the primary instructor;

(3) for an EMT initial course of instruction, demonstrate successful completion of each of the following:

(A) One complete patient assessment; and

(B) one nebulized breathing treatment during clinical training or field internship training;

(4) for an AEMT initial course of instruction, demonstrate successful completion of the following:

(A) 20 venipunctures, of which at least 10 shall be for the purpose of initiating intravenous infusions;

(B) five intraosseous infusions;

(C) 15 complete patient assessments, of which at least 10 shall be accomplished during field internship training;

(D) 10 ambulance calls while being directly supervised by an AEMT, a paramedic, a physician, an advanced practice registered nurse, or a professional nurse;

(E) 10 intramuscular or subcutaneous injection procedures;

(F) 10 completed patient charts or patient care reports, or both; and

(G) eight electrocardiogram applications and interpretations during clinical training and field internship training; and

(5) for a paramedic initial course of instruction, demonstrate each of the following:

(A) Successful completion of both clinical and field internship components; and

(B) confirmation of eligibility to be conferred, at a minimum, an associate degree in applied science by the postsecondary institution.

(b) The primary instructor shall provide written verification, within 15 days of the final class and at least seven days before the state examination for

certification, that the primary instructor's students have met the requirements of subsection (a). (Authorized by K.S.A. 2020 Supp. 65-6110; implementing K.S.A. 2020 Supp. 65-6111, K.S.A. 2020 Supp. 65-6129; effective, T-109-1-19-89, Jan. 19, 1989; effective July 17, 1989; amended Jan. 31, 1994; amended Dec. 31, 2021.)

109-11-9. (Authorized by and implementing K.S.A. 2016 Supp. 65-6110 and 65-6111; effective Feb. 3, 1992; amended Dec. 29, 2017; revoked Dec. 31, 2021.)

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 12.—AUTOMATED DEFIBRILLATOR TRAINING PROGRAM

109-12-1. (Authorized by and implementing K.S.A. 1989 Supp. 65-6149; effective July 17, 1989; amended Aug. 27, 1990; revoked Nov. 12, 1999.)

109-12-2. (Authorized by and implementing K.S.A. 1988 Supp. 65-6149; effective July 17, 1989; revoked Nov. 12, 1999.)

Article 13.—TRAINING OFFICERS

109-13-1. (Authorized by K.S.A. 65-6110, as amended by L. 2011, ch. 114, sec. 81, and K.S.A. 2010 Supp. 65-6111; implementing K.S.A. 2010 Supp. 65-6129c, as amended by L. 2011, ch. 114, sec. 65; effective Jan. 31, 1994; amended Nov. 12, 1999; amended Nov. 13, 2000; amended March 9, 2012; revoked Dec. 29, 2017.)

109-13-3. (Authorized by and implementing K.S.A. 65-6111, as amended by L. 1993, Ch. 71, Sec. 2; effective Jan. 31, 1994; revoked Nov. 12, 1999.)

Article 14.—DO NOT RESUSCITATE IDENTIFIERS

109-14-1. Certification of entities which distribute DNR identifiers. (a) An organization that distributes "Do Not Resuscitate" identifiers, as defined by K.S.A. 65-4941 and amendments, may be certified by the board if the organization:

(1) applies to the board for certification upon a form approved by the administrator;

(2) has been in operation for at least five years as a distributor of DNR identifiers;

(3) establishes exclusive title to the design or logo of the DNR identifier;

(4) maintains a 24-hour, toll-free, staffed telephone line to verify the identity of a patient in possession of a DNR identifier;

(5) agrees to distribute DNR identifiers that are inscribed with the letters "DNR" or "Do Not Resuscitate," the patient's name, a patient identification number, and the toll-free telephone number of the organization issuing the DNR identifier; and

(6) agrees to distribute the DNR identifier only upon receiving a copy of a properly executed DNR directive in substantially the same form as required by K.S.A. 65-4942 and amendments. (Authorized by and implementing K.S.A. 1995 Supp. 65-4946; effective Jan. 31, 1997.)

Article 15.—CERTIFICATION

109-15-1. Reinstating EMS provider certificate after expiration. (a) The certificate of a person who applies for EMS provider 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 EMS provider certificate;

(2) 31 calendar days after the expiration date of the person's certificate or license, if the person is currently certified or licensed in another jurisdiction; or

(3) the most recent expiration date of the person's certificate or license in another jurisdiction, if the person is not currently certified or licensed

in another jurisdiction but previously held a certificate or license in that jurisdiction.

(c) Completion of education requirements shall be validated by submission of the following:

(1) For applications submitted less than two years from the date of expiration and not more than three years from the last date of issuance of the person's Kansas EMS provider certificate, documentation of continuing education from that last date of issuance to the date of application in sufficient quantity to meet or exceed the following:

(A) For applications submitted not more than 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; and

(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;

(2) for applications submitted less than two years from the date of expiration and three or more years from the last date of issuance of the person's Kansas EMS provider certificate, 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 not more than 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; and

(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; and

(3) for applications submitted more than two 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

(C) 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. 2020 Supp. 65-6111; implementing K.S.A. 2020 Supp. 65-6129; effective May 15, 2009; amended Sept. 2, 2011; amended March 15, 2013; amended Jan. 2, 2015; amended Dec. 31, 2021.)

109-15-2. Recognition of non-Kansas credentials. (a) Any individual who is currently or was previously licensed or certified as an EMS provider 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 one of the following:

(A) That the applicant is currently licensed or certified for the level of certification sought and is in good standing; or

(B) that the applicant was previously licensed or certified for the level of certification being sought and was in good standing at the time of expiration of that credential;

(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);

(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); and

(6) a fingerprint card and criminal history record check fee of \$50 for the board to successfully

perform a state and national criminal history record check.

(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 currently 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 within four years before the date of application:

(A) The national registry of emergency medical technicians' cognitive assessment or examination for the level of certification being sought; and

(B) the psychomotor skills examination prescribed by the national registry of emergency medical technicians or by the board for the level of certification being sought.

(c) Information obtained from the state and national criminal history record check may be used to verify the identity of each applicant and to assist in determining the qualifications and fitness of the applicant seeking issuance of an EMS provider certificate.

(d) The results from each applicant's criminal history record check shall be received by the board before the issuance of Kansas certification. (Authorized by and implementing K.S.A. 2020 Supp. 65-6111 and K.S.A. 2020 Supp. 65-6129; effective May 15, 2009; amended Sept. 2, 2011; amended Jan. 17, 2014; amended Dec. 31, 2021.)

109-15-3. EMS provider certification. (a) Any individual who successfully completed an approved initial course of instruction may apply for Kansas EMS provider certification.

(b) An application for certification shall not be considered complete unless all requested information has been provided and the applicable application for certification fee, as specified in K.A.R. 109-7-1, has been submitted.

(c) Each applicant shall have 15 days to correct all identified deficiencies and submit a complete application. If the applicant fails to correct the deficiencies and submit a complete application within 15 days, the application may be considered by the board as withdrawn. All fees shall be non-refundable.

(d) Each applicant shall be at least 17 years of

age and meet the following requirements before the date of application:

(1) Have successfully completed an approved initial course of instruction at the level of certification being sought and within the previous 24 months;

(2) have passed both the cognitive and psychomotor examinations for the level of certification being sought after the date of the last class of the approved initial course of instruction completed and as specified in K.A.R. 109-8-1;

(3) if the level of certification being sought is AEMT, currently hold EMS provider certification as an EMT;

(4) if the level of certification being sought is paramedic, currently hold EMS provider certification as an EMT or AEMT; and

(5) if the applicant has not previously held an EMS provider certificate in Kansas, have submitted a fingerprint card and criminal history record check fee of \$50 for the board to successfully perform a state and national criminal history record check.

(e) Information obtained from the state and national criminal history record check may be used to verify the identity of each applicant and to assist in determining the qualifications and fitness of the applicant seeking issuance of an EMS provider certificate.

(f) The results from each applicant's criminal history record check shall be received by the board before the issuance of an initial EMS provider certificate. (Authorized by and implementing K.S.A. 2020 Supp. 65-6111 and K.S.A. 2020 Supp. 65-6129; effective Dec. 31, 2021.)

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.)

Article 17.—SPONSORING ORGANIZATIONS

109-17-1. Sponsoring organization; general requirements; program manager. (a) Each sponsoring organization, as defined in K.S.A. 65-6112 and amendments thereto, shall perform the following:

(1) Designate a person as the program manager to serve as an agent of the sponsoring organization;

(2) notify the board of any change in the program manager within seven days of the change;

(3) designate a physician to serve as the medical director of the sponsoring organization;

(4) maintain training program records for at least three years from the last date of class;

(5) develop and maintain a quality management plan;

(6) ensure that EMS training equipment and supplies, including simulation models and empty pharmaceutical packages or containers for pharmaceutical training that are necessary to facilitate the teaching of all psychomotor skills being provided, meet the following requirements:

(A) Are available for use with the class;

(B) are functional, clean, serviceable, and in sufficient quantity to ensure that no more than six students are practicing together on one piece of equipment at any one time; and

(C) are functional, clean, and provided in sufficient quantity for each student to utilize without sharing if the equipment or supplies are for the purpose of protecting the student from exposure to bloodborne or airborne pathogens;

(7) select qualified instructors as determined by training and knowledge of subject matter as follows:

(A) Each didactic instructor and each instructor for medical skills shall possess certification, registration, or licensure in the subject matter or medical skills being taught;

(B) each instructor for nonmedical skills shall have technical training in and shall possess knowledge and expertise in the skill being taught;

(C) each instructor of clinical training being conducted in a clinical health care facility shall be a licensed physician or a licensed professional nurse; and

(D) each instructor of field internship training being conducted with a prehospital emergency medical service shall be an emergency medical services provider certified at or above the level of training being conducted; and

(8) maintain records of all individuals used as instructors or lab assistants to provide training for at least three years from the last date of class. These records shall include the following:

(A) The individual’s name and qualifications;

(B) the subject matter that the individual taught, assisted in teaching, or evaluated;

(C) the dates on which the individual instructed, assisted, or evaluated; and

(D) the students' evaluation of the individual.
 (b) Each program manager shall meet the following requirements:

- (1) Be responsible for the EMS education provided by the sponsoring organization;
- (2) be available to the board regarding regulatory and emergency matters;
- (3) be responsible for maintaining a current list of the sponsoring organization's qualified instructors;
- (4) submit written notification of each addition or removal of a qualified instructor to the board within seven days of the addition or removal;
- (5) submit written notification and the content of each change in the quality management plan to the board no later than seven days after the effective date of the change;
- (6) submit written notification and the content of each change in the long-term provider continuing education program management plan to the board no later than seven days after the effective date of the change;
- (7) submit written notification of any known resignation, termination, incapacity, or death of a medical director once known and the plans for securing a new medical director to the board; and
- (8) submit written notification of each change in the medical director to the board within seven days of the change. (Authorized by K.S.A. 2020 Supp. 65-6110; implementing K.S.A. 2020 Supp. 65-6111; effective Dec. 31, 2021.)

109-17-2. Sponsoring organization; application for approval; approval renewal. (a) Each applicant for sponsoring organization approval shall indicate the EMS education that the applicant requests to provide as one or both of the following:

- (1) Initial course of instruction; and
 - (2) continuing education.
- (b) All sponsoring organization approval application and renewal forms shall be submitted in a format required by the executive director.
- (c) Each applicant that submits an insufficient initial application or renewal application for a sponsoring organization approval shall have 30 days to correct all identified deficiencies and submit a sufficient application. If the applicant or operator fails to correct the deficiencies and submit a sufficient application, the application may be considered by the board as withdrawn.
- (d) Each initial application for sponsoring organization approval shall meet the following requirements:

- (1) Designate a program manager;
 - (2) designate a medical director;
 - (3) designate an office address where all training program records shall be maintained;
 - (4) provide a list of training equipment and supplies, or a copy of each equipment-sharing agreement, necessary to support training requirements; and
 - (5) provide a copy of the quality management plan, as defined in K.A.R. 109-1-1.
- (e) Each sponsoring organization approval shall expire on April 30 of each year. Any approval may be renewed annually in accordance with this regulation.
- (f) Each renewal application for sponsoring organization approval shall affirm that the following information is current and accurate:
- (1) Personnel affiliated with the sponsoring organization, including the program manager, medical director, and qualified instructors;
 - (2) the EMS education that the sponsoring organization requests approval to provide;
 - (3) the business address where all training program records shall be maintained;
 - (4) list of training equipment and supplies, or a copy of each equipment-sharing agreement, necessary to support training requirements;
 - (5) quality management plan; and
 - (6) all of the following that are applicable to the sponsoring organization:
 - (A) Initial course of instruction course policies;
 - (B) clinical and field training agreements; and
 - (C) long-term provider continuing education program management plan. (Authorized by K.S.A. 2020 Supp. 65-6110; implementing K.S.A. 2020 Supp. 65-6111; effective Dec. 31, 2021.)

109-17-3. Sponsoring organization; initial course of instruction. (a) Any sponsoring organization may conduct an approved initial course of instruction through in-person instruction or distance learning, or a combination of both.

(b) Each sponsoring organization shall provide an enrollment roster listing each student enrolled in the course to the executive director within 20 days of the date of the first scheduled class session.

(c) Each sponsoring organization providing an initial course of instruction shall permit each student and the board access at each scheduled class session for in-person inspection of the course syllabus and all policies or documents addressing the following:

- (1) Student evaluation of course;
- (2) student attendance;

- (3) student discipline;
- (4) student and participant safety;
- (5) student requirements for successful course completion;
- (6) Kansas requirements for certification;
- (7) student dress and hygiene;
- (8) student progress conferences;
- (9) equipment use;
- (10) infection control; and
- (11) acknowledgement of the commitment to provide the support as defined in the course curriculum from each of the following:
 - (A) Educational medical director;
 - (B) ambulance service director for each ambulance service utilized for field training; and
 - (C) administrator of each medical facility utilized for clinical training.
- (d) The course syllabus shall include at least the following information:
 - (1) A summary of 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) a description of the clinical and field training requirements, if applicable; and
 - (5) instructor information, which shall include the following:
 - (A) Instructor name;
 - (B) office hours or hours available for consultation; and
 - (C) instructor electronic-mail address.
- (e) Each sponsoring organization providing an initial course of instruction shall provide confirmation of each student's successful course completion to the board.
- (f) Each sponsoring organization shall schedule a psychomotor skills examination for the student's initial examination as specified in K.A.R. 109-8-2.
- (g) Each sponsoring organization shall maintain the following course records for each initial course of instruction for at least three years from the last date of class:
 - (1) Course syllabus;
 - (2) all policies or documents addressing the listed items in subsection (c);
 - (3) student attendance;
 - (4) student grades;
 - (5) student conferences;
 - (6) course curriculum;
 - (7) lesson plans for all lessons;
 - (8) clinical training objectives;
 - (9) field training objectives;
 - (10) completed clinical and field training preceptor evaluations for each student;
 - (11) a copy of each student's psychomotor skills evaluations;
 - (12) a completed copy of each student's evaluations of each course, all instructors for the course, and all lab instructors for the course; and
 - (13) a completed copy of the outcome assessment and outcome analyses tools used for the course that address at least the following:
 - (A) Each student's ability to perform competently in a simulated or actual field situation, or both; and
 - (B) each student's ability to integrate cognitive and psychomotor skills to appropriately care for sick and injured patients.
 - (h) Each sponsoring organization providing initial courses of instruction shall maintain an average pass rate of at least 70 percent on the cognitive examination for certification at each level of certification that the sponsoring organization instructs for all attempts made by the students in the preceding calendar year. Each sponsoring organization that fails to meet or exceed this average pass rate shall submit to the board a plan for ensuring that future cognitive examination pass rates meet or exceed this average no later than March 1.
 - (i) Any sponsoring organization may allow a student to enroll late in an initial course of instruction upon submitting to the executive director a make-up schedule that includes the provision of educational standards that the late enrollee missed, within seven days of the student's enrollment.
 - (j) Each sponsoring organization providing a paramedic initial course of instruction shall provide one of the following:
 - (1) Evidence that the sponsoring organization has been issued and maintains a current letter-of-review from the committee on accreditation of educational programs for emergency medical services professions; or
 - (2) evidence that the sponsoring organization holds accreditation from the committee on accreditation of allied health education programs.
 - (k) Each sponsoring organization shall provide any course documentation requested by the executive director within 30 days of the request.
 - (l) Violation of any provision of this regulation may subject the sponsoring organization to a civil fine and may result in a suspension of sponsoring organization approval. (Authorized by K.S.A. 2020 Supp. 65-6110; implementing K.S.A. 2020 Supp. 65-6111; effective Dec. 31, 2021.)

109-17-4. Sponsoring organization; continuing education. (a) Any sponsoring organization may provide prior-approved continuing education as a long-term provider or a single-program provider through in-person instruction or distance learning, or a combination of both.

(b) Each sponsoring organization providing prior-approved continuing education shall submit a training report on a form provided by the board.

(c) The training report shall include the following:

(1) The date or dates, title, and location of the class;

(2) a list of all qualified instructors used in the class;

(3) the name and certification number of each attendee; and

(4) the amount of continuing education awarded to each attendee.

(d) Each sponsoring organization shall maintain the following course records for each prior-approved continuing education class for at least three years from the last date of class:

(1) Course educational objectives;

(2) completed course attendance sheet;

(3) a completed copy of each student's evaluation of the class and each instructor; and

(4) a copy of the submitted training report.

(e) Each completed course attendance sheet shall have the name and signature of each attendee of the prior-approved continuing education class.

(f) Each sponsoring organization providing prior-approved continuing education as a long-term provider shall develop and maintain a long-term continuing education program management plan.

(g) Each sponsoring organization shall provide any continuing education documentation requested by the executive director within 30 days of the request.

(h) Violation of any provision of this regulation may subject the sponsoring organization to a civil fine and may result in a suspension of sponsoring organization approval. (Authorized by K.S.A. 2020 Supp. 65-6110; implementing K.S.A. 2020 Supp. 65-6111; effective Dec. 31, 2021.)

Agency 110

Department of Commerce

Editor's Note:

Executive Reorganization Order (ERO) No. 48 removed tourism from the Kansas Department of Wildlife and Parks and transferred the powers, duties, and functions relating to tourism back to the Department of Commerce on July 1, 2021. See Agency 115, Article 40, Agritourism regulations.

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

- 110-1. VENTURE CAPITAL COMPANY CERTIFICATION.
- 110-2. LOCAL SEED CAPITAL POOL CERTIFICATION.
- 110-3. KANSAS PARTNERSHIP FUND PROGRAM.
- 110-4. INVESTMENTS IN MAJOR PROJECTS AND COMPREHENSIVE TRAINING (IMPACT) ACT.
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- 110-13. RURAL BUSINESS DEVELOPMENT TAX CREDIT PROGRAM.
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- 110-17. KANSAS ENERGY DEVELOPMENT ACT; INTEGRATED COAL OR COKE GASIFICATION NITROGEN FERTILIZER PLANTS.
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- 110-20. KANSAS ENERGY DEVELOPMENT ACT; STORAGE AND BLENDING EQUIPMENT PROJECTS.
- 110-21. PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) PROGRAM.
- 110-22. STUDENT LOAN REPAYMENT PROGRAM.
- 110-40. KANSAS EXPORT FINANCE ACT.

Article 1.—VENTURE CAPITAL COMPANY CERTIFICATION

110-1-1. Application process. (a) Application to become a certified Kansas venture capital company shall be made upon the application form furnished by the secretary of the department of commerce.

(b) Each application form shall be signed by an authorized officer or partner, and shall contain, as a minimum, the following information:

- (1) the full, legal name of the company;
- (2) the address of the applicant's principal office for the state;
- (3) the names and addresses of the applicant's directors, officers, general partners and managing partners;
- (4) a certified copy of the certificate of incorporation and articles of incorporation, or a certified copy of the certificate of formation of a limited partnership, or trust documents, or other evidence that the company is organized or existing under the laws of Kansas;

(5) adequate proof of a minimum level of equity capitalization of \$1,500,000 as required by K.S.A. 1986 Supp. 74-8306(b), as amended by L. 1987, Chapter 320, Section 3, and the level of capitalization the company expects to qualify for tax credits through cash investment in the venture capital company within the current calendar year. The cash investment shall be in the form of money or the equivalent of money. "Equivalent of money," for the purpose of cash investment in a certified Kansas venture capital company, shall mean instruments which are immediately convertible into U.S. currency of a readily determinable amount and which have equal worth as U.S. currency including checks, cashier's checks, money orders, and certificates of deposit with a term of 90 days or less;

- (6) the business history of the applicant; and
- (7) a statement of assurances which provides that:

(A) the applicant's purpose is to encourage and assist in the creation, development, and expansion of Kansas businesses and to provide maximum opportunities for the employment of Kansans;

(B) the applicant will disclose to all investors that the state of Kansas can not be held liable for damages to an investor in a certified venture capital company as provided in K.S.A. 1986 Supp. 74-8311;

(C) the applicant will comply with all requirements of the Kansas venture capital company act, including the filing of annual reports.

(c) If an application is incomplete, the applicant, upon notification by the department, shall submit the required information within 10 working days. If the required information is not received within this time period, the application for certification shall be refused. Upon refusal of certification, a subsequent application for certification may be submitted. (Authorized and implementing K.S.A. 1986 Supp. 74-8305, effective May 1, 1987, amended, T-88-53, Jan. 1, 1988; amended May 1, 1988.)

110-1-2. Annual report. (a) To determine program compliance and status for continuing certification, each certified Kansas venture capital company shall report annually to the secretary on forms provided by the department. Information reported shall include as a minimum:

(1) the name, address, and taxpayer identification number of each investor who has invested in that company and amounts invested by each;

(2) the name, address and taxpayer identification number of each taxpayer who acquires by transfer the income tax credits from investors exempt from income taxation;

(3) the name and location of each business in which the company has invested and the type and amount of investment. The names of the business owners shall be provided if required to determine their qualification for equity or tax credit purposes;

(4) the number of jobs created or preserved in each business; and

(5) a certification that all businesses in which the company has invested are eligible in accordance with K.S.A. 1986 Supp. 74-8307(d), as amended by L. 1987, Chapter 319, Section 3, if required to determine qualification for equity or tax credit purposes.

(b) The cost of the annual review for each Kansas venture capital company shall be \$100. The fee shall be paid by the Kansas venture capital company upon submission of the annual report to the secretary. (Authorized by and implementing K.S.A. 1986 Supp. 74-8305; effective May 1, 1987; amended, T-88-53, Jan. 1, 1988; amended May 1, 1988.)

Article 2.—LOCAL SEED CAPITAL POOL CERTIFICATION

110-2-1. Application process. (a) Application to become a certified Kansas local seed capital pool shall be made upon the application form furnished by the secretary of the department of commerce.

(b) Each application form shall be signed by an authorized officer or partner, and shall contain, as a minimum, the following information:

- (1) the full, legal name of the company;
- (2) the address of the applicant's principal office in the state;
- (3) the names and addresses of the applicant's directors, officers, general partners or managing partners;
- (4) a certified copy of the certificate of incorporation and articles of incorporation, or a certified copy of the certificate of formation of partnership;
- (5) adequate proof of a minimum level of \$200,000 capitalization as required by L. 1987, Chapter 365, Section 2(b) and the level of capitalization the company expects to qualify for tax credits;
- (6) the source of money necessary to administer and operate the pool;
- (7) the business history of the applicant; and
- (8) a statement of assurances which provides that:

(A) the applicant's purpose is to encourage and assist in the creation, development, and expansion of Kansas businesses and to provide maximum opportunities for the employment of Kansans by making seed capital available to Kansas businesses;

(B) the funds invested by the local seed capital pool will be invested at 100 percent in Kansas businesses;

(C) the company will operate under the definition of a local seed capital pool in L. 1987, Chapter 365, Section 1(c);

(D) the public funds invested in a local seed capital pool will have a senior position to any private cash investment and that each cash dollar of public investment will be matched by at least two dollars of private cash investment; and

(E) the applicant will disclose to all investors that the state of Kansas can not be held liable for damages to an investor in a local seed capital pool, as provided in L. 1987, Chapter 365, Section 6.

(c) If an application is incomplete, the applicant, upon notification by the department, shall submit the required information within 10 working days. If the required information is not received within this time period, the application for certification shall be refused. Upon refusal of certification, a subsequent complete application for certification may be submitted. (Authorized and implementing L. 1987, Ch. 365, Sec. 2; effective, T-88-53, Jan. 1, 1988; effective May 1, 1988.)

110-2-2. Annual report. (a) To determine program compliance and status for continuing certification, each certified Kansas local seed capital pool shall report annually to the secretary on forms provided by the department. Information reported shall include, as a minimum:

- (1) the name, address, and taxpayer identification number of each taxpayer who has invested in the pool and amounts invested by each;
- (2) the name and location of each business in which the pool has invested and amount and use of the investment; and
- (3) an estimate of the number of jobs created or preserved in each business.

(b) The cost of the annual review for each certified Kansas local seed capital pool shall be \$100. The fee shall be paid by the seed capital pool upon submission of the annual report to the secretary. (Authorized by and implementing L. 1987, Ch. 365, Sec. 2; effective, T-88-53, Jan. 1, 1988; effective May 1, 1988.)

Article 3.—KANSAS PARTNERSHIP FUND PROGRAM

110-3-1. Application criteria. Each application for a loan through the Kansas partnership fund shall be reviewed and evaluated by the secretary of commerce. Unless waived by the secretary, each application shall provide sufficient information to document:

- (a) The applicant's need for economic development;
- (b) the number of new, permanent, private sector jobs to be created by the project;
- (c) the projected impact of resulting business activity on the area, including new tax revenues to the borrower, and the availability of that revenue to help repay the program loan;
- (d) the estimated cost based on an engineering or other reliable estimate of the complete project to be funded by the loan;
- (e) the basis of the applicant's need for a loan from the State, including evidence that other financing options have been investigated and either are not readily available or will not cover total project costs;
- (f) the availability of other funds to adequately finance any related improvement or service incidental to the project, and to finance any part of the project costs not covered by the loan;
- (g) the applicant's total current and projected future debt obligations;

(h) the project's consistency with the applicant's comprehensive plans and with the applicant's five-year capital improvement plans; and

(i) any other information deemed pertinent by the secretary. (Authorized by and implementing L. 1988, Ch. 394, Sec. 2; effective Feb. 27, 1989.)

110-3-2. Eligible applicants. (a) Any city or county government with legal jurisdiction over the site of a proposed infrastructure improvement, or with a properly executed interlocal agreement in effect which covers the site of a proposed infrastructure improvement pursuant to subsection (b) may submit an application for a loan from the Kansas partnership fund.

(b) Any other local unit of government may request the county government to make an application on behalf of the local unit, subject to the following provisions:

(1) The county government shall have a properly executed interlocal agreement in effect which covers the site of the proposed infrastructure improvements.

(2) The county government shall be considered the borrower and shall be held accountable for the project accordingly. (Authorized by and implementing L. 1988, Ch. 394, Sec. 2; effective Feb. 27, 1989.)

110-3-3. Eligible projects. (a) Each project eligible for financing under the Kansas partnership fund program shall:

- (1) Serve a specific business on a specific site;
- (2) serve a demonstrable public purpose; and
- (3) be located on public property, public easements, public right-of-ways, or shall be a project to extend any public utility service.

(b) Eligible project costs may include reasonable construction, labor, materials, engineering, architectural, land acquisition, legal and administrative costs related directly to the project. (Authorized by and implementing L. 1988, Ch. 394, Sec. 2; effective Feb. 27, 1989.)

110-3-4. Ineligible projects. The following types of projects shall be considered ineligible for the Kansas partnership fund program:

(a) Any project which the secretary of commerce determines would cause a significant adverse competitive disadvantage to an existing enterprise in Kansas;

(b) any project which includes the relocation of an enterprise from one location in the state to another, unless approved in advance by official ac-

tion of both the county commission and the city or other municipality which would be losing the enterprise; or

(c) any project directly related to a facility where games of chance are played for money or other stakes, or where wagering occurs. (Authorized by and implementing L. 1988, Ch. 394, Sec. 2; effective Feb. 27, 1989.)

110-3-5. Terms of the program. Except as otherwise provided in a loan agreement, the Kansas partnership fund revolving loan fund program shall make loans available under the following terms.

(a) Program loans shall not exceed the total cost of the project.

(b) Except when waived by the secretary, a local unit of government shall not have more than \$2,000,000 in total program loans outstanding at any one time.

(c) The term of program loans shall not exceed the expected life of the financed public improvement or improvements as determined by a certified professional engineer, or 15 years, whichever is less. An extended loan term beyond 15 years may be authorized by the secretary in unusual cases where a special need is demonstrated. However, any loans funded in whole or in part with bond proceeds shall be subject to the terms and conditions provided for in the bond indentures.

(d) The interest rate for new loans shall be reviewed and established annually by the secretary of commerce on January 1 of each year. The interest rate for new loans may be changed by the secretary whenever bonds are issued by the Kansas development finance authority for the purposes of the Kansas partnership fund.

(e) All loan proceeds shall be made available to the borrower incrementally on a receipts-only basis. Whenever a loan is approved, an encumbrance shall be issued for the full amount of the loan. This amount shall be set aside and then may be drawn down as eligible project cost receipts are submitted and approved. Interest shall only be due on loan amounts actually received. Any interest earnings on encumbered funds which have been set aside shall be credited to the partnership fund or designated for repayment of bonds issued for this program as needed.

(f) Any costs incurred for improvements beyond the necessary scope of a single purpose project, or associated with activities in addition to the single purpose project, shall not be considered allowable expenses under this program. In

multi-purpose projects, only costs that are documented by a certified professional engineer as necessary and appropriate for an eligible single purpose project shall be considered allowable expenses under this program.

(g) The first payment of loan principal and interest shall become due at a time coordinated with the loan recipient's budget cycle, but not later than 18 months after receipt of the first loan disbursement.

(h) Payments shall be due thereafter on at least a semi-annual basis, and the payments may be adjusted so that the total of principal and interest shall be in approximately equal amounts throughout the life of the loan.

(i) A delinquency charge of 1.5% per month shall be applied to any payments more than 30 days overdue.

(j) Each borrower shall have the right to prepay loan obligations in accordance with the terms of the loan contract. (Authorized by and implementing L. 1988, Ch. 394, Sec. 2; effective Feb. 27, 1989.)

110-3-6. Conditions of final loan approval. (a) Each prospective recipient of a Kansas partnership fund loan shall provide the following additional information before final loan approval is granted:

(1) Documentation of a firm financial commitment to locate or expand business operations by the business which would directly benefit from the proposed public improvements;

(2) evidence of local awareness of the project application, including public hearings;

(3) a description of the applicant's control of project site, including any leases, easements, covenants, or encumbrances which may affect the project;

(4) evidence of the adequacy and reliability of the dedicated source of repayment for loan principal and interest;

(5) evidence of the applicant's ability to administer the project and to comply with state loan requirements;

(6) evidence of the applicant's ability to adequately fund necessary maintenance of the improvements; and

(7) evidence of the project's compliance with applicable state laws, rules and regulations.

(b) Any information provided by the applicant or available from other sources may be considered by the secretary in granting final loan approval.

(c) Each loan shall be subject to the availability of funds. (Authorized by and implementing L. 1988, Ch. 394, Sec. 2; effective Feb. 27, 1989.)

110-3-7. Distribution of funds by congressional district. Distribution of loans by congressional district shall be considered by the secretary in awarding loans through the Kansas partnership fund program.

(a) During the first three quarters of each fiscal year, loans shall be awarded in a manner that equalizes their distribution among congressional districts to the extent deemed practicable by the secretary.

(b) Any loan funds still available in the fourth quarter of each fiscal year may be awarded to an applicant in any part of the state, regardless of congressional district. (Authorized by and implementing L. 1988, Ch. 394, Sec. 2; effective Feb. 27, 1989.)

110-3-8. Program fees and administration. (a) Fees deemed necessary to help offset the costs of administering the Kansas partnership fund program may be established by the secretary, including fees or service charges for:

(1) Application reviews;

(2) loan issuance;

(3) loan audits;

(4) on-site inspections; and

(5) other similar activities.

(b) Any fees collected under subsection (a) may be used to help offset the costs of administering this program.

(c) Up to 5% of monies deposited in the Kansas partnership fund may be used to offset the costs of administering the program. (Authorized by and implementing L. 1988, Ch. 394, Sec. 2; effective Feb. 27, 1989.)

110-3-9. Terms of suspension. (a) If a Kansas partnership fund loan recipient or pending loan recipient has failed to comply with the loan award stipulations, standards, or conditions, the following actions may be taken by the secretary, after providing written notice:

(1) The loan may be suspended in whole or in part and any further payments withheld; and

(2) the loan recipient or pending loan recipient may be prohibited from incurring additional obligations for loan funds. Only necessary and proper costs, as determined by the secretary of commerce, which could not reasonably have been avoided during the suspension period shall be allowable.

(b) Within 30 days from the date of the notice, the loan recipient or pending loan recipient shall take corrective action and provide a detailed written explanation to the secretary of commerce which describes the corrective actions taken.

(c) Within 21 calendar days of receiving the written explanation, the explanation shall be reviewed by the secretary, and a written response shall be provided to the loan recipient or pending loan recipient indicating that:

- (1) Sufficient corrective action has been taken; or
- (2) formal loan termination procedures will be taken under the terms of K.A.R. 110-3-10.

(e) Suspension shall be considered a temporary action pending either corrective action or termination, and therefore shall not be considered a "final" action with any right of appeal. (Authorized by and implementing L. 1988, Ch. 394, Sec. 2; effective Feb. 27, 1989.)

110-3-10. Termination procedures. (a) Any Kansas partnership fund loan agreement may be terminated by the secretary in whole or in part at any time if a loan recipient or pending loan recipient fails in a material way to comply with the terms and conditions of a loan or to take adequate corrective actions while under a suspension.

(1) Written notice of the proposed termination shall be provided by the secretary which shall include:

- (A) Notification that the loan will be terminated;
- (B) an explanation of the reason or reasons for termination proceedings;
- (C) the date by which the loan recipient or pending loan recipient must respond to the notification; and
- (D) an explanation of the appeal procedure.

(2) The loan recipient or pending loan recipient shall have 30 calendar days from the date of the notice of proposed termination to respond in writing to the secretary before a loan is actually terminated. The response shall set forth the proposed actions to be taken by the loan recipient or pending loan recipient to prevent the proposed termination action.

(3) Within 21 calendar days following receipt of a written response or the expiration of the 30-day response time, whichever occurs first, the recipient or prospective recipient shall be notified, in writing, as to whether the secretary will proceed with termination and of the basis for this decision.

(4) Within 30 calendar days of the date of the decision, the loan recipient or pending loan recipient

may file an appeal, which shall be in the form of a written resolution to the secretary of commerce adopted by the appropriate governing body.

(5) Upon the expiration of the 30-day period provided in paragraph (4):

(A) the loan may be terminated by the secretary if no additional appeal has been made; or

(B) the appeal may be reviewed and a final decision may be issued by the secretary on termination.

(b) A loan may be terminated for convenience when the secretary of commerce and the loan recipient or pending loan recipient mutually agree, in writing, that any further expenditure of loan funds is not warranted or will not be beneficial for the designated project. In such cases, the loan may be terminated in whole or in part, and the following conditions shall apply.

(1) The loan recipient or pending loan recipient shall not incur any new obligations for the loan funds after the effective date of termination and shall cancel as many outstanding obligations as possible.

(2) Full credit shall be allowed for any non-cancellable obligations properly incurred prior to termination.

(3) An agreement between the secretary of commerce and the loan recipient or pending loan recipient shall be reached regarding:

- (A) the effective date of partial termination;
- (B) in the event of partial termination, the portion to be terminated; and
- (C) all other termination conditions.

(c) Upon formal termination of any loan, an encumbrance cancellation shall be issued by the secretary in the amount of any unused loan funds.

(d) The loan recipient or pending loan recipient shall be responsible for all necessary and appropriate actions to allow the secretary of commerce to properly document formal loan termination.

(e) Upon termination, the loan may be foreclosed and any loan principal and accrued interest may be declared to be payable on demand. (Authorized by and implementing L. 1988, Ch. 394, Sec. 2; effective Feb. 27, 1989.)

110-3-11. Repayment assurances. (a) Any applicant may be required by the secretary to levy an annual property tax sufficient to pay the loan principal and interest, which annually may be reduced by non-property tax revenue sources that may be lawfully available for loan repayment.

(b) Delinquent loan repayments shall be collected by deducting the delinquent amount from

payments made by state agencies to the local governmental entity that is delinquent in its loan repayment.

(c) If a loan recipient is more than six months delinquent with any scheduled loan repayment, foreclosure proceedings shall be initiated by the secretary in accordance with the terms of any loan contract made under this program. Foreclosure actions may include the seizure of any public improvements or property paid for with partnership fund loan proceeds. All loan amounts and accrued interest outstanding may be declared to be payable on demand. (Authorized by and implementing L. 1988, Ch. 394, Sec. 2-3; effective Feb. 27, 1989.)

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 re-trained 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 5.—KANSAS ENTERPRISE ZONE ACT

110-5-1. Definitions. As used in these regulations, and for the purposes of administering the Kansas enterprise zone act, the following definitions apply:

- (a) "City" means the governing body of an incorporated Kansas municipality.
- (b) "County" means the county board of commissioners.
- (c) "County-wide" means within the jurisdiction of a county board of commissioners.
- (d) "Local" means within the jurisdiction of a city.
- (e) "Multi-county unit" means two or more counties making a united application for designation as a nonmetropolitan region.
- (f) "Region" or "regional" means within the combined jurisdiction of all applicants, the minimum region being a single county. (Authorized by

L. 1992, Chapter 202, Section 7; implementing L. 1992, Chapter 202, Section 4(a); effective, T-110-8-26-92, Aug. 26, 1992; effective Dec. 21, 1992.)

110-5-2. Eligible applicants. Each applicant for designation as a nonmetropolitan region shall be:

- (a) a single county; or
- (b) a multi-county unit. (Authorized by L. 1992, Chapter 202, Section 7; implementing L. 1992, Chapter 202, Section 4(a)(1); effective, T-110-8-26-92, Aug. 26, 1992; effective Dec. 21, 1992.)

110-5-3. Required documentation. Each application for designation of a nonmetropolitan region shall include:

- (a) the name, title, address, and telephone number of a primary contact person for each county making application;
- (b) the name, title, address, and telephone number of a primary contact person for the qualifying regional economic development organization;
- (c) the name, title, address, and telephone number of a primary contact person with designated responsibility to make the required annual report to the secretary of commerce and housing as required by L. 1992, Chapter 202, Section 6(a);
- (d) a list of all incorporated cities within the jurisdiction of each county making application showing the population, according to the most current census data available, of each city;
- (e) a resolution by each county represented in the application stating that a regional economic development organization has been established which has a membership representative of:
 - (1) all geographic areas of the county; and
 - (2) the manufacturing businesses, non-manufacturing businesses, and retail businesses in the county;
- (f) evidence of the regional economic development organization which,
 - (1) if the organization is incorporated, shall include:
 - (A) a certified copy of the articles of incorporation; and
 - (B) a certified copy of the by-laws; or
 - (2) if the organization is not incorporated, shall include:
 - (A) a certified copy of the statement of purpose of the organization; and
 - (B) a certified copy of the operating guidelines of the organization or other applicable and appropriate documentation acceptable to the secretary;

(g) a certified copy of a regional strategic plan which shall:

(1) have been developed or updated not more than three years prior to the time of submission;

(2) provide a verifiable statement of assurance that the plan was developed with broad-based citizen participation and input;

(3) have specific goals for regional economic development;

(4) have detailed implementation strategies for each identified goal;

(5) have appropriate criteria to determine the effectiveness of each strategy in attaining the stated goals;

(6) have provisions for monitoring the plan on a regular, on-going basis; and

(7) have provisions for reassessing, reevaluating, and updating the plan at intervals not to exceed three years;

(h) a resolution by each county making application which shall:

(1) state support for the scope of activities identified in the regional strategic plan;

(2) state all regional incentives to be offered;

(3) state all county-wide incentives to be offered;

(4) state a commitment to participate in offering all stated incentives;

(5) give a specific, detailed plan for notifying all eligible businesses in the county of the regional and county-wide incentives available; and

(6) request the designation and approval of a nonmetropolitan region; and

(i) a resolution from each city within the jurisdiction of each applicant having a population of 2,000 or more, according to the most current census data available, which shall:

(1) state support for the scope of activities identified in the regional strategic plan;

(2) state all regional and county-wide incentives to be offered;

(3) state all local incentives to be offered;

(4) state a commitment to participate in offering all stated incentives;

(5) give a specific, detailed plan for notifying all eligible businesses in the city of the regional, county-wide, and local incentives available;

(6) state consent to participate with the county, or counties, in a nonmetropolitan region; and

(7) request the designation and approval of a nonmetropolitan region. (Authorized by L. 1992, chapter 202, Section 7; implementing L. 1992, Chapter 202, Section 4; effective, T-110-8-26-92, Aug. 26, 1992; effective Dec. 21, 1992.)

110-5-4. Quarterly report. On or before January 15, April 15, July 15, and October 15 of each year, the Kansas department of revenue shall be given a list of nonmetropolitan regions including those which have been approved during the prior calendar quarter by the Kansas secretary of commerce and housing. (Authorized by L. 1992, Chapter 202, Section 7; implementing L. 1992, Chapter 202, Section 5; effective, T-110-8-26-92, Aug. 26, 1992; effective Dec. 21, 1992.)

110-5-5. Term of designation. Upon approval of the application, a nonmetropolitan region shall be designated for a period of not more than five years. The applicant may apply for renewal of the designation within 60 days prior to the date of expiration. (Authorized by L. 1992, Chapter 202, Section 7; implementing L. 1992, Chapter 202, Section 4(a); effective, T-110-8-26-92, Aug. 26, 1992; effective Dec. 21, 1992.)

110-5-6. Annual report requirements. Each annual report submitted to the secretary pursuant to L. 1992, Chapter 202, Section 6, shall include:

(a) a list of regional incentives for economic development available in the region during the prior calendar year;

(b) a list for each designated county of any additional county-wide incentives for economic development available in the county during the prior calendar year;

(c) a list for each city within the jurisdiction of each designated county of any additional local incentives for economic development available in the city during the prior calendar year;

(d) the usage of each regional, county-wide, and local incentive for economic development made available in such region during the prior calendar year and showing:

(1) a description of each regional, county-wide, and local incentive;

(2) the number of times each regional, county-wide, and local incentive was used; and

(3) the fiscal impact of each regional, county-wide, and local incentive to the authorizing governing body; and

(e) any other information as required by the secretary. (Authorized by L. 1992, Chapter 202, Section 7; implementing L. 1992, Chapter 202, Section 6(a); effective, T-110-8-26-92, Aug. 26, 1992; effective Dec. 21, 1992.)

**Article 6.—HIGH PERFORMANCE
INCENTIVE PROGRAM**

110-6-1. (Authorized by and implementing K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

110-6-1a. (Authorized by K.S.A. 1999 Supp. 74-50,115, as amended by L. 2000, ch. 157, sec. 6 and K.S.A. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; implementing K.S.A. 1999 Supp. 74-50,115, as amended by L. 2000, ch. 157, sec. 6, K.S.A. 74-50,131, as amended by L. 2000, ch. 157, sec. 8, and K.S.A. 1999 Supp. 74-50,132; effective, T-110-4-25-00, April 25, 2000; effective Feb. 23, 2001; revoked Sept. 13, 2013.)

110-6-2. (Authorized by and implementing K.S.A. 1999 Supp. 74-30,131, as amended by L. 2000, ch. 157, sec. 8; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

110-6-3. (Authorized by K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; implementing K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8 and K.S.A. 1999 Supp. 74-50,132; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

110-6-4. (Authorized by K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; implementing K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8 and K.S.A. 1999 Supp. 74-50,133; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

110-6-5. (Authorized by and implementing K.S.A. 1999 Supp. 74-50,131, as amended by L. 2000, ch. 157, sec. 8; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000; amended Feb. 23, 2001; revoked Sept. 13, 2013.)

110-6-6. (Authorized by and implementing 1993 SB 73, section 1 (b); effective, T-110-8-17-

93, Aug. 17, 1993; effective Nov. 15, 1993; revoked Sept. 13, 2013.)

110-6-7. (Authorized by and implementing L. 1993, Chap. 172, Sec. 1; effective Nov. 15, 1993; revoked Sept. 13, 2013.)

110-6-8. Definitions. As used in this article and for purposes of administering HPIP, the following terms shall have the following meanings:

(a) “Alternative wage standard” means one and one-half times the state average wage and is updated annually on the department’s web site, based on data maintained by the Kansas secretary of labor. An alternative wage standard may be used only after subtracting all employees with five percent equity in the business from all internal wage calculations, as provided by K.S.A. 74-50,131(e) and amendments thereto.

(b) “Applicant” means a legal entity seeking to certify a qualified firm through the HPIP application process.

(c) “Average internal wage” means the wage computed for the employees attached to a worksite and shall be calculated by one of the following methods:

(1) Dividing the average headcount of part-time plus full-time employees at the worksite as reported on the “quarterly wage report and unemployment tax return” or “multiple worksite report” for the measurement period into total payroll costs that have been paid over the same measurement period; or

(2) dividing the number of FTE employees into total payroll costs that have been paid over the same measurement period.

(d) “Back-office operation” means a wholly owned company worksite location that meets all of the following criteria:

(1) The main activities are functions that support the core focus of the business.

(2) Support activities are performed for other company-owned worksites in which the company has more than 50 percent equity.

(3) The worksite could have been geographically located anywhere.

(e) “Certificate of intent to invest” means a project description form.

(f) “Certification period” means the interval during which a worksite is eligible to receive HPIP benefits according to K.A.R. 110-6-11.

(g) “Combined worksite” means two or more

worksites referenced on the same application according to K.A.R. 110-6-11.

(h) “Commence investment” means to make a formal commitment and to invest, with both actions being directly connected to the project description form previously submitted to the department.

(i) “Commercial customer” means an organized entity that engages in the manufacture or sale of products or the provision of services to other entities or individuals.

(j) “Core focus” means an activity that is designated by the NAICS code number assigned to a company and produces more than 50 percent of a company’s revenue.

(k) “Department” means Kansas department of commerce.

(l) “Formal commitment to invest,” for a company, means one or both of the following:

(1) The company relocates assets that it already owns to Kansas from an out-of-state location.

(2) The company enters into a written agreement that provides either party with legally enforceable remedies if the agreement is breached.

(m) “Fully operational,” when used to describe a new worksite, means that the worksite is performing substantially all major core focus functions.

(n) “Full-time-equivalent employees” and “FTE employees,” for purposes of calculating internal average wage during a measurement period, shall include leased employees and shall be computed by the following method:

(1) The number of hours worked by any permanent employees who normally work fewer than 40 hours per week shall be totaled and then divided by 2,080 hours, dropping any fractions.

(2) The result of paragraph (n)(1) then shall be added to the average number of employees who normally worked 40 or more hours per week during the measurement period.

(o) “Government customer,” as used in the act, means an organization that is not a related taxpayer, as defined by K.S.A. 79-32,154(h) and amendments thereto, and meets one of the following conditions:

(1) Is classified in major NAICS code sections 922 through 928; or

(2) is a customer that is funded primarily with tax dollars and is not classified as a for-profit or a not-for-profit organization.

(p) “Gross revenues,” as used in K.S.A. 74-50,131 and amendments thereto, means that term

as commonly used in financial and accounting applications under generally accepted accounting principles (G.A.A.P) in the United States.

(q) “Headquarters,” as used in K.S.A. 74-50,131 (g)(6) and amendments thereto, means a worksite that meets all of the following conditions:

(1) The main activity at the worksite is providing direction, management, or administrative support for the operation of multiple company-owned worksites in which the applicant company has an ownership interest greater than 50 percent.

(2) The worksite is capable of being geographically located anywhere.

(r) “High-performance incentive program” and “HPIP” mean the department’s incentive program that may provide tax benefits to a worksite pursuant to K.S.A. 74-50,131 and amendments thereto.

(s)(1) “HPIP source-of-revenue requirement” means the requirement for the types of businesses listed in K.S.A. 74-50,131(b), and amendments thereto, that more than 50 percent of total revenue at the worksite shall be generated from sales to any of the following:

(A) Kansas manufacturers assigned to major NAICS categories 311 through 339;

(B) out-of-state government customers;

(C) out-of-state commercial customers; or

(D) any combination of paragraphs (s)(1)(A) through (C).

(2) Revenues that shall be specifically excluded as eligible revenues under the HPIP source-of-revenue requirement are the following:

(A) Revenues generated as payment for medical services from Medicare, Medicaid, or any related administrative organizations; and

(B) revenues generated from medical services or products delivered to or used by individual patients, regardless of the source of payment.

(t) “KIT” means Kansas industrial training, as defined in K.S.A. 74-5065(a) and amendments thereto.

(u) “KIR” means Kansas industrial retraining, as defined in K.S.A. 74-5065(b) and amendments thereto.

(v) “Leased employees” shall include employees who meet the following criteria:

(1) Are engaged at the worksite pursuant to an agreement with a third party;

(2) are filling positions that are one year or longer in duration; and

(3) receive wages and benefits that are paid either directly or indirectly by the worksite where the leased employees are engaged.

(w) “Main activity” means an activity that utilizes more than 50 percent of the total square feet at a worksite or more than 50 percent of the total number of employees at a worksite.

(x) “Measurement period” and “MP” mean the four consecutive calendar quarters that a company shall use to meet and document satisfaction of the HPIP eligibility requirements.

(1) For a worksite expansion with an existing workforce, the MP shall be the four calendar quarters that immediately precede the selected certification period.

(2) For a new worksite with a new workforce, the MP shall be the first full four consecutive calendar quarters of operation at the new worksite.

(y) “Multinational corporation” and “multinational firm” mean a legal entity with at least one permanent worksite in the United States and one or more additional permanent worksites established in one or more other countries, with attendant personnel and owned or leased facilities, equipment, and infrastructure.

(z) “NAICS designation” means a six-digit designation in the North American industry classification system that identifies the main activities performed at a worksite. The NAICS designation is initially assigned to a worksite by the Kansas department of labor. At the request of the applicant, the Kansas department of labor’s NAICS designation may be reviewed and adjusted by the secretary, if deemed appropriate, based upon the actual activity at the worksite.

(aa) “National corporation” and “national firm” mean a legal entity that has operations covering a broad geographical area within the U.S., with multiple permanent worksites wholly owned or affiliated with other legal entities, with attendant personnel and owned or leased facilities, equipment, and infrastructure.

(bb) “Nonmanufacturing business” means any commercial enterprise other than a manufacturing business assigned to major NAICS categories 311 through 339.

(cc) “On-the-job training” and “OJT” mean training situations during which a product or service that can be sold or used in internal operations is generated.

(dd) “Project description form” and “PD form” mean a form required as the first step to be able to access HPIP benefits. This form provides proof of foreknowledge of the HPIP program and shall be completed, signed, and submitted to the department before any formal commitment to invest.

(ee) “Qualified business facility investment” has the meaning specified in K.S.A. 79-32,154, and amendments thereto.

(ff) “Related taxpayer” has the meaning specified in K.S.A. 79-32,154, and amendments thereto.

(gg) “Sales to Kansas manufacturers,” as used in the act, means sales to organizations that are not related taxpayers, in which the purchased goods or services are paid for by the purchasing organization or its designated agent and the purchased goods or services are delivered within Kansas to a worksite assigned to major NAICS categories 311 through 339 by the Kansas department of labor. Sales orders and payments may originate from either inside or outside Kansas.

(hh) “Secretary” means secretary of commerce.

(ii) “Total payroll cost” means the payroll amount defined by the Kansas department of labor as “total wages” on line 12 of the “quarterly wage report and unemployment tax return” or the “multiple worksite report.” For a worksite, total payroll cost during the appropriate measurement period may be combined with any pretax earnings in which an employee has elected to direct to one of the following:

(1) A flexible-spending plan;

(2) a deferred compensation plan; or

(3) a retirement plan that includes earnings the employee would otherwise have received in the form of taxable wages had it not been for the voluntary deferral.

This term shall not include company-paid costs for health insurance, dental insurance, and any other employee benefits that are not reported to the Kansas department of labor on the employer’s quarterly wage report or the multiple worksite report.

(jj) “Training and education eligible expense” means the amount actually paid for training and education of the group of employees, or portion thereof, that is used to determine the average wage at the worksite location, and from which the worksite expects to derive increased productivity or quality. The determination of expenditures that constitute training and education eligible expenses shall include the following:

(1) Eligible training and education expenditures shall include instructor salaries, curriculum planning and development, travel, materials and supplies, textbooks, manuals, minor training equipment, certain training facility costs, and any other expenditure that is eligible under KIT or KIR.

(2) The following other expenditures shall be allowable but shall be subject to maximum caps:

(A) Wages of employees during eligible training, up to a maximum of 400 percent of the applicable HPIP alternative wage standard hourly wage;

(B) employee instructors' salaries, subject to a maximum of 400 percent of the applicable HPIP alternative wage standard hourly wage; and

(C) training-related travel expenses, with a maximum meals allowance of \$120 per day and lodging costs of \$300 per night.

(3) Expenditures for the following shall be excluded as training and education eligible expenses:

(A) Compensation paid to an employee trainee who is receiving on-the-job training;

(B) compensation paid to an employee during self-training, except for time in which the employee is involved in activities related to an approved computerized course of study;

(C) bonus pay received as compensation related to the company's financial performance or the employee's job performance, or both;

(D) overtime pay, unless the employee is being paid at an overtime rate while participating in eligible training;

(E) operations manuals and reference manuals. However, training-specific manuals shall be allowable; and

(F) training and education costs covered by monies or grants obtained from state, federal, or other government-sponsored workforce training programs.

(kk) "Wage standard" means the average wage information developed for the department for the appropriate NAICS designation using all worksites located within a geographical area as defined by the secretary that are required to provide the Kansas department of labor with a "quarterly wage report and unemployment tax return" or a "multiple worksite report."

(ll) "Worksite" has the same meaning as that specified for "qualified business facility" in K.S.A. 79-32,154, and amendments thereto. (Authorized by and implementing K.S.A. 2012 Supp. 74-50,131; effective Sept. 13, 2013.)

110-6-9. Application. (a) After the measurement period for a worksite has been established, the applicant may submit an application to the department for certification of the worksite, on a form prescribed by the secretary, together with all supplemental forms and documentation necessary to demonstrate satisfaction of the pro-

gram 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 require-

ment, 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 7.—KANSAS COMMUNITY SERVICES PROGRAM

110-7-1 through 110-7-4. (Authorized by and implementing L. 1994, Chap. 38, Sec. 5; effective, T-110-9-1-94, Sept. 1, 1994; effective Dec. 5, 1994; revoked Sept. 28, 2001.)

110-7-5. Definitions. For the purpose of these regulations, the following terms shall have the meanings provided in this regulation unless the context clearly indicates otherwise. (a) "Department" means the Kansas department of commerce and housing (KDOCH).

(b) "Director" means the director of the community development division of the department.

(c) "Gift" means the unconditional and voluntary transfer of money or property by a donor to an entity without consideration of a business, economic, or monetary nature, except for the tax benefits conferred by the Kansas community service program act and the federal internal revenue code.

(d) "Proposal" means a written plan submitted by an organization to implement a specific project that is eligible for consideration by the department under the Kansas community service program. (Authorized by and implementing K.S.A. 79-32,198; effective Sept. 28, 2001.)

110-7-6. Audits. An independent audit of the organization's financial records shall accompany each proposal. Except as specified in K.A.R. 110-7-10(c), any organization that does not regularly submit to or authorize an outside audit of its budget and spending, or any newly formed

organization, may submit the most current IRS 990 return in lieu of an audit if the organization obtains prior approval of the director. (Authorized by and implementing K.S.A. 79-32,198; effective Sept. 28, 2001.)

110-7-8. Review of proposals. (a) Approval or disapproval of each proposal shall include consideration of the following criteria:

(1) The organization's demonstrated capacity to administer the project;

(2) the organization's demonstrated fundraising capacity;

(3) the organization's documentation of the need for the proposed activity in the area within which the project is to be carried out; and

(4) the organization's demonstration of the level of community support for the project.

(b) No proposal for crime prevention shall be reviewed if the proposal does not include a written endorsement from the local governing body. Other proposals with a written endorsement from the local governing body shall receive a higher priority.

(c) Each applicant shall be notified by the director, within 90 days of submission of the proposal, of the director's decision regarding the proposal. (Authorized by and implementing K.S.A. 79-32,198; effective Sept. 28, 2001.)

110-7-9. Gifts; gift period. (a) Each proposal shall include a statement indicating that only non-cash gifts related directly to the approved project will be accepted and that acceptance of the non-cash gifts will occur within 18 months after the date of approval of the proposal by the director. To be considered "related directly," the non-cash gift shall be actually used for, or as part of, the project. A gift received before or after this period shall not be approved for tax credits.

(b) Each person wanting a tax credit and donating a gift to an approved project shall submit a tax credit application to the department within one year of the donation of the gift. (Authorized by and implementing K.S.A. 79-32,198; effective Sept. 28, 2001.)

110-7-10. Administration of projects. Each proposal shall include a statement indicating all of the following: (a) The organization implementing an approved project will submit quarterly reports and a final report at the end of the project.

(b) Each change in the project's approved bud-

get will be submitted for approval by the department before taking effect.

(c) An independent audit of the project will be obtained for the project if the project utilizes more than \$100,000 in tax credits. (Authorized by and implementing K.S.A. 79-32,198; effective Sept. 28, 2001.)

Article 8.—CERTIFIED CAPITAL FORMATION COMPANIES

110-8-1. (Authorized by K.S.A. 74-8229(e); implementing K.S.A. 74-8221(d) and (h), as amended by L. 2003, ch. 154, §76, and K.S.A. 74-8223, as amended by L. 2003, Ch. 20, §4; effective Dec. 12, 2003; revoked Dec. 3, 2004.)

110-8-2. (Authorized by K.S.A. 74-8229(e); implementing K.S.A. 74-8221(d), as amended by L. 2003, ch. 154, §76, 74-8223, as amended by L. 2003, Ch. 20, §4, and 74-8224; effective Dec. 12, 2003; revoked Dec. 3, 2004.)

110-8-3. (Authorized by K.S.A. 74-8229(e); implementing K.S.A. 74-8221(l), as amended by L. 2003, ch. 154, §76, K.S.A. 74-8224(f), K.S.A. 74-8225(g), as amended by L. 2003, Ch. 20, §2, K.S.A. 74-8226, as amended by L. 2003, Ch. 20, §3, and K.S.A. 74-8229; effective Dec. 12, 2003; revoked Dec. 3, 2004.)

110-8-4. (Authorized by K.S.A. 74-8229(e); implementing K.S.A. 74-8222, as amended by L. 2003, Ch. 20, §1, K.S.A. 74-8223(a), as amended by L. 2003, Ch. 20, §4, and K.S.A. 74-8224(d); effective Dec. 12, 2003; revoked Dec. 3, 2004.)

110-8-5. (Authorized by K.S.A. 74-8229(e); implementing K.S.A. 74-8222, as amended by L. 2003, Ch. 20, §1, and K.S.A. 74-8225(a)(2), as amended by L. 2003, Ch. 20, §2; effective Dec. 12, 2003; revoked Dec. 3, 2004.)

110-8-6. (Authorized by K.S.A. 74-8229(e); implementing K.S.A. 74-8221(f), as amended by L. 2003, ch. 154, §76, and 74-8222(a), as amended by L. 2003, Ch. 20, §1; effective Dec. 12, 2003; revoked Dec. 3, 2004.)

110-8-8. (Authorized by K.S.A. 74-8229(e); implementing K.S.A. 74-8225, as amended by L. 2003, Ch. 20, §2, K.S.A. 74-8227; effective Dec. 12, 2003; revoked Dec. 3, 2004.)

110-8-9. (Authorized by K.S.A. 74-8229(e); implementing K.S.A. 74-8225, as amended by L.

2003, Ch. 20, §2, K.S.A. 74-8226, as amended by L. 2003, Ch. 20, §3, and K.S.A. 74-8228; effective Dec. 12, 2003; revoked Dec. 3, 2004.)

110-8-10. (Authorized by K.S.A. 74-8229(e); implementing K.S.A. 74-8225, as amended by L. 2003, Ch. 20, §2, and K.S.A. 74-8226, as amended by L. 2003, Ch. 20, §3; effective Dec. 12, 2003; revoked Dec. 3, 2004.)

110-8-11. (Authorized by K.S.A. 74-8229(e); implementing K.S.A. 74-8225(e), as amended by L. 2003, Ch. 20, §2; effective Dec. 12, 2003; revoked Dec. 3, 2004.)

Article 9.—SALES TAX REVENUE BONDS

110-9-1. Definitions. As used in these regulations, the following terms shall have these meanings:

(a) “Applicant” means a city in Kansas seeking to finance a redevelopment project using STAR bonds.

(b) “City” means the governing body of an incorporated Kansas municipality.

(c) “County” means any county recognized under K.S.A. 18-101 et seq., and amendments thereto.

(d) “Direct expenditures” means visitors’ spending that directly supports the jobs and incomes of people and firms that deal directly with visitors brought to an area by a tourism attraction.

(e) “Direct job creation” means the establishment of any position in which a person will be employed by a business to perform duties in connection with the operation of the business on one of the following bases:

(1) A year-round, full-time basis;

(2) a part-time basis, if the person is customarily performing the duties at least 20 hours each week throughout the taxable year; or

(3) a seasonal basis, if the person performs the duties for substantially all of the season customary for the position in which the person is employed.

(f) “Eligible area” has the meaning specified in K.S.A. 12-1770a, and amendments thereto. This term may include noncontiguous land if the secretary determines that a sufficient connection exists appropriate for the proposed project.

(g) “Enabling effects” means the pattern of business development of compatible industries in an area or region due to direct, indirect, or induced expenditures and the environmental effects of a tourism attraction.

(h) “Fixtures” means goods, as defined in the uniform commercial code, K.S.A. 84-1-101 et seq. and amendments thereto, that have become so related to specific real property that an interest in them arises under real property law.

(i) “Indirect expenditures” means the amount of money expended in regional sectors that supply goods and services in support of the direct expenditures resulting from a tourism attraction.

(j) “Induced expenditures” means the increased sales within a region resulting from a tourism attraction.

(k) “Principal” means one or more persons with the primary responsibility for the development of a STAR bond project.

(l) “Secretary” means the secretary of the department of commerce.

(m) “STAR bonds” means sales tax revenue bonds payable from the revenue sources identified in K.S.A. 12-1774(a)(1)(D) and K.S.A. 12-1774(a)(1)(F), and amendments thereto. (Authorized by K.S.A. 2005 Supp. 74-5002r; implementing K.S.A. 2005 Supp. 74-5002r and 74-5005; effective April 21, 2006.)

110-9-2. Special bond project plan; additional documentation. Each applicant that desires to use STAR bonds to finance a special bond project in Kansas shall apply to the secretary for a determination that the project qualifies as a major commercial entertainment or tourism area. If the project is to be located in a redevelopment district that is wholly within a county but not within the geographic limits of an incorporated Kansas city, then after the governing body of the county approves the creation of the district, a city within the county shall agree by interlocal agreement to be the county’s sponsoring applicant.

(a) Each applicant shall provide the secretary with a special bond project plan prepared pursuant to K.S.A. 12-1780c, and amendments thereto. Each applicant shall also provide the following:

(1) Documentation that the city has met all resolution, hearing, and ordinance requirements;

(2) a statement on how the proposed project meets the eligibility limitations on bond authority set forth in K.S.A. 12-1770a(g), and amendments thereto;

(3) a project budget; and

(4) any other relevant information required by the secretary.

(b) The summary of the feasibility study included as part of the special bond project plan shall

be prepared by an independent party with recognized expertise in preparing this type of study and shall include the following:

(1) The information required by K.S.A. 12-1770a(k), and amendments thereto;

(2) a description of any project submitted under K.S.A. 12-1771d, and amendments thereto, to satisfy the requirements of K.S.A. 12-1770a(1), and amendments thereto;

(3) a statement of how the jobs and taxes obtained from the project will contribute significantly to the economic development of the state and region;

(4) a statement concerning whether a portion of the sales taxes collected pursuant to K.S.A. 12-187, and amendments thereto, is committed to other uses and unavailable as revenue for the redevelopment project. If a portion of sales taxes is so committed, the applicant shall describe the following:

(A) The percentage of sales taxes collected that is so committed; and

(B) the date or dates on which this diverted revenue can be pledged for repayment of special obligation bonds;

(5) an anticipated principal and interest payment schedule on the bonds; and

(6) a copy of the minutes of the governing body meeting or meetings of any city whose bonding authority will be utilized in the project, evidencing that a redevelopment plan has been created, discussed, and adopted by the city in a regularly scheduled open public meeting.

(c) If any of the items specified in this regulation are not included, the applicant shall be notified about the items or information required to be provided to the secretary before the secretary will respond. (Authorized by K.S.A. 2005 Supp. 74-5002r; implementing K.S.A. 2005 Supp. 12-1770a, 12-1771d, 12-1780b, 12-1780c, and 74-5005; effective April 21, 2006.)

110-9-3. Certain findings; timing. If a finding by the secretary is required under K.S.A. 12-1774(a)(1)(D) and amendments thereto, the finding shall be made by the secretary within 60 days of the secretary's receipt of the information required by K.A.R. 110-9-2. A copy of this finding, when made, shall be mailed to the applicant. (Authorized by K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 12-1770a, as amended by L. 2005, ch. 186, § 7, K.S.A. 2004 Supp. 12-1774(a)(1)(D), as amended by L. 2005, ch. 132, § 6, and K.S.A. 74-5005, as amended by L. 2005, ch. 104, § 9; effective April 21, 2006.)

110-9-4. Secretary's review. Upon completion of the secretary's review of each special bond project plan, each applicant shall receive a written response containing a determination or seeking further information. If the written response requests further information, the 60-day time frame specified in K.A.R. 110-9-3 shall exclude the period beginning on the date on which the letter requesting further information is mailed through the date on which the information is received by the secretary. (Authorized by K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 12-1770a(g), as amended by L. 2005, ch. 186, § 7, K.S.A. 2004 Supp. 12-1774(a)(1)(D), as amended by L. 2005, ch. 132, § 6, and K.S.A. 74-5005, as amended by L. 2005, ch. 104, § 9; effective April 21, 2006.)

110-9-5. Due diligence. Before the secretary approves the use of STAR bonds to finance any special bond project, the applicant shall provide the secretary with evidence that the applicant has with due diligence explored the background and financial viability of the principals. If any principal has been convicted of a felony or a misdemeanor involving moral turpitude or business or financial improprieties, or is now or has ever been charged with or convicted of any civil or criminal offense relating to the conduct of the business of the principal or the issuance, sale, or solicitation for sale of any type of security, the applicant shall disclose this information. (Authorized by K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 12-1774(a)(1)(D), as amended by L. 2005, ch. 132, § 6, and K.S.A. 74-5005, as amended by L. 2005, ch. 104, § 9; effective April 21, 2006.)

110-9-6. Major commercial entertainment and tourism area; criteria. The following criteria shall be utilized by the secretary to determine whether a proposed project constitutes a major commercial entertainment and tourism area:

(a) Visitation, which shall include the following:

(1) Out-of-state visitation;

(2) visitation drawn from more than 100 miles distant from the community where the proposed project would be located; and

(3) the total annual visitation;

(b) economic impact, which shall include the following:

(1) Direct expenditures;

(2) indirect expenditures;

(3) induced expenditures;

(4) enabling effects; and

(5) direct job creation;
 (c) the unique quality of the proposed project, in terms of any of the following:

- (1) The national destination attraction market;
- (2) a defined multistate market area;
- (3) the Kansas destination attraction market;
- (4) the ability of the proposed project to utilize the nature, culture, or heritage that is unique to Kansas; or

(5) the ability of the proposed project to provide Kansas with a valuable, national market brand identity;

(d) the ability of the proposed project to gain sufficient market share to meet the following conditions:

(1) Remain profitable past the term of repayment of the STAR bonds; and

(2) maintain status as a significant factor for travel decisions;

(e) integration and collaboration with other resources or businesses, as determined by any of the following:

- (1) Creation of overnight stays;
- (2) collaboration or competition with other available retail and destination attractions; and

(3) the ability of the proposed project to utilize the nature, culture, or heritage that is unique to Kansas;

(f) the quality of service and experience provided, as measured against national consumer standards for the specific target market; and

(g) proposed project accountability, measured according to best industry practices. (Authorized by K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 12-1770a, as amended by L. 2005, ch. 186, § 7, K.S.A. 2004 Supp. 12-1774(a)(1)(D), as amended by L. 2005, ch. 132, § 6, and K.S.A. 74-5005, as amended by L. 2005, ch. 104, § 9; effective April 21, 2006.)

110-9-7. Audit reports. The period to be audited for the purpose of the annual audit reports shall be July 1 through the following June 30. Each audit report shall be submitted to the secretary on or before October 1 of the year in which that audited period ends. (Authorized by K.S.A. 2004 Supp. 74-5002r; implementing L. 2005, ch. 132, § 13 and K.S.A. 74-5005, as amended by L. 2005, ch. 104, § 9; effective April 21, 2006.)

110-9-8. Bond payments; subsequent special bond projects. (a) Each bond trustee shall distribute all revenues that have been

pledged to pay the principal and interest on the special obligation bonds issued by a city to finance a special bond project in accordance with the provisions of the applicable bond resolution or trust indenture, upon distribution of the revenues by the Kansas department of revenue to the bond trustee.

(b) A city that has received STAR bond funding shall not receive additional STAR bond funding for any subsequent special bond project in the same redevelopment district without first receiving approval for each subsequent special bond project from the secretary. (Authorized by K.S.A. 2005 Supp. 74-5002r; implementing K.S.A. 2005 Supp. 12-1774 and 74-5005; effective April 21, 2006.)

Article 10.—LOW INCOME HOUSING TAX CREDITS

110-10-1. Selection criteria for review and award of low income housing tax credits.

(a) The following objective scoring matrix, including the following criteria and the maximum points that may be assigned to each criterion, shall be used in the review and award of low income housing tax credits authorized to the state of Kansas by section 42 of the United States internal revenue code:

Description of Criteria	Maximum Number of Points
(1) project location.....	50 points
(2) the housing needs characteristics for the market of the area in question.....	45 points
(3) project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan and whether the project is intended for eventual tenant ownership.....	80 points
(4) sponsor characteristics	10 points
(5) whether the project is designed to serve tenant populations with special housing needs, including tenant populations of households with children and units limited to tenants 55 years and older or to tenants with special needs.....	75 points

Description of Criteria	Maximum Number of Points
(6) whether the project will accept referrals of tenants who are on public housing waiting lists	5 points
(7) whether the development will be located in communities that have not previously received housing tax credits or whether the developer provides an independent, site-specific market study of the community	45 points

(b) Each application shall be considered in relation to the other applications in each particular round of tax credit awards. (Authorized by and implementing L. 2003, Ch. 154, Sec. 103; effective, T-110-7-1-03, July 1, 2003; effective, T-110-10-8-03, Oct. 8, 2003; effective Feb. 27, 2004.)

Article 11.—KANSAS DOWNTOWN REDEVELOPMENT ACT

110-11-1. 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 Kansas downtown redevelopment act, L. 2004, ch. 112, §§ 81 through 85, and amendments thereto.

(b) “Commercial, office, residential and public use,” as that term is used in the definition of “core commercial district” in L. 2004, ch. 112, § 82(b) and amendments thereto, shall include hotels, motels, bed and breakfasts, banks, office buildings, railroad stations, public dining facilities, retail establishments, and public buildings that occupy a collective and facing frontage on one side or both sides of a street within the core commercial district.

(c) “Compact” means that the commercial, office, residential, and public structures within a proposed redevelopment area are contiguous with each other.

(d) “Department” means the department of commerce.

(e) “Investment in improvements to the real property or trade fixtures” of a structure means rehabilitation expenditures.

(f) “Rehabilitation expenditures” and “approved rehabilitation expenditures” mean investments by structure owners that are consistent with the department’s “downtown redevelopment guide-

lines” for the physical improvement of compact commercial, office, residential, and public use structures within a core commercial district. The department’s “downtown redevelopment guidelines,” as in effect on July 1, 2004, are hereby adopted by reference.

(g) “Residential housing” means structures within a core commercial district once used for hotels, motels, bed and breakfasts, and upstairs apartments within these structures.

(h) “Secretary” means the secretary of the department of commerce.

(i) “Trade fixtures” means machinery and equipment, communication equipment, and office equipment that can be removed from a structure without jeopardizing the structural integrity.

(j) “Unincorporated area of a county” means the portion of a county that is no longer an incorporated city but where there remains a historic or recognizable core commercial district.

(k)(1) “Vacancy rate” means the square footage of properties within a core commercial district that currently is not utilized for commercial, office, residential or public use, expressed as a percentage of the aggregate properties’ total square footage utilized for commercial, office, residential and public use. This term shall not include square footage devoted solely to storage or warehouse usage if the property owner is compensated by another for the use of the storage or warehousing square footage.

(2) The vacancy rate shall be determined by dividing the aggregate square footage of commercial, office, residential, and public use structures in the redevelopment area, excluding square footage devoted solely to storage or warehousing for a fee, that is not being utilized for ongoing business activities by the aggregate square footage of commercial, office, residential, and public use structures in the redevelopment area, including square footage devoted solely to storage or warehousing for a fee. (Authorized by L. 2004, ch. 183, § 7; implementing L. 2004, ch. 112, §§ 81, 82, 83, and 84; effective April 22, 2005.)

110-11-2. Application for proposed redevelopment area. (a) Any governing body may request the secretary’s approval to create a redevelopment area under the act by submitting an application on a form provided by the department.

(b) The secretary’s decision on the application and the controlling facts on which the decision is made shall be communicated in writing to the

governing body within 90 days of the secretary's decision.

(c) The secretary's decision shall be a final agency action that is subject to review in accordance with the act for judicial review, K.S.A. 77-601 et seq., and amendments thereto. (Authorized by L. 2004, ch. 183, § 7; implementing L. 2004, ch. 112, §§ 81 and 83; effective April 22, 2005.)

110-11-3. Progress reports. (a) Each governing body whose application for a redevelopment area is approved by the secretary shall submit annual progress reports on forms provided by the department. Each report shall document and compare the progress actually made by the owners of the structures in the redevelopment area against the proposed redevelopment area plan.

(b) All new assessed valuations of structures within a redevelopment area shall be included in the next progress report submitted to the secretary under subsection (a). The governing body shall identify the affected properties and their previous and current valuations. (Authorized by L. 2004, ch. 183, § 7; implementing L. 2004, ch. 112, § 81 and L. 2004, ch. 183, § 7; effective April 22, 2005.)

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 13.—RURAL BUSINESS DEVELOPMENT TAX CREDIT PROGRAM

110-13-1. Definitions. As used in these regulations, the following definitions shall apply: (a) "Act" means the rural business development tax credit program pursuant to K.S.A. 74-50,154, and amendments thereto.

(b) "Business support services" means business counseling, technical assistance, and business planning services provided to existing or prospective small businesses or entrepreneurs.

(c) "Department" means the department of commerce.

(d) "Entrepreneur" means an individual creating a new business, service, or product.

(e) "Fiscal year" means the 12-month period beginning July 1 and ending June 30.

(f) "Regional business development fund" means an authorized and audited fund that is created by taxpayer contributions, interest income, and investment income and is managed by the regional foundation board of directors for the purposes of economic and leadership development in the region.

(g) "Regional leadership development" means training and education that enable a region to develop community leadership that strengthens the economic and social environment in that region.

(h) "Secretary" means secretary of the department of commerce.

(i) "Small business" means an independently owned and operated business having fewer than 100 full-time equivalent employees.

(j) "Technology improvements" means a project that results in the ability of the region to enhance service in areas including broadband access, web site creation, wireless internet services, computer programming, computer servers, computer networks, computer databases, electronic training modules, electronic media, and any other technological areas deemed eligible by the secretary.

(k) "Utilization" means a regional foundation's demonstrated ability to obtain enough qualifying contributions to fully use all tax credits allocated to the region during the period of time in which the tax credits were allocated to the regional foundation by the secretary. (Authorized by K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 74-

5005, K.S.A. 74-5007a, and K.S.A. 2004 Supp. 74-50,154; effective Aug. 12, 2005.)

110-13-2. Designated regions. Each of the following Kansas county groupings shall be designated as a region:

(a) “East central region” means Douglas, Franklin, Johnson, Leavenworth, Miami, and Wyandotte counties.

(b) “North central region” means Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Jewell, Lincoln, Lyon, Marshall, Mitchell, Morris, Ottawa, Pottawatomie, Republic, Riley, Saline, Wabaunsee, and Washington counties.

(c) “Northeast region” means Atchison, Brown, Doniphan, Jackson, Jefferson, Nemaha, Osage, and Shawnee counties.

(d) “Northwest region” means Cheyenne, Decatur, Ellis, Grove, Graham, Logan, Norton, Osborne, Phillips, Rawlins, Rooks, Russell, Sheridan, Sherman, Smith, Thomas, Trego, and Wallace counties.

(e) “South central region” means Butler, Chautauqua, Cowley, Elk, Greenwood, Harper, Harvey, Kingman, Marion, McPherson, Reno, Rice, Sedgwick, and Sumner counties.

(f) “Southeast region” means Allen, Anderson, Bourbon, Cherokee, Coffey, Crawford, Labette, Linn, Montgomery, Neosho, Wilson, and Woodson counties.

(g) “Southwest region” means Barber, Barton, Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Lane, Meade, Morton, Ness, Pawnee, Pratt, Rush, Scott, Seward, Stafford, Stanton, Stevens, and Wichita counties. (Authorized by K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 74-50,154; effective Aug. 12, 2005.)

110-13-3. Determination of regional foundations. (a) Within each region, agencies and organizations that exist primarily to engage in economic development activities on behalf of cities, counties, and multicounty areas shall propose one agency or organization among them as the regional foundation. The agency or organization that is the proposed regional foundation shall submit an application to the secretary, on a form provided by the department.

(b) The name, address, and occupation of each regional foundation board member shall be submitted to the secretary within 10 business days after the board is chosen.

(c) Each regional foundation shall provide documentation supporting at least one of the criteria specified in K.S.A. 74-50,154 and amendments thereto.

(d) Each regional foundation’s board of directors shall oversee and determine the use of funds generated through contributions.

(e) Each regional foundation shall provide the secretary with the following information:

(1) Its investment philosophy, including how the regional foundation intends to target the funds generated through contributions towards specific industries, businesses, services, or products; and

(2) a written policy describing the criteria and procedures that the regional foundation intends to use to review and to approve or deny applications submitted to the foundation for the use of funds within the region.

(f) Each regional foundation shall provide the secretary with a list of projects that provide economic and leadership development appropriate for that region.

(g) If the agencies and organizations within a region are unable to propose a regional foundation pursuant to subsection (a), each agency or organization within the region requesting designation as the regional foundation shall submit the following information to the secretary for determination as to the designation of the regional foundation:

(1) The name, address, and history of the agency or organization and the manner in which the agency or organization qualifies pursuant to subsection (c);

(2) a list of the names and occupations of the board of directors who are proposed by the agency or organization;

(3) a history of the agency’s or organization’s economic development activities;

(4) the types of supporting proposals for funding that the agency or organization believes are best suited to the region and the supporting reasons;

(5) the reason that the agency or organization is best suited to lead and moderate economic development projects in the region;

(6) a description of the prior fund-raising capacity of the members of the agency or organization; and

(7) examples of community support within the region for the applicant’s appointment as the regional foundation. (Authorized by K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 74-50,154; effective Aug. 12, 2005.)

110-13-4. Regional business development funds; eligible projects. (a) Each regional foundation shall administer a regional business development fund.

(b) The sums generated by contributions to each regional business development fund shall be allocated according to the following provisions:

(1) No less than 60 percent may be allocated for job creation or retention.

(2) A maximum of 10 percent may be allocated towards the administrative cost of overseeing the project.

(3) The remaining funds may be allocated towards other eligible activities in a manner that fits the region's priorities and needs.

(c) Contributions to the fund shall be utilized by the regional foundation for one or more of the following projects:

- (1) Business start-ups;
- (2) business expansion
- (3) business retention;
- (4) business support services;
- (5) regional leadership development;
- (6) technology improvements; and
- (7) administrative services.

(d) All interest generated on idle funds administered for this program by the regional foundation shall be used by the foundation's board in a manner not inconsistent with this regulation.

(e) Any regional foundation may exceed the maximum percentages allowed for one or more eligible projects with the prior approval of the secretary. (Authorized by K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 74-5005, as amended by L. 2005, ch. 104, sec. 9, and K.S.A. 74-5007a; effective Aug. 12, 2005; amended May 5, 2006.)

110-13-5. Allocation of tax credits. (a) Each regional foundation shall contract with the department for the foundation's utilization of tax credits through a tax credit agreement.

(b) Each regional foundation shall initially receive an equal share of the total amount of tax credits allocated in a given fiscal year.

(c) Each tax credit agreement shall be reviewed by the secretary on the anniversary date of the agreement to determine whether the regional foundation is utilizing its tax credits. The regional foundation shall attempt to achieve 100 percent utilization of the tax credits. Compliance with this level of utilization of tax credits shall be ascertained by the secretary through quarterly and annual reviews. (Authorized by K.S.A. 2004 Supp.

74-5002r and K.S.A. 2004 Supp. 74-50,154; implementing K.S.A. 2004 Supp. 74-50,154; effective Aug. 12, 2005.)

110-13-6. Reallocation of tax credits. (a) If the secretary determines that allocated tax credits are not being utilized in the manner specified in the regional foundation's approved proposal, the tax credits may be reallocated by the secretary to other regional foundations that have utilized all of the tax credits originally assigned to them.

(b) Tax credits may be reclaimed by the secretary, if the secretary determines that there is no specific use anticipated by a regional foundation for the foundation's remaining tax credits. A written notice shall be sent by the secretary to the regional foundation 30 days after the annual review of the tax credit agreement. The notice shall indicate the amount of unclaimed tax credits and instruct the foundation to submit a utilization schedule within 15 calendar days. Within 15 calendar days after the deadline for the foundation's response, a decision whether to reclaim the remaining tax credits from the regional foundation shall be made by the secretary.

(c) No regional foundation shall seek or take contributions for encumbering any reallocated tax credits until authorized in writing by the secretary. (Authorized by K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 74-50,154(c)(5); effective Aug. 12, 2005.)

110-13-7. Appeals. Any regional foundation may appeal the reallocation of its tax credits, if the secretary's decision involves the reallocation of over 10 percent of the foundation's annual allocation of tax credits. Each appeal shall be submitted in writing to the secretary within 30 calendar days of notice of the reallocation, stating the reasons for the appeal and the course of action requested by the regional foundation to satisfy the deficiencies noted by the secretary in the notice. Each appeal shall be decided by the secretary within 15 calendar days of receipt of the appeal request. (Authorized by and implementing K.S.A. 2004 Supp. 74-5002r; effective Aug. 12, 2005.)

110-13-8. Progress reports. Each regional foundation shall submit quarterly progress reports concerning its projects to the secretary on or before January 10, April 10, July 10, and October 10 each year. A quarterly progress report shall be due even if no tax credit is utilized in that quarter. If a regional foundation does not submit these reports

by the specified dates, the regional foundation shall not take contributions from taxpayers for tax credits and shall not submit tax credit applications for processing by the department until the delinquent quarterly progress reports have been filed with the department. (Authorized by K.S.A. 2004 Supp. 74-5002r; implementing K.S.A. 2004 Supp. 74-50,154; effective Aug. 12, 2005.)

110-13-9. Auditing. Each regional foundation receiving tax credits shall have an annual financial and compliance audit performed according to standard auditing procedures. Each audit shall be performed by an independent certified public accountant (CPA) who is licensed in Kansas. The audit report shall be submitted by the independent CPA to the secretary on or before February 28 each year. (Authorized by K.S.A. 2004 Supp. 74-5002r and K.S.A. 2004 Supp. 74-50,154; implementing K.S.A. 2004 Supp. 74-50,154; effective Aug. 12, 2005.)

110-13-10. Administration of contributions and regional business development fund. (a) Until the secretary approves each contribution from a taxpayer to the regional foundation as being eligible for tax credits, the regional foundation shall not consider, and the foundation shall not communicate to any taxpayer, that the contribution is entitled to a tax credit under this act.

(b) Each regional foundation being allocated tax credits shall open an account for the regional business development fund in a bank or other financial institution located in the state of Kansas that is insured by either the federal deposit insurance corporation (FDIC) or the national credit union share insurance fund (NCUSIF). The foundation shall deposit any funds related to each project in that account.

(c) Each contribution by taxpayers made to the regional foundation shall indicate that the contribution is to be allocated to the regional foundation's regional business development fund as specified in the regional foundation's approved proposal.

(d) Any regional foundation may amend its budget if the scope of work for the projects remains the same. Each amendment exceeding 10 percent of the regional foundation's total regional business development fund budget shall require the approval of both the regional foundation's board of directors and the secretary.

(e) When requesting contributions from individuals and businesses, the regional foundation

shall not utilize tax credits in excess of the amount allocated by the secretary. (Authorized by K.S.A. 2006 Supp. 74-5002r and K.S.A. 2006 Supp. 74-50,154; implementing K.S.A. 2006 Supp. 74-50,154; effective Aug. 12, 2005; amended Nov. 26, 2007.)

Article 13a.—ENTERPRISE FACILITATION FUND

110-13a-1. Definitions. As used in these regulations and for the purposes of administering the enterprise facilitation fund pursuant to K.S.A. 74-50,154 and amendments thereto, the following definitions shall apply:

(a) "Agreement" means the agreement by each EF group to use the EF funds as authorized by the secretary. This term shall include the reporting requirements regarding the actual expenditures of the funds and results of each project.

(b) "Community boards" means a local board of community volunteers that includes an executive board who manages the day-to-day business for each EF group.

(c) "Department" means the Kansas department of commerce.

(d) "Enterprise facilitation fund" and "EF fund" mean the fund created by K.S.A. 74-50,155(a) and amendments thereto.

(e) "Enterprise facilitation group" and "EF group" mean an entity recognized by the secretary that provides guidance to entrepreneurs and existing businesses.

(f) "Enterprise facilitation project" and "project" mean activities based on a plan developed by an EF group to help small communities develop new small businesses through entrepreneurs and to develop existing businesses so that the businesses can operate more efficiently or expand.

(g) "Entrepreneur" means an individual creating, organizing, or managing a new business or service.

(h) "Facilitator" means an individual hired by a community board to provide intensive, one-on-one management coaching and networking assistance, by linking entrepreneurs and small businesses to programs and resources offered by development organizations and professionals.

(i) "Fiscal agent" means the entity authorized by an EF group to administer funds on behalf of the EF group.

(j) "Fiscal year" means the 12-month period beginning July 1 and ending June 30.

(k) “Operating costs” means the day-to-day costs incurred by an EF group, including costs for salaries, travel, telephones, photocopiers, utilities, office equipment, and rent.

(l) “Secretary” means secretary of the department of commerce. (Authorized by and implementing K.S.A. 2007 Supp. 74-50,154 and 74-50,155; effective July 25, 2008.)

110-13a-2. Application requirements for enterprise facilitation project funding. (a) Each enterprise facilitation group shall be notified by the department of the award amount available for each group within 15 business days following the deadline for the regional foundations to transfer the percentage of funds raised during the previous fiscal year as required by K.S.A. 74-50,154(c)(1), and amendments thereto. All such funds transferred to the department shall be awarded to the enterprise facilitation groups to be used for operating costs.

(b) To be eligible for funding from the enterprise facilitation fund, each enterprise facilitation group shall meet the following requirements:

(1) Submit the following to the secretary:

(A) An annual progress report; and

(B) the most recent quarterly progress reports; and

(2) enter into an agreement with the department.

(c) The agreement specified in paragraph (b) (2) shall state the intended use of the funds, the reporting requirements for the expenditure of funds, and the anticipated results of each project.

(d) Each eligible enterprise facilitation group shall receive an equal portion of the total funds transferred to the department pursuant to K.S.A. 74-50,154(c)(1), and amendments thereto. Funding shall be disbursed to each eligible enterprise facilitation group within 15 business days of execution of the agreement specified in this regulation. If an enterprise facilitation group ceases to exist or is otherwise not eligible for funding, that group’s unexpended or remaining or unused allocation shall be returned to the enterprise facilitation fund. That allocation shall then be divided equally among the remaining eligible enterprise facilitation groups. (Authorized by and implementing K.S.A. 2007 Supp. 74-50,154 and 74-50,155; effective July 25, 2008.)

110-13a-3. Reporting. (a) Each enterprise facilitation group that receives funding under

K.S.A. 74-50,154(c)(1), and amendments thereto, shall submit the following reports to the secretary:

(1) Quarterly progress reports, which shall be submitted on or before January 10, April 10, July 10, and October 10 of each year, on a form prescribed by the secretary. Each report shall contain the following information for that quarter:

(A) The number of new jobs created by the enterprise facilitation group;

(B) the number of new businesses created;

(C) the number of clients served; and

(D) the number of expanded businesses; and

(2) an annual report, which shall be submitted no later than 30 days after each transfer of funds as required by K.S.A. 74-50,154(c)(1), and amendments thereto. Each report shall contain the following information:

(A) For the past year, identification of each county participating in each project, the amount of funding contributed, and any anticipated changes in county participation;

(B) an overview of the EF group’s activities during the past year;

(C) any anticipated challenges or concerns impacting each project over the next one to three years;

(D) a list of the perceived strengths of each project in terms of assisting entrepreneurs;

(E) any areas that the enterprise facilitation group desires to improve;

(F) the budget for the upcoming year; and

(G) a list of current executive board members and contact information.

(c) If a quarterly or annual progress report is not timely received, any future EF funds may be withheld by the secretary until the reporting requirements are met. (Authorized by and implementing K.S.A. 2007 Supp. 74-50,154; effective July 25, 2008.)

Article 14.—INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAM ACT

110-14-1. Allocation of tax credit to program contributors. (a) The amount of the approved tax credit for each program contributor shall be certified by the department. A certification shall be sent by the department to the program contributor. The department of revenue shall be notified by the secretary of each certified program contributor and of the amount of the approved tax credit for the program contributor.

(b) Each program contributor shall submit the certification specified in subsection (a) with the program contributor's tax return filed with the department of revenue. The tax credit shall be claimed for only the tax year in which the contribution was made. (Authorized by K.S.A. 2005 Supp. 74-50,203; implementing K.S.A. 2005 Supp. 74-50,208; effective Dec. 29, 2006.)

110-14-2. Tax credit. The maximum amount of tax credit that a community-based organization may receive each fiscal year shall not exceed \$100,000. However, if the aggregate amount of requests for tax credit by community-based organizations is less than \$500,000 as authorized by K.S.A. 74-50,208 and amendments thereto, additional tax credit may be awarded by the secretary to a qualified and previously approved community-based organization. (Authorized by K.S.A. 2005 Supp. 74-50,203; implementing K.S.A. 2005 Supp. 74-50,208; effective Dec. 29, 2006.)

**Article 15.—KANSAS ENERGY
DEVELOPMENT ACT; REFINERY AND
EXPANDED REFINERY PROJECTS**

110-15-1. Definitions. As used in this article, the following terms shall have the following meanings:

(a) "Act" means the Kansas energy development act, K.S.A. 79-32,216 et seq., and amendments thereto.

(b) "Amortizable costs" means any costs depreciable under title 26 of the United States Code of 1986.

(c) "Capacity" means the estimated maximum volume, measured in gallons, of processed crude oil and petroleum products that has been or could be produced from an existing or restored refinery.

(d) "Construction" means the manifest commencement of actual operations on a project site, including erecting a building, excavating the ground, and any similar work that a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

(e) "Department" means the Kansas department of commerce.

(f) "Expenditure" means any cost incurred in the normal course of business to generate revenues. This term shall include expenditures for engineering and architectural services and for real and tangible personal property made for the

construction of a new refinery, expansion of an existing refinery, or restoration of production of a refinery.

(g) "Out of production" means that no commercial crude oil processing or refinement into petroleum products has taken place five or more years before the date of an application submitted under the act.

(h) "Placed in service," when used to describe a date, means the date on which an asset is placed into service. This date is considered to be when the asset is in a condition of readiness and availability for a specifically assigned function.

(i) "Project" means a new refinery, an expanded refinery, or a refinery whose production has been restored.

(j) "Qualified investment" has the meaning specified in K.S.A. 79-32,217, and amendments thereto. This term shall not include expenditures financed, in whole or in part, by public funds or grants or by any similar type of financial assistance.

(k) "Real property" means land and real estate. This term shall include not only the land itself but also all buildings, fixtures, improvements, mines, minerals, quarries, mineral springs, and wells.

(l) "Secretary" means the secretary of the Kansas department of commerce.

(m) "Tangible investment" means an investment in tangible personal or real property.

(n) "Taxpayer" means an applicant for tax benefits or a recipient of tax benefits under the act. (Authorized by K.S.A. 2006 Supp. 74-5002r and K.S.A. 2006 Supp. 79-32,218, as amended by L. 2007, ch. 113, sec. 24; implementing K.S.A. 2006 Supp. 79-32,217, K.S.A. 2006 Supp. 79-32,218, as amended by L. 2007, ch. 113, sec. 24, and K.S.A. 2006 Supp. 79-32,220; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

110-15-2. Application; additional documentation. (a) Each taxpayer that desires to obtain tax benefits under the act shall submit an application, on a form provided by the department, to the secretary for a determination of whether the taxpayer's project qualifies for tax benefits under the act. Each application shall include the following:

(1) Documentation including a detailed description of the project that is the subject of the application;

(2) a statement explaining how the proposed project meets the requirements set forth in the act;

(3) a project timeline and budget;

(4) adequate documentation that the taxpayer has satisfied the requirements set forth in the act;

(5) a statement describing in detail the ownership structure of the project, including the name of each legal entity and the entity's proportion of ownership interest, which shall be expressed as a percentage of the project; and

(6) any other relevant information required by the secretary to determine the eligibility of the taxpayer for tax benefits under the act.

(b) If any of the items specified in subsection (a) are not included or if the secretary requires additional information, the taxpayer shall be notified about the items or information required to be provided to the secretary before the secretary can make a determination on the eligibility of the taxpayer for tax benefits under the act. (Authorized by and implementing K.S.A. 2006 Supp. 79-32,218, as amended by L. 2007, ch. 113, sec. 24; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

110-15-3. Secretary's review and determination. (a) Upon completion of the secretary's review of each application for tax benefits under the act, each taxpayer on whose behalf the application was submitted shall receive a written response containing a determination on the application or seeking further information.

(b) A determination on each application for tax benefits under the act shall be made by the secretary within 60 days of receipt of the information required by the act or K.A.R. 110-15-2, or both. If the secretary's written response seeks further information, the 60-day time frame established in this subsection shall be suspended beginning on the date on which the letter seeking additional information is mailed and through the date on which the additional information is received by the secretary.

(c) A copy of the secretary's determination shall be mailed to each taxpayer identified on the application as having an ownership interest in the project. (Authorized by and implementing K.S.A. 2006 Supp. 79-32,218, as amended by L. 2007, ch. 113, sec. 24; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

110-15-4. Annual compliance and audit. In order to be eligible for annual installments of tax benefits available under the act, each taxpayer shall provide the secretary with all documentation necessary for the secretary to determine whether

the taxpayer is in compliance with the agreement as required by K.S.A. 79-32,218, and amendments thereto, and any other requirements under the act. This documentation shall include the following:

(a) Records documenting the operation of the new, expanded, or restored refinery, including production records and any related documentation from which the secretary can determine whether the new, expanded, or restored refinery is in operation; and

(b) one copy of each pertinent federal tax return, state tax return, tax schedule, and any related documentation pertaining to the operation of any facility for which tax benefits are sought pursuant to the act. (Authorized by and implementing K.S.A. 2006 Supp. 79-32,218, as amended by L. 2007, ch. 113, sec. 24; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

Article 16.—KANSAS ENERGY DEVELOPMENT ACT; NEW QUALIFYING PIPELINE PROJECTS

110-16-1. Definitions. As used in these regulations, the following terms shall have the following meanings:

(a) "Access for state refineries" means that refineries or natural gas liquid processing facilities existing in Kansas before an application for benefits is submitted under the act shall have direct or indirect access through a mechanism to ensure the efficient transportation of crude or processed oil to the pipeline for which an application for tax benefits has been submitted.

(b) "Act" means the Kansas energy development act, K.S.A. 79-32,216 et seq., and amendments thereto.

(c) "Amortizable costs" means any costs depreciable under title 26 of the United States Code of 1986.

(d) "Capacity" means the estimated maximum volume, measured in gallons, of crude oil or natural gas liquids that has been or could be transported from a pipeline located in this state.

(e) "Construction" means the manifest commencement of actual operations on a project site, including erecting a building, excavating the ground, and any similar work that a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

(f) "Department" means the Kansas department of commerce.

(g) “Expenditure” means any cost incurred in the normal course of business to generate revenues. This term shall include expenditures for engineering and architectural services and for real and tangible personal property made for the construction of a new qualifying pipeline.

(h) “Placed in service,” when used to describe a date, means the date on which an asset is placed into service. This date is considered to be when the asset is in a condition of readiness and availability for a specifically assigned function.

(i) “Project” means a new qualifying pipeline.

(j) “Qualified investment” has the meaning specified in K.S.A. 79-32,223, and amendments thereto. This term shall not include any expenditures financed, in whole or in part, by public funds or grants or by any similar type of financial assistance.

(k) “Real property” means land and real estate. This term shall include not only the land itself but also all buildings, fixtures, improvements, mines, minerals, quarries, mineral springs, and wells.

(l) “Secretary” means the secretary of the Kansas department of commerce.

(m) “Tangible investment” means an investment in tangible personal or real property.

(n) “Taxpayer” means an applicant for tax benefits or a recipient of tax benefits under the act. (Authorized by K.S.A. 2006 Supp. 74-5002r and K.S.A. 2006 Supp. 79-32,224, as amended by L. 2007, ch. 113, sec. 25; implementing K.S.A. 2006 Supp. 79-32,223 and K.S.A. 2006 Supp. 79-32,224, as amended by L. 2007, ch. 113, sec. 25; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

110-16-2. Application; additional documentation. (a) Each taxpayer that desires to obtain tax benefits under the act shall submit an application, on a form provided by the department, to the secretary for a determination of whether the taxpayer’s project qualifies for tax benefits under the act. Each application shall include the following:

(1) Documentation including a detailed description of the project that is the subject of the application;

(2) a statement explaining how the proposed project meets the requirements set forth in the act;

(3) a project timeline and budget;

(4) adequate documentation that the taxpayer has satisfied the requirements set forth in the act;

(5) a statement describing in detail the ownership structure of the project, including the name

of each legal entity and the proportion of ownership interest, which shall be expressed as a percentage of the project; and

(6) any other relevant information required by the secretary to determine the eligibility of the taxpayer for tax benefits under the act.

(b) If any of the items specified in subsection (a) are not included or if the secretary requires additional information, the taxpayer shall be notified about the items or information required to be provided to the secretary before the secretary can make a determination on the eligibility of the taxpayer for tax benefits under the act. (Authorized by and implementing K.S.A. 2006 Supp. 79-32,224, as amended by L. 2007, ch. 113, sec. 25; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

110-16-3. Secretary’s review and determination. (a) Upon completion of the secretary’s review of each application for tax benefits under the act, each taxpayer on whose behalf the application was submitted shall receive a written response containing a determination on the application or seeking further information.

(b) A determination on each application for tax benefits under the act shall be made by the secretary within 60 days of receipt of the information required by the act or K.A.R. 110-16-2, or both. If the secretary’s written response seeks further information, the 60-day time frame established in this subsection shall be suspended beginning on the date on which the letter seeking additional information is mailed and through the date on which the additional information is received by the secretary.

(c) A copy of the secretary’s determination shall be mailed to each taxpayer identified on the application as having an ownership interest in the project. (Authorized by and implementing K.S.A. 2006 Supp. 79-32,224, as amended by L. 2007, ch. 113, sec. 25; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

110-16-4. Annual compliance and audit. In order to be eligible for annual installments of tax benefits available under the act, each taxpayer shall provide the secretary with all documentation necessary for the secretary to determine whether the taxpayer is in compliance with the agreement as required by K.S.A. 79-32,224, and amendments thereto, and any other requirements under the act. This documentation shall include the following:

(a) Records documenting the operation of the new qualifying pipeline, including production records and any related documentation from which the secretary can determine whether the new qualifying pipeline is in operation; and

(b) one copy of each pertinent federal tax return, state tax return, tax schedule, and any related documentation pertaining to operation of any facility for which tax benefits are sought pursuant to the act. (Authorized by and implementing K.S.A. 2006 Supp. 79-32,224, as amended by L. 2007, ch. 113, sec. 25; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

**Article 17.—KANSAS ENERGY
DEVELOPMENT ACT; INTEGRATED
COAL OR COKE GASIFICATION
NITROGEN FERTILIZER PLANTS**

110-17-1. Definitions. As used in this article, the following terms shall have the following meanings:

(a) “Act” means the Kansas energy development act, K.S.A. 79-32,216 et seq., and amendments thereto.

(b) “Amortizable costs” means any costs depreciable under title 26 of the United States Code of 1986.

(c) “Availability of Kansas coal” means that amount of coal from Kansas that, at the secretary’s discretion, is available for use in an economically practicable manner in an integrated coal gasification nitrogen fertilizer plant.

(d) “Capacity” means the amount of nitrogen fertilizer, measured in pounds, that has been or could be produced from an existing coal or coke gasification nitrogen fertilizer plant.

(e) “Construction” means the manifest commencement of actual operations on a project site, including erecting a building, excavating the ground, and any similar work that a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

(f) “Department” means the Kansas department of commerce.

(g) “Expenditure” means any cost incurred in the normal course of business to generate revenues. This term shall include expenditures for engineering and architectural services and for real and tangible personal property made for the construction of an existing coal or coke gasification nitrogen fertilizer plant or a new integrated coal or coke gasification nitrogen fertilizer plant.

(h) “Placed in service,” when used to describe a date, means the date on which an asset is placed into service. This date is considered to be when the asset is in a condition of readiness and availability for a specifically assigned function.

(i) “Project” means a new integrated coal or coke gasification nitrogen fertilizer plant or the expansion of an existing integrated coal or coke gasification nitrogen fertilizer plant.

(j) “Qualified investment” has the meaning specified in K.S.A. 79-32,228, and amendments thereto. This term shall not include any expenditures financed, in whole or in part, by public funds or grants or by any similar type of financial assistance.

(k) “Real property” means land and real estate. This term shall include not only the land itself but also all buildings, fixtures, improvements, mines, minerals, quarries, mineral springs, and wells.

(l) “Secretary” means the secretary of the Kansas department of commerce.

(m) “Tangible investment” means an investment in tangible personal or real property.

(n) “Taxpayer” means an applicant for tax benefits or a recipient of tax benefits under the act.

(o) “Tipple” means a structure where coal is cleaned and loaded in railroad cars or trucks or any other form of transportation. (Authorized by K.S.A. 2006 Supp. 74-5002r and K.S.A. 2006 Supp. 79-32,229, as amended by L. 2007, ch. 113, sec. 26; implementing K.S.A. 2006 Supp. 79-32,228, K.S.A. 2006 Supp. 79-32,229, as amended by L. 2007, ch. 113, sec. 26, and K.S.A. 2006 Supp. 79-32,231; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

110-17-2. Application; additional documentation. (a) Each taxpayer that desires to obtain tax benefits under the act shall submit an application, on a form provided by the department, to the secretary for a determination of whether the taxpayer’s project qualifies for tax benefits under the act. Each application shall include the following:

(1) Documentation including a detailed description of the project that is the subject of the application;

(2) a statement explaining how the proposed project meets the requirements set forth in the act;

(3) a project timeline and budget;

(4) adequate documentation that the taxpayer has satisfied the requirements set forth in the act;

(5) a statement describing in detail the ownership structure of the project, including the name

of each legal entity and the proportion of ownership interest, which shall be expressed as a percentage of the project; and

(6) any other relevant information required by the secretary to determine the eligibility of the taxpayer for tax benefits under the act.

(b) If any of the items specified in subsection (a) are not included or if the secretary requires additional information, the taxpayer shall be notified about the items or information required to be provided to the secretary before the secretary can make a determination on the eligibility of the taxpayer for tax benefits under the act. (Authorized by and implementing K.S.A. 2006 Supp. 79-32,229, as amended by L. 2007, ch. 113, sec. 26; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

110-17-3. Secretary's review and determination. (a) Upon completion of the secretary's review of each application for tax benefits under the act, each taxpayer on whose behalf the application was submitted shall receive a written response containing a determination on the application or seeking further information.

(b) A determination on each application for tax benefits under the act shall be made by the secretary within 60 days of receipt of the information required by the act or K.A.R. 110-17-2, or both. If the secretary's written response seeks further information, the 60-day time frame established in this subsection shall be suspended beginning on the date on which the letter seeking additional information is mailed and through the date on which the additional information is received by the secretary.

(c) A copy of the secretary's determination shall be mailed to each taxpayer identified on the application as having an ownership interest in the project. (Authorized by and implementing K.S.A. 2006 Supp. 79-32,229, as amended by L. 2007, ch. 113, sec. 26; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

110-17-4. Annual compliance and audit. In order to be eligible for annual installments of tax benefits available under the act, each taxpayer shall provide the secretary with all documentation necessary for the secretary to determine whether the taxpayer is in compliance with the agreement as required by K.S.A. 79-32,229, and amendments thereto, and any other requirements under the act. This documentation shall include the following:

(a) Records documenting the operation of the new, expanded, or integrated coal or coke gasification nitrogen fertilizer plant, including production records and any related documentation from which the secretary can determine whether the new, expanded, or integrated coal or coke gasification nitrogen fertilizer plant is in operation; and

(b) one copy of each pertinent federal tax return, state tax return, tax schedule, and any related documentation pertaining to the operation of any facility for which tax benefits are sought pursuant to the act. (Authorized by and implementing K.S.A. 2006 Supp. 79-32,229, as amended by L. 2007, ch. 113, sec. 26; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

Article 18.—KANSAS ENERGY DEVELOPMENT ACT; BIOMASS TO ENERGY PROJECTS

110-18-1. Definitions. As used in these regulations, the following terms shall have the following meanings:

(a) "Act" means the Kansas energy development act, K.S.A. 79-32,216 et seq., and amendments thereto.

(b) "Amortizable costs" means any costs depreciable under title 26 of the United States Code of 1986.

(c) "Capacity" means the estimated amount, measured in gallons or British thermal units or their equivalent, that has been or could be produced from an existing or new biomass-to-energy plant.

(d) "Construction" means the manifest commencement of actual operations on a project site, including erecting a building, excavating the ground, and similar work that a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

(e) "Department" means the Kansas department of commerce.

(f) "Expenditure" means any cost incurred in the normal course of business to generate revenues. This term shall include expenditures for engineering and architectural services and for real and tangible personal property made for the construction of a new biomass-to-energy plant or the expansion of an existing biomass-to-energy plant.

(g) "Placed in service," when used to describe a date, means the date on which an asset is placed into service. This date is considered to be when

the asset is in a condition of readiness and availability for a specifically assigned function.

(h) "Project" means a new or expanded biomass-to-energy plant.

(i) "Qualified investment" has the meaning specified in K.S.A. 79-32,233, and amendments thereto. This term shall not include any expenditures financed, in whole or in part, by public funds or grants or by any similar type of financial assistance.

(j) "Real property" means land and real estate. This term shall include not only the land itself but also all buildings, fixtures, improvements, mines, minerals, quarries, mineral springs, and wells.

(k) "Secretary" means the secretary of the Kansas department of commerce.

(l) "Tangible investment" means an investment in tangible personal or real property.

(m) "Taxpayer" means an applicant for tax benefits or a recipient of tax benefits under the act. (Authorized by K.S.A. 2006 Supp. 74-5002r and K.S.A. 2006 Supp. 79-32,234, as amended by L. 2007, ch. 113, sec. 28; implementing K.S.A. 2006 Supp. 79-32,233, as amended by L. 2007, ch. 113, sec. 27, K.S.A. 2006 Supp. 79-32,234, as amended by L. 2007, ch. 113, sec. 28, and K.S.A. 2006 Supp. 79-32,236; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

110-18-2. Application; additional documentation. (a) Each taxpayer that desires to obtain tax benefits under the act shall submit an application, on a form provided by the department, to the secretary for a determination of whether the taxpayer's project qualifies for tax benefits under the act. Each application shall include the following:

(1) Documentation including a detailed description of the project that is the subject of the application;

(2) a statement explaining how the proposed project meets the requirements set forth in the act;

(3) a project timeline and budget;

(4) adequate documentation that the taxpayer has satisfied the requirements set forth in the act;

(5) a statement describing in detail the ownership structure of the project, including the name of each legal entity and the proportion of ownership interest, which shall be expressed as a percentage of the project; and

(6) any other relevant information required by the secretary to determine the eligibility of the taxpayer for tax benefits under the act.

(b) If any of the items specified in subsection (a) are not included or if the secretary requires additional information, the taxpayer shall be notified about the items or information required to be provided to the secretary before the secretary can make a determination on the eligibility of the taxpayer for tax benefits under the act. (Authorized by and implementing K.S.A. 2006 Supp. 79-32,234, as amended by L. 2007, ch. 113, sec. 28; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

110-18-3. Secretary's review and determination. (a) Upon completion of the secretary's review of each application for tax benefits under the act, each taxpayer on whose behalf the application was submitted shall receive a written response containing a determination on the application or seeking further information.

(b) A determination on each application for tax benefits under the act shall be made by the secretary within 60 days of receipt of the information required by the act or K.A.R. 110-18-2, or both. If the secretary's written response seeks further information, the 60-day time frame established in this subsection shall be suspended beginning on the date on which the letter seeking additional information is mailed and through the date on which the additional information is received by the secretary.

(c) A copy of the secretary's determination shall be mailed to each taxpayer identified on the application as having an ownership interest in the project. (Authorized by and implementing K.S.A. 2006 Supp. 79-32,234, as amended by L. 2007, ch. 113, sec. 28; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

110-18-4. Annual compliance and audit. In order to be eligible for annual installments of tax benefits awarded under the act, each taxpayer shall provide the secretary with all documentation necessary for the secretary to determine whether the taxpayer is in compliance with the agreement as required by K.S.A. 79-32,234, and amendments thereto, and any other requirements under the act. This documentation shall include the following:

(a) Records documenting the operation of the new or expanded biomass-to-energy plant, including production records and any related documentation from which the secretary can determine whether the new or expanded biomass-to-energy plant is in operation; and

(b) one copy of each pertinent federal tax return, state tax return, tax schedule, and any related documentation pertaining to the operation of any facility for which tax benefits are sought pursuant to the act. (Authorized by and implementing K.S.A. 2006 Supp. 79-32,234, as amended by L. 2007, ch. 113, sec. 28; effective, T-110-10-10-07, Oct. 10, 2007; effective Dec. 21, 2007.)

**Article 19.—KANSAS ENERGY
DEVELOPMENT ACT; RENEWABLE
ELECTRIC COGENERATION
FACILITY PROJECTS**

110-19-1. Definitions. As used in this article, the following terms shall have the following meanings:

(a) “Act” means the Kansas energy development act, K.S.A. 79-32,216 et seq., and amendments thereto.

(b) “Amortizable costs” means any costs depreciable under title 26 of the United States Code of 1986.

(c) “Construction” means the manifest commencement of actual operations at a new renewable electric cogeneration facility site, including erecting a building, excavating the ground, installing equipment, and any similar work that a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

(d) “Department” means the Kansas department of commerce.

(e) “Expenditure” means any cost incurred in the normal course of business to generate revenues. This term shall include expenditures for engineering and architectural services and for real and tangible personal property made for the construction of a new renewable electric cogeneration facility.

(f) “Industrial, commercial, or agricultural process” means any activity conducted for a profit and primarily involved with any of the following:

(1) The manufacturing process resulting in the making of a product suitable for use;

(2) the retail, wholesale, or other distribution of a product or service;

(3) the practice of cultivating the soil, producing crops, or raising livestock; or

(4) the preparation and marketing of the products resulting from any activity specified in paragraph (f)(1), (2), or (3).

(g) “Operation” means the use of equipment to produce electricity resulting in the displacement

of current electrical use or providing for future electrical use.

(h) “Placed in service,” when used to describe a date, means the date on which a new renewable electric cogeneration facility is placed into service. This date is considered to be when the new renewable electric cogeneration facility is in a condition of readiness and availability for its specifically assigned function.

(i) “Project” means a new renewable electric cogeneration facility, as defined in K.S.A. 79-32,245 and amendments thereto.

(j) “Qualified investment” has the meaning specified in K.S.A. 79-32,245, and amendments thereto. This term shall not include expenditures financed, in whole or in part, by public funds or grants or by any similar type of financial assistance.

(k) “Real property” means land and real estate. This term shall include not only the land itself but also all buildings, fixtures, and improvements.

(l) “Renewable energy resources technologies” has the meaning specified in K.S.A. 79-201, and amendments thereto.

(m) “Secretary” means the secretary of the Kansas department of commerce.

(n) “Tangible investment” means an investment in tangible personal or real property.

(o) “Taxpayer” means an applicant for tax benefits or a recipient of tax benefits under the act. (Authorized by K.S.A. 2007 Supp. 74-5002r and K.S.A. 2007 Supp. 79-32,246; implementing K.S.A. 2007 Supp. 79-32,246, K.S.A. 2007 Supp. 79-32,247, and K.S.A. 2007 Supp. 79-32,248; effective July 25, 2008.)

110-19-2. Application; additional documentation. (a) Each taxpayer that desires to obtain tax benefits under the act shall submit an application, on a form provided by the department, to the secretary for a determination of whether the taxpayer’s project qualifies for tax benefits under the act. Each application shall include the following:

(1) Documentation including a detailed description of the project that is the subject of the application;

(2) a statement explaining how the proposed project meets the requirements set forth in the act;

(3) a project timeline and budget;

(4) adequate documentation that the taxpayer has satisfied the requirements set forth in the act;

(5) a statement describing in detail the ownership structure of the project, including the name

of each legal entity and the entity's proportion of ownership interest, which shall be expressed as a percentage of the project; and

(6) any other relevant information required by the secretary to determine the eligibility of the taxpayer for tax benefits under the act.

(b) If any of the items specified in subsection (a) are not included or if the secretary requires additional information, the taxpayer shall be notified about the items or information required to be provided to the secretary before the secretary can make a determination on the eligibility of the taxpayer for tax benefits under the act. (Authorized by and implementing K.S.A. 2007 Supp. 79-32,246; effective July 25, 2008.)

110-19-3. Secretary's review and determination. (a) Upon completion of the secretary's review of each application for tax benefits under the act, each taxpayer on whose behalf the application was submitted shall receive a written response containing a determination on the application or seeking further information.

(b) A determination on each application for tax benefits under the act shall be made by the secretary within 60 days of receipt of the information required by the act or K.A.R. 110-19-2, or both. If the secretary's written response seeks further information, the 60-day time frame established in this subsection shall be suspended beginning on the date on which the letter seeking additional information is mailed and through the date on which the additional information is received by the secretary.

(c) A copy of the secretary's determination shall be mailed to each taxpayer identified on the application as having an ownership interest in the project. (Authorized by and implementing K.S.A. 2007 Supp. 79-32,246; effective July 25, 2008.)

110-19-4. Annual compliance and audit. In order to be eligible for annual installments of tax benefits available under the act, each taxpayer shall provide the secretary with all documentation necessary for the secretary to determine whether the taxpayer is in compliance with the agreement as required by K.S.A. 79-32,246, and amendments thereto, and any other requirements under the act. This documentation shall include the following:

(a) Records documenting the operation of the new renewable electric cogeneration facility, including production records and any related documentation from which the secretary can de-

termine whether the new renewable electric cogeneration facility is in operation; and

(b) one copy of each pertinent federal tax return, state tax return, tax schedule, and any related documentation pertaining to the operation of any facility for which tax benefits are sought pursuant to the act. (Authorized by and implementing K.S.A. 2007 Supp. 79-32,246; effective July 25, 2008.)

Article 20.—KANSAS ENERGY DEVELOPMENT ACT; STORAGE AND BLENDING EQUIPMENT PROJECTS

110-20-1. Definitions. As used in these regulations, the following terms shall have the following meanings:

(a) "Act" means the Kansas energy development act, K.S.A. 79-32,216 et seq., and amendments thereto.

(b) "Amortizable costs" means any costs depreciable under title 26 of the United States Code of 1986.

(c) "Blended fuel" means a blend of petroleum-based fuel and at least 10 percent of any of the following:

- (1) Biodiesel;
- (2) ethanol (ethyl alcohol); or
- (3) any other biofuel.

(d) "Construction or installation" means the manifest commencement of work on a project site, including either of the following:

(1) Performing any of the following at a fuel terminal, refinery, or biofuel production plant:

- (A) Erecting a building;
- (B) excavating the ground; or
- (C) affixing storage and blending equipment; or

(2) performing any similar work that a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

(e) "Department" means the Kansas department of commerce.

(f) "Expenditure" means any cost incurred in the normal course of business to generate revenues. This term shall include expenditures for engineering and architectural services and for real and tangible personal property made for the purchase, construction, or installation of storage and blending equipment.

(g) "Operation" means the use of storage and blending equipment to produce biofuels for distribution into the wholesale or retail markets.

(h) “Placed in service,” when used to describe a date, means the date on which storage and blending equipment is placed into service. This date is considered to be when the storage and blending equipment is in a condition of readiness and availability for a specifically assigned function.

(i) “Project” means the construction or installation of storage and blending equipment at a fuel terminal, refinery, or biofuel production plant.

(j) “Qualified investment” has the meaning specified in K.S.A. 79-32,251, and amendments thereto. This term shall not include any expenditures financed, in whole or in part, by public funds or grants or by any similar type of financial assistance.

(k) “Secretary” means the secretary of the Kansas department of commerce.

(l) “Tangible investment” means an investment in tangible personal or real property.

(m) “Taxpayer” means an applicant for tax benefits or a recipient of tax benefits under the act. (Authorized by K.S.A. 2007 Supp. 74-5002r and K.S.A. 2007 Supp. 79-32,252; implementing K.S.A. 2007 Supp. 79-32,251 and K.S.A. 2007 Supp. 79-32,252; effective July 25, 2008.)

110-20-2. Application; additional documentation. (a) Each taxpayer that desires to obtain tax benefits under the act shall submit an application, on a form provided by the department, to the secretary for a determination of whether the taxpayer’s project qualifies for tax benefits under the act. Each application shall include the following:

(1) Documentation including a detailed description of the project that is the subject of the application;

(2) a statement explaining how the proposed project meets the requirements set forth in the act;

(3) a project timeline and budget;

(4) adequate documentation that the taxpayer has satisfied the requirements set forth in the act;

(5) a statement describing in detail the ownership structure of the project, including the name of each legal entity and the proportion of ownership interest, which shall be expressed as a percentage of the project; and

(6) any other relevant information required by the secretary to determine the eligibility of the taxpayer for tax benefits under the act.

(b) If any of the items specified in subsection (a) are not included or if the secretary requires additional information, the taxpayer shall be notified about the items or information required to

be provided to the secretary before the secretary can make a determination on the eligibility of the taxpayer for tax benefits under the act. (Authorized by and implementing K.S.A. 2007 Supp. 79-32,252; effective July 25, 2008.)

110-20-3. Secretary’s review and determination. (a) Upon completion of the secretary’s review of each application for tax benefits under the act, each taxpayer on whose behalf the application was submitted shall receive a written response containing a determination on the application or seeking further information.

(b) A determination on each application for tax benefits under the act shall be made by the secretary within 60 days of receipt of the information required by the act or K.A.R. 110-20-2, or both. If the secretary’s written response seeks further information, the 60-day time frame established in this subsection shall be suspended beginning on the date on which the letter seeking additional information is mailed and through the date on which the additional information is received by the secretary.

(c) A copy of the secretary’s determination shall be mailed to each taxpayer identified on the application as having an ownership interest in the project. (Authorized by and implementing K.S.A. 2007 Supp. 79-32,252; effective July 25, 2008.)

110-20-4. Annual compliance and audit. In order to be eligible for annual installments of tax benefits available under the act, each taxpayer shall provide the secretary with all documentation necessary for the secretary to determine whether the taxpayer is in compliance with the agreement as required by K.S.A. 79-32,252, and amendments thereto, and any other requirements under the act. This documentation shall include the following:

(a) Records documenting the use of the storage and blending equipment to produce biofuels for distribution into the wholesale or retail markets, including production records and any related documentation from which the secretary can determine whether the storage and blending equipment is in operation; and

(b) one copy of each pertinent federal tax return, state tax return, tax schedule, and any related documentation pertaining to operation of any facility for which tax benefits are sought pursuant to the act. (Authorized by and implementing K.S.A. 2007 Supp. 79-32,252; effective July 25, 2008.)

**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 ap-

proved 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.)

Article 40.—KANSAS EXPORT FINANCE ACT

110-40-1. Definitions. (a) "Department" means the Kansas department of commerce.

(b) "Review committee" means the Kansas export loan guarantee review committee within the department.

(c) "Director's office" means the office of the export finance director, within the trade development division of the department.

(d) "Eximbank" means the Export-Import Bank of the United States.

(e) "Exporter" means a business concern, incorporated or unincorporated, which sells, leases, or proposes to sell or lease Kansas goods or services destined for shipment, resale, or use outside the United States.

(f) "Financial assistance" means insurance, co-insurance, reinsurance, or guarantees for loans or credits extended to an exporter for pre-export credit needs or post-export credit needs or both.

(g) "Kansas goods or services" means goods or services manufactured, processed, or originated in Kansas or which contain substantial Kansas-source components, labor, or intellectual property. (Authorized by K.S.A. 1989 Supp. 74-5071; implementing K.S.A. 1989 Supp. 74-5071, effective Oct. 8, 1990.)

110-40-2. Availability and form of financial assistance from the Kansas department of commerce. (a) Financial assistance shall be available from the department to support the pre-export credit needs or post-export credit needs or both of exporters with respect to Kansas export transactions where:

(1) credit or loans may otherwise not be made available;

(2) there are reasonable risks; and

(3) there is sufficient likelihood of repayment.

(b) Financial assistance may be in the form of insurance, co-insurance, reinsurance, or guarantee of a loan or the credit extended to exporters by Kansas financial institutions. (Authorized by K.S.A. 1989 Supp. 74-5071; implementing K.S.A. 1989 Supp. 74-5071 and 74-5073; effective Oct. 8, 1990.)

110-40-3. Application content. Application forms shall be available from the director's office for use by exporters or lenders in seeking financial assistance. The application forms shall set forth the information necessary for the determination of the eligibility of a Kansas export transaction for financial assistance and shall require, among other things: (a) with respect to the exporting company:

(1) a description and history of the exporting company;

(2) a resume of management experience; and

(3) financial statements;

(b) with respect to the underlying Kansas export transaction:

(1) a description of the products to be manufactured or processed, or services to be supplied, or both;

(2) a description of the Kansas content of the products or services;

(3) an estimate of additional employment that will occur as a result of the transaction;

(4) the destination of the products or services, or both;

(5) income and expense projections;

(6) a description of the foreign purchaser and the past experience of the exporter with the foreign purchaser;

(7) an outline of the expected commercial terms of sale and proposed terms of payment; and

(c) with respect to the loan:

(1) the dollar amount;

(2) the term;

(3) the interest rate;

(4) the banking fees; and

(5) a description of collateral and other security.

Any additional information necessary to make a determination and which is reasonably related to the criteria for approval in K.A.R. 110-40-5 and K.A.R. 110-40-6 may be required by the director's office. (Authorized by K.S.A. 1989 Supp. 74-5071; implementing K.S.A. 1989 Supp. 74-5071, 74-5072, and 74-5073; effective Oct. 8, 1990.)

110-40-4. Application procedure. (a) Application forms. The completed application forms with all required exhibits and attachments shall be submitted to the director's office.

(b) Application fee. An application fee as provided in K.S.A. 1989 Supp. 74-5072(c) shall be paid by certified check payable to the department. The certified check shall accompany the completed application form submitted to the director's office. The fee shall not be refundable.

(c) Initial review and consideration by the director's office. The application shall be reviewed by the director's office for completeness and the applicant shall be notified of any additional information required. When all required information has been received, the application shall be evaluated taking into account the purposes of the Kansas export finance act and the criteria and terms of K.A.R. 110-40-5 and K.A.R. 110-40-6. The application shall then be submitted by the director's office to the review committee together with the recommendation of the director's office for approval or denial.

(d) Denial of application. If the application is disapproved by the review committee, the applicant shall be notified by the director's office in writing of the reasons for denial.

(e) Approval of application. If the application is approved by the review committee, the applicant shall be notified by the director's office in writing.

(f) Misrepresentation by applicant. Any application may be rejected, any notice of approval may be revoked, or closure on the loan may be refused by the director's office if any information provided by the applicant contains a material misrepresentation or omission. Each applicant shall have an affirmative and continuing duty to update and correct all information provided to the director's office or to the lender. (Authorized by K.S.A. 1989 Supp. 74-5071; implementing K.S.A. 1989 Supp. 74-5071, 74-5072, and 74-5073; effective Oct. 8, 1990.)

110-40-5. General terms and conditions of financial assistance. (a) Permissible use of financial assistance. Guaranteed loan funds may be used by the exporter to satisfy credit needs with respect to Kansas export transactions. Eligible credit needs include the costs and expenses related to the acquisition or production, financing, and shipment of the goods and services.

(b) Participation. In providing financial assistance, participation from other private and governmental sources, including the United States small business administration, eximbank, the foreign credit insurance association, and private insurers may be sought by the department.

(c) Maximum amount of financial assistance. The department's net exposure for financial assistance to a Kansas export transaction shall not, at any one time, exceed 50 percent of the export loan guarantee fund balance.

(d) Security. Loans may require collateralization of a type, amount, and value which, considered with the other criteria described in K.A.R. 110-40-6, affords reasonable assurance of repayment.

(e) Reporting requirements.

(1) The lender shall report in writing to the director's office as provided in the guarantee agreement and as provided in K.A.R. 110-40-7, loan administration and servicing.

(2) The exporter shall report to the director's office immediately upon making shipment of the goods and shall provide copies of documents evidencing shipment according to the terms of trade. In addition the exporter shall report immediately the receipt of payment of the Kansas export transaction receivable. If requested by the director's office, the exporter shall submit other reports or documentation reasonably related to an

assessment of the exporter's compliance with the Kansas export finance act. (Authorized by K.S.A. 74-5071, K.S.A. 74-5072, as amended by 1994 HB 2971; implementing K.S.A. 74-5071, 74-5072 and K.S.A. 74-5074; effective Oct. 8, 1990; amended Sept. 19, 1994.)

110-40-6. Criteria for approval of financial assistance. (a) Need for financial assistance. A need for financial assistance shall be deemed to exist where credit or loans are otherwise not available for Kansas export transactions. In evaluating the availability of credit or loans the following factors shall be taken into consideration by the department:

(1) Exporter's resources. Consideration shall be given to whether the desired financing appears available, in whole or in part, to the exporter on reasonable terms based upon its own resources, including the exporter's bank credit lines, issuance of new capital, sale of assets at a fair price, and the personal credit or other resources of the owners and principal shareholders of the exporter.

(2) Alternative sources of assistance. Consideration shall also be given to whether the requested financial assistance appears available, in whole or in part, through other governmental sources such as the United States small business administration or eximbank. The exporter may be directed to these sources or to seek coparticipation from these sources, as appropriate, prior to further consideration of the application.

(b) Reasonable risk and likelihood of repayment. Financial assistance shall only be available for loans which represent reasonable risks and which have a sufficient likelihood of repayment. In making these judgments, the following factors shall be considered by the department:

(1) the credit history and financial condition of the exporter;

(2) the collateral and other sources of guarantee or insurance securing the loan or credit;

(3) the terms of the sale and projected earnings from the Kansas export transaction;

(4) the capacity of the exporter to perform commercially, especially in accordance with the commercial terms and conditions of the Kansas export transaction;

(5) the security of the payment terms of the Kansas export transaction, to the extent that the exporter's loan repayment is dependent upon collection of the foreign receivable; and

(6) the lender's ability to evaluate, perform, and

service the loan or credit, to make reports as required by these rules, and to collect the loan upon default.

(c) The limits in K.S.A. 1989 Supp. 74-5072(a). The criteria for approval of financial assistance shall include the percentage limitations in K.S.A. 1989 Supp. 74-5072(a). (Authorized by K.S.A. 1989 Supp. 74-5071; implementing K.S.A. 1989 Supp. 74-5071, 74-5072, 74-5073, and 74-5074; effective Oct. 8, 1990.)

110-40-7. Loan administration and servicing. (a) The lender shall perform, administer, and service the loan in accordance with customary and prudent commercial banking practices and in accordance with the terms of all agreements between lender and exporter related to the loan.

(b) The lender shall maintain, and upon request, make available to the department all documents relating to the loan.

(c) The lender shall obtain from exporter the loan security and shall take all necessary action to perfect the security interests.

(d) The lender shall preserve and protect the interest of the lender and the department in the loan and loan security in accordance with customary and prudent commercial banking practices.

(e) The lender shall immediately notify the exporter of any past due payments. If the exporter fails to cure the nonpayment within 30 days, the lender shall notify the director's office and confer regarding action to be taken in servicing and collecting the export loan and pursuing the export loan security. (Authorized by K.S.A. 1989 Supp. 74-5071; implementing K.S.A. 1989 Supp. 74-5071 and 74-5074; effective Oct. 8, 1990.)

110-40-8. Guarantee agreement. (a) A guarantee agreement between the department and the lender shall be prepared by the director's office.

(b) The guarantee agreement shall contain two parts consisting of:

(1) a set of general terms and conditions which will be applicable to all Kansas export transactions; and

(2) an attachment to the general terms and conditions designed to identify the *specific* terms and conditions of each individual transaction.

(c) A guarantee fee as provided in K.S.A. 1989 Supp. 74-5072(c) shall be paid by the lender to the department. The fee shall not be refundable and shall be paid:

-
- (1) not less than five business days from execution of the guarantee agreement by the secretary of commerce; or
- (2) not later than the date of the first disbursement under the guaranteed loan, whichever is earlier. (Authorized by K.S.A. 1989 Supp. 74-5071; implementing K.S.A. 1989 Supp. 74-5071, 74-5072; effective Oct. 8, 1990.)

Agency 112

Kansas Racing and Gaming Commission

Articles

- 112-3. APPLICATION PROCEDURE.
- 112-4. OCCUPATION AND CONCESSIONAIRE LICENSES.
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- 112-6. RACE TRACK OFFICIALS.
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Article 3.—APPLICATION PROCEDURE

112-3-1. Application procedure for organization applicant. (a) Any qualified nonprofit organization as defined by K.S.A. 1987 Supp. 74-8802 (m) may apply to the commission for an organization license to conduct horse races or greyhound races, or both, on which parimutuel wagering is permitted.

(b) Each application shall be completed upon a form provided by the commission. The completed form shall accompany the application or applications of a facility owner applicant, a facility

manager applicant, or both, with whom the organization applicant has contracted or proposes to contract concerning the racetrack facility.

(c) Each application and any attached documents required by these regulations shall be submitted as a single package. An original and six copies of the application and documents shall be filed with the executive director at the commission offices. One additional copy shall be mailed to each commissioner at the address on file at the commission office. Each application shall be verified under oath by the authorized officer or

officers of the applicant, and all copies shall be manually signed in ink.

(d) Applications shall be filed with the commission not later than 120 calendar days prior to the first performance of the race meet the applicant proposes to conduct.

(e) Each license shall be granted upon the condition that the holder and each of its officers, directors, employees and agents shall accept, observe and enforce the regulations of the commission.

(f) If the applicant proposes to construct or own a racetrack facility, a deposit as required by K.S.A. 1987 Supp. 74-8813 (b) shall be paid in addition to the application fee and submitted with the application. The fee and deposit shall be paid in the form of a certified check or bank draft. Each applicant that is granted an organization license shall pay a license fee as provided by K.S.A. 1987 Supp. 74-8813 (g) in the form of a certified check or bank draft that shall be paid to the executive director within 60 days after the granting of applicant's license.

(g) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8813; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-2. Application form for organization applicant. (a) Each application for an organization license shall contain the following:

(1) The name of the applicant, the business address and telephone number or numbers;

(2) the name, address and telephone number of any individual who assisted the applicant in preparing its application along with a precise description of the application section for which the individual provided assistance;

(3) irrevocable affidavit and consent statements; information waivers; affidavits relating to substance addiction; waivers of claims for damages for adverse public notice, embarrassment, criticism or other circumstance including financial loss that may result from commission action on the application; and personal background disclosure forms from all officers, directors, employees and agents of the applicant;

(4) one copy of each contract and agreement that the applicant has executed or proposes to execute and any modification or proposed modification of each contract or agreement. If the contract or agreement is an oral one, a written statement explaining the substance of the oral agreement shall be included;

(5) the names and addresses of the parties to each contract or agreement identified in subsection (4) and any relationship of the parties to the applicant, the partners, associates, officers, directors and principal owners either through family, business association or other control.

(b) The application for a license to conduct horse racing or greyhound racing, or both, with parimutuel wagering and to construct or own a racetrack facility, or both, and to manage a racetrack facility shall contain verified responses to inquiries about the following in the order they appear below:

(1) Corporate structure and control of applicant information required by K.A.R. 112-3-7;

(2) site and physical plant information required by K.A.R. 112-3-9;

(3) financing and development information required by K.A.R. 112-3-10;

(4) racing operation and parimutuel wagering information required by K.A.R. 112-3-11;

(5) management of racetrack facility information required by K.A.R. 112-3-12;

(6) economic, demographic and other information required by K.A.R. 112-3-13; and

(7) public safety and security information required by K.A.R. 112-3-14.

(c) The application for a license to conduct horse racing or greyhound racing, or both, with parimutuel wagering and to construct or own a racetrack facility, or both, shall contain verified responses to inquiries in subsection (b)(1), (2), (3), (4) and (6).

(d) The application for a license to conduct horse racing or greyhound racing, or both, with parimutuel wagering and to manage a racetrack facility shall contain verified responses to inquiries in subsection (b)(1), (4), (5) and (7).

(e) The application for a license to conduct horse racing or greyhound racing, or both, with parimutuel wagering shall contain verified responses to inquiries in subsection (b)(1) and (4).

(f) Each exhibit, statement, report, paper or other document submitted in support of the application shall be current, accurate and complete. Any change shall be reported immediately to the commission during the period of application or licensure. At all times, a current copy of the documents supporting the application shall be recorded in the commission office.

(g) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp.

74-8813; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-3. Application procedure for facility owner applicant. (a) A facility owner applicant as defined by K.S.A. 1987 Supp. 74-8815 (a) may apply to the commission to construct or own a racetrack facility, or both.

(b) Each application shall be completed upon a form provided by the commission. The completed form shall accompany the application of the organization licensee with whom the facility owner has contracted or proposes to contract concerning the racetrack facility.

(c) Each application and any attached documents required by these regulations shall be submitted as a single package. An original and six copies of the application and documents shall be filed with the executive director at the commission offices. One additional copy shall be mailed to each commissioner at the address on file at the commission office. Each application shall be verified under oath by the authorized officer or officers of the applicant, and all copies shall be manually signed in ink.

(d) Applications shall be filed with the commission not later than 120 calendar days prior to the first performance of the race meet to be held at the racetrack facility.

(e) Each license shall be granted upon the condition that the holder and each of its officers, directors, employees and agents shall accept, observe and enforce the regulations of the commission.

(f) The application fee and the deposit required by K.S.A. 1987 Supp. 74-8815 (c), (d) shall be paid in the form of a certified check or bank draft and shall be submitted with the application form.

(g) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8815; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-4. Application form for facility owner applicant. (a) Each application for a facility owner license shall contain the following information:

(1) The name of the applicant, the business address and telephone number or numbers;

(2) the name, address and telephone number of any individual who assisted the applicant in preparing its application along with a precise description of the application section for which the individual provided assistance;

(3) verified responses regarding the following subjects in the order they appear below:

(A) Business structure and control of applicant information required by K.A.R. 112-3-8;

(B) site and physical plant information required by K.A.R. 112-3-9;

(C) financing and development information required by K.A.R. 112-3-10; and

(D) economic, demographic and other information required by K.A.R. 112-3-13;

(4) irrevocable affidavit and consent statements; information waivers; affidavits relating to substance addiction; waivers of claims for damages for adverse public notice, embarrassment, criticism or other circumstance including financial loss that may result from commission action on the application; and personal background disclosure forms from all officers, directors, employees and agents of the applicant;

(5) copies of each contract and agreement that the applicant has executed or proposes to execute and any modification or proposed modification of each contract or agreement. If the contract or agreement is an oral one, a written statement explaining the substance of the oral agreement shall be included; and

(6) the names and addresses of the parties to any contract or agreement identified in paragraph (5) and the relationship to the applicant, the partners, associates, officers, directors and principal owners either through family, business association or other control.

(b) Each exhibit, statement, report, paper or other document submitted in support of the application shall be current, accurate and complete. The applicant shall report immediately any change in information submitted to the commission during the period of application or licensure. At all times, a current copy of the documents supporting the application shall be recorded in the commission office.

(c) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8815; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-5. Application procedure for facility manager applicant. (a) A facility manager applicant as defined by K.S.A. 1987 Supp. 74-8815 (b) may apply to the commission for a license to manage a racetrack facility.

(b) Each application shall be completed upon a form provided by the commission. The completed

form shall accompany the application of the organization licensee with whom the facility manager applicant has contracted or proposes to contract concerning the racetrack facility.

(c) Each application and any attached documents required by these regulations shall be submitted as a single package. An original and six copies of the application and documents shall be filed with the executive director at the commission offices. One additional copy shall be mailed to each commissioner at the address on file at the commission office. Each application shall be verified under oath by the authorized officer or officers of the applicant, and all copies shall be manually signed in ink.

(d) Applications shall be filed with the commission not later than 120 calendar days prior to the first performance of the race meet to be held at the racetrack facility.

(e) Each license shall be granted upon the condition that the holder and each of its officers, directors, employees and agents shall accept, observe, and enforce the regulations of the commission.

(f) The application fee required by K.S.A. 1987 Supp. 74-8815 (c) shall be paid in the form of a certified check or bank draft and shall be submitted with the application form.

(g) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8815; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-6. Application form for facility manager applicant. (a) Each application for a facility manager license shall contain the following information:

(1) The name of the applicant, the business address and telephone number or numbers;

(2) the name, address, and telephone number of any individual who assisted the applicant in preparing its application along with a precise description of the application section for which the individual provided assistance;

(3) verified responses regarding the following subjects in the order they appear below:

(A) Business structure and control of applicant information required by K.A.R. 112-3-8;

(B) management of the racetrack facility information required by K.A.R. 112-3-12; and

(C) public safety and security information required by 112-3-14.

(4) irrevocable affidavit and consent statements; information waivers; affidavits relating to substance addiction; waivers of claims for damages for adverse public notice, embarrassment, criticism or other circumstance including financial loss that may result from commission action on the application; and personal background disclosure forms from all officers, directors, employees and agents of the applicant;

(5) one copy of each contract and agreement that the applicant has executed or proposes to execute and any modification or proposed modification of each contract or agreement. If the contract or agreement is an oral one, a written statement explaining the substance of the oral agreement shall be included;

(6) the names and addresses of the parties to any contract or agreement identified in paragraph (5) and the relationship to the applicant, the partners, associates, officers, directors and principal owners either through family, business association or other control.

(b) Each exhibit, statement, report, paper or other document submitted in support of the application shall be current, accurate and complete. The applicant shall report immediately any change in information submitted to the commission during the period of application or licensure. At all times, a current copy of the documents supporting the application shall be recorded in the commission office.

(c) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8815; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-7. Corporate structure and control of organization license applicant. Each application for an organization license shall contain the following information about the corporate or association structure and control of the applicant and any organization related to the applicant: (a) The application shall list any commercial or non-commercial names used by the applicant and the street, number, city and county of the corporation's registered office in this state and the name of the resident agent at that address. A list of the applicant's current telephone number or numbers shall be included.

(b) The application shall describe the applicant's corporate structure. The description shall state the year the corporation was organized and the state in which it was organized.

(c) The application shall contain a certified copy of the applicant's articles or incorporation and bylaws. Any amendments to the articles of incorporation or bylaws shall be filed immediately with the commission, so that, at all times, a current copy of the applicant's articles of incorporation, bylaws and amendments to them will be recorded in the commission office.

(d) The application shall state whether in the past five years the applicant has been reorganized or reincorporated or whether it has filed restated articles of incorporation in the state of Kansas or in any other state. Documentation of that action shall be attached to the application.

(e) The application shall include a copy of the applicant's tax returns from the previous five years or all tax returns if the applicant has been organized for less than five years.

(f) If the applicant's articles of incorporation authorize issuance of capital stock, the application shall state the classes of capital stock authorized, the amount authorized and the amount outstanding as of a date not less than 15 days prior to the date the application is filed.

(g) If the applicant is authorized to issue capital stock, the application shall state the name and address of each person or entity who owns, of record or beneficially, one or more shares of any class of capital stock or an option or conditional interest in the applicant. This information may be displayed in columnar forms providing for name and address, class of stock owned, type of ownership, whether of record or beneficial, amount owned, and percent of the class of stock.

(h) If the applicant is authorized to issue capital stock, the application shall describe briefly the terms of any voting trust or power in which any of the capital stock is held and the name, address, class of stock and number of shares of stock for all stock held by that voting trust or power.

(i) If the applicant corporation is authorized to issue capital stock, the application shall describe briefly the terms of any proxy by which any of the capital stock is held, the holder of the proxy and the name, address, class of stock and number of shares of stock for all stock held by such proxy.

(j) If the applicant corporation is a non-stock corporation, the application shall describe briefly the terms of any proxy or any voting power and the name and address of any holder of the proxy or voting powers.

(k) The application shall state any redemption, purchase, retirement, conversion or exchange

provisions. If the rights of holders of stock affected by such provisions may be modified by a means other than a majority vote or more of the shares outstanding, voting as a class, a statement and explanation shall be included.

(l) The application shall list the names, including any aliases or previous names, of all directors and officers of the applicant and all persons chosen to become directors or officers. Personal background disclosure forms shall be furnished for each person named using forms provided by the commission. All positions and offices each director and officer has held with the applicant and all principal occupation or occupations each director or officer has held during the past five years shall be identified. The applicant shall disclose for each listed individual the nature and extent of any ownership interest, including options or other voting powers, whether absolute or contingent, that the individual holds in the applicant organization.

(m) If the applicant was organized within the past five years, the application shall state the following information:

(1) The names of the organization's organizers or promoters;

(2) the nature and amount of anything of value received or to be received by each organizer or promoter directly or indirectly from the applicant; and

(3) the nature and amount of any assets, services or other consideration received or to be received by the applicant from the organizers or promoters.

(n) The application shall list any governmental, public or quasi-governmental or business organization related to the applicant. The percentage of voting interest or other interest held by each related organization, or any other basis of control held by it shall be stated.

(o) The application shall state whether the applicant is directly or indirectly controlled to any extent or in any manner by another individual or entity. If so, the identity of the controlling entity shall be disclosed and the nature and extent of the control shall be described. Documentation of the relationship shall be attached to the application.

(p) If a nonindividual record or beneficial holder of an ownership or other voting interest of three percent or more in the applicant is identified in subsections (l), (m), and (o) above, the application shall disclose the information required by those paragraphs as to record or beneficial holders of an ownership or other voting interest of three per-

cent or more in that nonindividual holder. The disclosure required by those paragraphs shall be repeated in turn until all indirect individual record and beneficial holders of ownership or other voting interest in the applicant are so identified. The disclosure shall be brought about by the best efforts of the applicant.

(q) The application shall include the balance sheets and profit and loss statements for each of the three fiscal years immediately preceding the application, or for the period of organization if less than three years. The financial information shall be given for the current fiscal year if the applicant has:

(1) not completed a full fiscal year since its organization; or

(2) acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year. Balance sheets, profit and loss statements and all other financial statements required shall be prepared, audited and certified by independent, certified public accountants in accordance with generally accepted accounting procedures and practices accepted on a consistent basis. Any report containing exceptions of a material nature shall not be considered to be certified.

(r) The application shall identify all loans made by the applicant in excess of one percent of net income. The statement shall describe fully the terms of the loan, including but not limited to the name of the borrower, the amount of the loan and the nature and value of the collateral.

(s) The application shall state whether three percent or more of the applicant's assets, or three percent or more of any principal stockholder's stock, is encumbered by any long term debt. The long term debt shall be explained fully by stating the names and addresses of parties holding any evidences of indebtedness from the applicant and the stockholders. One copy of each agreement or any other document relating to the evidences of indebtedness shall be attached to the application.

(t) The application shall briefly describe any pending legal proceeding to which the applicant or any subsidiaries or related organizations are a party. The name of the court or agency in which any proceeding is pending, the date instituted and the principal parties involved shall be included.

(u) The application shall briefly describe any pending legal proceeding involving the property of the applicant, subsidiaries or related organizations. The name of the court or agency in which any proceeding is pending, the date instituted and the principal parties involved shall be included.

(v) The application shall state whether the applicant, or any director, officer, policy-maker manager, principal stockholder or member has owned any interest in any firm, partnership, association or corporation licensed by the commission, or is now engaged in the business of racing outside of the state of Kansas. An explanation of the circumstances surrounding the interest or participation shall be included.

(w) The application shall describe briefly and state the approximate amount of any interest, direct or indirect, of any officer, director or principal stockholder of the applicant, or any associate of any of the foregoing persons in any transactions during the last three years, or in any proposed transactions to which the applicant was or is to be a party.

(x) The application shall include a statement of good standing from the secretary of state.

(y) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8810 and 74-8813; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-8. Business structure and control of facility owner applicant or facility manager applicant. Each application for a facility owner license or a facility manager license shall contain the following information about the business structure and control of the applicant and any organization related to the applicant: (a) The application shall state whether the applicant is a person, partnership, corporation, association, the state of Kansas or a political subdivision.

(b) The applicant shall list any commercial or noncommercial names used by the applicant, the business address or addresses and business telephone number or numbers. If the applicant is a corporation or limited partnership, the street, number, city and county of the corporation's registered office in this state and the name of the resident agent at that address shall be shown.

(c) The application shall include a copy of the applicant's tax returns for each of the five calendar years immediately preceding this application or all tax returns if the applicant has been organized for less than five years.

(d) The application shall include a copy of the balance sheets and profit and loss statements for each of the three fiscal years immediately preceding this application, or for the period of organization if less than three years. The financial

information shall be given for the current fiscal year if the applicant:

(1) Has not completed a full fiscal year since the organization of the business; or

(2) acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year. Balance sheets, profit and loss statements, and all other financial statements required shall be prepared, audited and certified by independent, certified public accountants in accordance with generally accepted accounting procedures and practices accepted on a consistent basis. Each report containing exceptions of a material nature shall not be certified.

(e) The application shall identify all loans made by the applicant in excess of one percent of net income. The statement shall include the name of the borrower, the amount of the loan, amount and type of collateral and terms for repayment and duration of the loan.

(f) The application shall briefly describe all pending legal proceedings to which the applicant, applicant's subsidiaries or related organizations are a party. The name of the court or agency in which the proceedings are pending, the date instituted and the principal parties involved shall be included.

(g) The application shall briefly describe all pending legal proceedings involving any of the property of the applicant, applicant's subsidiaries or related organizations. The name of the court or agency in which the proceedings are pending, the date instituted and the principal parties involved shall be included.

(h) If the applicant was organized within the past five years, the following information shall be stated:

(1) The names of the organizers or promoters with a voting interest or ownership of three percent or more;

(2) the nature and amount of anything of value received or to be received by the organizers or promoters directly or indirectly from the applicant; and

(3) the nature and amount of any assets, services or other consideration received or to be received by the applicant from the organizers or promoters. The applicant shall make the best effort to disclose the information required in subsection (h)(1).

(i) The application shall list any governmental, public, quasi-governmental or business organizations related to the applicant. The list shall state,

for each related organization, the percentage of voting interest or other interest held, or any other basis of control held by the related organization.

(j) The application shall state whether the applicant is directly or indirectly controlled to any extent or in any manner by another individual or entity with a voting interest or ownership of three percent or more. The applicant shall make the best effort to disclose the information required.

(k) The application shall disclose the identity of any controlling entity with a voting interest or ownership of three percent or more and a description of the nature and extent of the control. The applicant shall make the best effort to disclose the information required. Documentation of the relationship shall be attached to this application.

(l) The application shall state whether the applicant, the director, officer, policy-making manager or principal stockholder or member:

(1) has owned an interest in any firm, partnership, association or corporation licensed by the commission; or

(2) is in the business of racing outside of the state of Kansas. An explanation of the circumstance of the interest or involvement shall be included.

(m) The application shall describe briefly and state the approximate value of any direct or indirect interest of any officer, director, policy-making manager, principal stockholder of the applicant organization or any associate of any of these persons, in any transactions during the last three years, or interest in any proposed transactions to which the applicant was or is to be a party;

(n) The application shall list all direct remuneration paid by the applicant and affiliated or related organizations during the applicant's last fiscal year to each partner, director, officer or policy-making manager of the applicant, naming each. As used in this paragraph, direct remuneration includes salary, retirement benefits, automobiles furnished, expenses reimbursed and all other sums paid for the benefit of the partner, officer, director, policy-making manager or other recipient;

(o) The application shall list the names, including any aliases or previous names, of each partner, director, officer or policy-making manager of the applicant, and each person chosen to become a partner, a director, an officer or a policy-making manager with a voting interest or ownership of three percent or more. The applicant shall make the best effort to disclose the information required. Personal background disclosure forms

provided by the commission shall be furnished by each person named. All positions and offices held by each person named by the applicant and each person's principal occupation during the past five years shall be listed by the applicant. The applicant shall disclose for each listed individual the nature and extent of any beneficial or ownership interest, including options or other voting powers, whether absolute, or contingent, that the individual holds in the applicant organization.

(p) If a nonindividual record or beneficial holder of an ownership or other voting interest of three percent or more in the applicant is identified in subsections (h), (j), and (o) above, the applicant shall disclose the information required by those paragraphs as to record or beneficial holders of any ownership or other voting interest of three percent or more in that nonindividual holder. The disclosure required by those paragraphs must be repeated in turn until all indirect individual record and beneficial holders of ownership or other voting interest in the applicant are so identified. The disclosure shall be brought about by the best efforts of the applicant.

(q) If the applicant is a corporation, the following information shall be attached to the application:

- (1) The applicant's corporate structure;
- (2) the year the corporation was organized;
- (3) the state in which the corporation was organized;
- (4) a certified copy of the applicant's articles of incorporation and bylaws. Any amendments to the articles of incorporation or bylaws shall be filed in a timely manner with the commission. A current copy of the applicant's articles of incorporation, bylaws and amendments shall be recorded at all times in the commission office;
- (5) a statement whether, in the past five years, the applicant has been reorganized or reincorporated or whether it has filed restated articles of incorporation in the state of Kansas or in any other state. Documentation of such an action shall be attached to the application;
- (6) a statement of the classes of capital stock authorized, the amount authorized and the amount outstanding as of fifteen days prior to the date of filing the application. If applicable, a statement of the amount of dividends paid to the stockholders during the five years immediately preceding the application or for the period of incorporation if a lesser time.

(7) a list of the name and address of each person or entity who owns, of record or beneficially,

one or more shares of any class of capital stock or an option or conditional interest in the applicant. This information may be displayed in columnar forms providing for name and address, class of stock owned, type of ownership, whether of record or beneficial, amount owned, and percent of the class of stock;

(8) a brief description of the terms of any voting trust or power in which any of the capital stock is held and the name, address, class of stock and number of shares of stock for all stock held by that voting trust or power;

(9) a brief description of the terms of any proxy by which any of the capital stock is held, the holder of the proxy and the name, address, class of stock and number of shares of stock for all stock held by such proxy;

(10) a statement of any dividend rights, redemption, purchase, retirement, conversion or exchange provisions;

(11) a statement and an explanation if the rights of holders of stock affected by the exchange provisions may be modified otherwise than by a vote of a majority or more of the shares outstanding, voting as a class;

(12) a statement whether three percent or more of the applicant's assets, or three percent or more of any principal stockholders' stock, is encumbered by any long term debt;

(13) a list of names and addresses of all parties holding any evidences of indebtedness including any oral agreements from the applicant and the stockholders;

(14) copies of the agreements or other documents relating to evidences of indebtedness;

(15) if the applicant is applying for a facility owner or facility manager license for the first time:

(A) A statement whether the applicant has or proposes to enter into any loan transaction or has or will be executing any evidence of indebtedness of oral loan agreement shall be provided;

(B) a list of the names and addresses of any parties loaning or proposing to loan funds and those parties holding evidences of indebtedness relating to the applicant shall be provided;

(C) the applicant shall submit a statement whether three percent or more of the applicant's stock is or is proposed to be encumbered by any debt, whether as a result of loans to the applicant or loans to the stockholder, and a statement of the names and addresses of any lenders or proposed lenders. For each disclosure under this section, copies of any agreements or documents relating

to the loan or encumbrance or a written summary of any oral transaction shall be attached; and

(16) a statement of good standing from the secretary of state.

(r) If the applicant is a partnership, the following information shall be included with the application;

(1) A statement whether the partnership is a general or limited partnership, and whether it is a domestic or foreign partnership;

(2) a statement indicating in what state and in what year the partnership was formed;

(3) a certified copy of the applicant's partnership agreement or a certified copy of the certificate of limited partnership;

(4) if any of the applicant's partners is a corporation, responses shall be submitted by each corporate partner to the requests appearing in subsection (q) above;

(5) a statement whether in the past five years the partnership has filed:

(A) A restated certificate of limited partnership;

or
(B) any certificate of changes or amendments to the partnership certificate;

(6) a statement whether:

(A) Any certificate has been cancelled;

(B) a judicial decree of amendment or cancellation has been issued; or

(C) a certificate of reinstatement has been issued. Documentation of any of these activities shall be attached to the application.

(7) a statement of any provisions for assignment of partnership interests, interim distributions or distributions upon withdrawal or dissolution;

(8) a statement whether three percent or more of the applicant's assets are encumbered by any long term debt;

(9) a list of names and addresses of all parties holding any evidences of indebtedness or any oral agreements from the applicant;

(10) a copy of any agreements or other documents relating to any evidences of indebtedness;

(11) if the applicant is applying for a facility owner or facility manager license for the first time:

(A) A statement whether the applicant has or proposes to enter into any loan transaction or has or will be executing any evidence of indebtedness or oral loan agreement shall be provided;

(B) a list of names and addresses of any parties loaning or proposing to loan the funds and any parties holding evidences of indebtedness relating to the applicant shall be provided;

(C) a statement whether three percent or more of the applicant's stock is or is proposed to be encumbered by any debt, whether as a result of loans to the applicant or loans to the stockholder shall be provided;

(D) a list of the names and addresses of any lenders or proposed lenders shall be provided; and

(E) a copy of any agreement or document relating to the loan or encumbrance or a written summary of any oral transaction shall be provided; and

(12) a statement of good standing from the secretary of state shall be provided.

(s) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8810 and 74-8815; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-9. Site and physical plant. Each application for a facility owner license or for an organization license in which the applicant proposes to construct or to own a racetrack facility shall contain the following information: (a) The application shall identify the county and municipality where the racetrack or proposed racetrack is or will be located.

(b) The application shall state whether a majority of qualified electors in the named county approved either:

(1) The constitutional amendment permitting the conduct of horse and greyhound races and parimutuel wagering; or

(2) a proposition permitting horse and greyhound races and parimutuel wagering within the county boundaries. The form of racing approved shall be stated.

(c) The application shall state whether the applicant's facility is or will be designed to conduct horse racing, greyhound racing, or both. If horse racing is to be conducted, the breed of the horse to be raced shall be stated.

(d) The application shall identify any racing organization of which the applicant is a member.

(e) The application shall include the actual legal description of the proposed racetrack site.

(f) The application shall include the name and address of each title holder to the real property and any predecessor in title for the past five years.

(g) The application shall include the name and address of each person holding a mortgage or other security interest in the real property.

(h) The application shall include a certified title insurance policy or abstract.

(i) The application shall state and document the status of governmental action relating to the following:

(1) The city street, county road and state highway improvements necessary to ensure adequate access to the applicant's racing facility, including:

- (A) The estimated cost of improvements;
- (B) the status and estimated date of completion;
- (C) the identity of the party or parties responsible for the cost of the improvements; and
- (D) the proportionate distribution of the cost of the improvements if more than one party is responsible for the cost;

(2) the sewer, water, and other public utility improvements necessary to serve the applicant's facility including:

- (A) The estimated cost of improvements;
- (B) the status and estimated date of completion;
- (C) the identity of the party or parties responsible for the cost of the improvements; and

(D) the proportionate distribution of the cost of the improvements if more than one party is responsible for the cost;

(3) any required government approvals for financing improvements under subsection (i)(1) and (i)(2) above and any required government approvals for zoning or special use permits, including:

(A) A description of the approval, unit of government, date and documentation;

(B) a statement whether public hearings were held, including when and where the public hearings were conducted or why the public hearings were not held; and

(C) a statement whether the unit of government attached any conditions to approval. The applicant shall disclose the conditions, including documentation;

(4) a statement whether any required governmental approvals remain to be obtained, as well as a description of the approval, unit of government, status, likelihood of approval and estimated date of approval; and

(5) a statement whether the applicant is in compliance with all statutes, resolutions, ordinances and regulations pertaining to the development, ownership and operation of the racing facility. If the applicant is not in compliance, the applicant shall disclose the reasons the applicant is not in compliance.

(j) The application shall state the number of miles from the nearest population area, including:

(1) A description of the transportation facilities serving the area;

(2) a description of public or private transportation arrangements to the area; and

(3) highway and street access to the track; and a site map reflecting the highway and street access to the track.

(k) The application shall state the track dimensions for each track proposed, including the following dimensions and specifications:

- (1) The circumference;
- (2) the width;
- (3) the banking;
- (4) the location of the starting gates or the starting boxes;
- (5) the length of the stretch;
- (6) the distance between the finish line and the first turn;

(7) the type of base and surface for the track; and

(8) the winterization method for the racing surface.

(l) The applicant shall supplement the information requested in subsections (m) through (w) below with at least one copy of the architect's plans showing the details of any proposed construction.

(m) The application shall describe the size and the type of construction, including:

- (1) A description of the grandstand;
- (2) the total seating capacity, specifically detailing the area that is air-conditioned or heated;
- (3) the reserved and non-reserved seating capacity;
- (4) the indoor and outdoor seating capacity;
- (5) the configuration of the grandstand seating;
- (6) the configuration and location of the pari-mutuel facilities;
- (7) the configuration and location of the food, drink and other concessions;
- (8) the configuration and location of clubs or other special facilities for patrons;
- (9) the number and location of restroom facilities;
- (10) the drinking fountains;
- (11) the medical facilities;
- (12) the pattern of public pedestrian traffic; and
- (13) the provisions for the handicapped.

(n) The application shall describe the construction and type of parking facilities, detailing:

- (1) Access to parking from perimeter local, state or federal highways;
- (2) the number and location of parking spaces available for general public parking at the facility;
- (3) the road surface to be used on parking facilities;

(4) the distance between parking and the grandstand;

(5) a street map of the area showing the relation of parking to surrounding state, local and federal highways;

(6) the public road improvements that must be completed to provide adequate public access to the facility;

(7) whether the road improvements will be performed by local authorities;

(8) when the improvements will be completed; and

(9) a plan of the parking facilities.

(o) The application shall describe facilities to accommodate horses by listing the following:

(1) The location, number, dimension, and method of construction of boxed stalls or other stalls;

(2) the location, number, dimension and method of construction of boxed stalls or other stalls for stakes horses, overnights and haul-ins; and

(3) the location and description of temperature and fire regulation equipment in the facility.

(p) The application shall describe facilities to accommodate greyhounds by listing the following:

(1) The location and method of construction of kennels within the compound, including:

(A) The number of kennels per building;

(B) the location of restroom and work areas or kitchens in kennel buildings;

(C) the location, number and method of construction of crates for greyhounds in kennels;

(D) the location, number and method of construction of crates for stakes greyhounds and resident racing greyhounds to be kenneled; and

(E) the availability of telephone hook-up and cable hook-up for video reception;

(2) the location and number of any turn-out pen and attached lean-to; and

(3) the location and number of sprint fields.

(q) The application shall describe facilities for horse or greyhound owners and other racing personnel, including separate parking, tack rooms and trainer rooms.

(r) The application shall describe the testing facilities, providing a detailed plan for them and an estimated cost of construction. The distance from the test facilities to track and paddock, the number of sampling stalls, the placement of viewing ports on each stall, the location of the post-mortem floor, the number of wash stalls with hot and cold water and drains, and the availability of video monitors and a description of the walking ring shall be stated.

(s) The application shall describe the paddock, providing a detailed plan of the paddock and an estimate of the cost of construction. The dimensions and the number of stalls or crates, the height from the floor to the lowest point of the stall or crate ceiling and entrance, and the location of the shoeboard shall be described. The office or other facilities for the paddock judge and identifier shall be described.

(t) The application shall describe in detail the jockey's quarters, including the changing facilities, a list of equipment to be installed in each facility, the location of the jockey's quarters in relation to the paddock, the location of the weight station and an estimate of the cost of the construction.

(u) The application shall state the height, type of construction and materials of restricted area fencing, including whether there is a clear zone at least four feet wide around the outside of the entire restricted area.

(v) The application shall describe security equipment and the location at the racetrack, exclusive of fencing.

(w) The application shall describe work areas for commissioners, stewards, license clerks and the employees of these personnel.

(x) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8804, 74-8813, 74-8814, and 74-8815; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-10. Financing and development.

Each application for an organization license or a facility owner license in which the applicant proposes to construct or own a racetrack facility shall contain the following information: (a) The application shall state the names and addresses of every person or business organization that provides or will provide contractual services to the applicant for purposes of the licensed project, indicating the nature of such services rendered and the equipment or property provided or to be provided.

(b) The application shall include a copy of each contract and written agreement disclosed in subsection (a). If the agreement or understanding is an oral one, a statement explaining the substance of the oral agreement or understanding shall be attached to the application. For any contract, agreement or understanding referred to, the name and address of each party to the contract shall be stated. Any relationship of the parties

through control, family or business association to the applicant, the partners, associates, officers, directors, or principal owners shall be stated.

(c) The application shall state a detailed project budget of any expenditure related to the completion or improvement of the proposed facility, including but not limited to:

- (1) Architecture and engineering costs;
- (2) land acquisition costs;
- (3) site development costs, including:
 - (A) Survey;
 - (B) soil and site work;
 - (C) utilities;
 - (D) parking lot;
 - (E) transportation access; and
 - (F) track(s);
- (4) facility construction cost, including:
 - (A) grandstand;
 - (B) security and fire equipment;
 - (C) stable or kennel, or both;
 - (D) test and detention paddock; and
 - (E) tote board;
- (5) equipment acquisition cost;
- (6) cost of interim financing;
- (7) organization, administrative and legal expenses;
- (8) projected permanent financing costs; and
- (9) marketing costs.

(d) The application shall state the construction schedule proposed for completion or improvement of the facility, including an estimated date of project completion and the following information:

- (1) A detailed description of the method or methods by which the construction project and components will be undertaken, including but not limited to general construction contract, force account, or fast tract method; and
- (2) an estimated time schedule for construction or improvement, including the date the proposed project will be fully operational and the number of months after the license is granted that each of the following activities will be either commenced or completed:
 - (A) The acquisition of land;
 - (B) the solicitation of bids;
 - (C) the award of construction contracts;
 - (D) the construction commencement;
 - (E) the completion of construction;
 - (F) the occupancy of the new facility or space;
 - (G) the training of staff;
 - (H) the commission check and inspection of the facility for public and racing readiness; and
 - (I) the commencement of racing.

(e) The application shall state the source or sources of funding for the completion or improvement of the project proposed by the application. The following shall be identified and documented:

- (1) Each source of equity contribution and the amount of the contribution;
- (2) any present or conditional commitment received for each funding source;
- (3) each source of debt contribution, and the amount of the contribution;
- (4) any present or conditional commitment received for the financing; and
- (5) a detailed financing timetable stating a date for the submission of an unqualified commitment for financing to the commission.

(f) The application shall identify and describe sources of additional funds needed for cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or any other cause.

(g) The application shall include an index to and copies of all proposed acquisition documents and a certification by the applicant that the commission has been provided with a copy of all the documents.

(h) As a part of the application process, the applicant shall submit an index to and copies of all fully executed acquisition documents and a certification by the applicant that the commission has been provided with a copy of all the documents within seven days after acquisition is complete.

(i) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8813, 74-8814 and 84-8815; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-11. Racing operation and parimutuel wagering. Each application for an organization license shall contain the following information about the operation and conduct of any horse races or greyhound races and the parimutuel system of wagering: (a) The application shall state by actual dates the live racing days requested by the applicant.

(b) The application shall state the kind of racing to be conducted.

(c) The application shall list those persons within the applicant organization who will be supervising the conduct and operation of the horse races or greyhound races, or both, and the operation of the parimutuel system of wagering to the extent known, including the following:

- (1) The legal name, all aliases, and any previous name;
 - (2) the current residence and each business address and telephone number;
 - (3) any qualifications and experience in the following areas:
 - (A) General business;
 - (B) finance and accounting;
 - (C) racing industry;
 - (D) parimutuel systems and wagering; and
 - (E) security;
 - (4) a copy of any written contract or a statement of the terms of any oral agreement between the applicant and each officer and staff member identified in subsection (c) above;
 - (5) the basic job description and qualifications for each position described in subsection (c) above and a personnel organization chart;
 - (6) a plan for preopening and continuing training for the applicant's personnel; and
 - (7) a personal background disclosure form executed and verified by each of the individuals identified in subsection (c) above.
- (d) The application shall state financial projections regarding the operation and conduct of any races and parimutuel wagering during the first five racing years, with separate schedules based upon the number of racing days and types of parimutuel wagering that the applicant requires to break even and the optimum number of live racing days and types of wagering the applicant seeks each year. The applicant shall attach to the financial projection statement any documentation of assumptions or projections made, including the following:
- (1) Projected balance sheets by an independent certified public accountant that, for the end of the development or improvement period and for each of the first five years of racing, state the current, fixed, and other noncurrent assets, current and long-term liabilities, and capital accounts, including the accountant's review report of the financial and cash flow projections based on, among others, the following assumptions and support for them:
 - (A) The average daily attendance;
 - (B) the average daily handle;
 - (C) the average per capita wager;
 - (D) the number of estimated admissions to the track, including each ticket price and free admission;
 - (E) the estimated minimum purse schedule;
 - (F) the totalisator equipment lease;
 - (G) any state and federal tax;
 - (H) the estimated payroll;
 - (I) the amount of insurance;
 - (J) any travel expense;
 - (K) any operating supplies and services;
 - (L) any repair and maintenance expense;
 - (M) any membership expense;
 - (N) any legal and audit expense;
 - (O) any retainage from the parimutuel handle;
 - (P) any parimutuel expense; and
 - (Q) any equipment depreciation and the method of depreciation used; and
 - (2) an information sheet detailing the background of the independent certified public accountant who provided the financial projections requested in paragraph (d)(1).
- (e) The application shall state whether the applicant, any officer, any director, or any principal stockholder has complied with and is in compliance with K.S.A. 74-8810, and amendments thereto.
- (f) The application shall state a proposal for security of payment, including a surety bond or other financial security, and the amount of payment adequate to secure the licensee's potential financial liability for unpaid taxes, purses, and distribution of parimutuel winnings and breakage.
- (g) The application shall state a plan for distribution of the net earnings from the conduct of horse races or greyhound races, or both, pursuant to K.S.A. 74-8813 (d), and amendments thereto, projected over the first five years of racing.
- (h) The application shall describe the applicant's parimutuel department, including the totalisator facility, the nature and type of equipment to be installed, and any proposed lease agreements relating to the totalisator system and the equipment. A copy of each lease agreement, written contract, or statement of the terms of any oral agreement between the applicant and the totalisator equipment provider shall be attached to the application.
- (i) The application shall describe the starting, timing, photo finish, and photo patrol or video equipment, including any provider of equipment or services. A copy of any lease agreement, written contract or statement of the terms of any oral agreement between the applicant and any provider identified in this subsection shall be attached to the application.
- (j) The application shall list memberships of the applicant, any personnel, and consultants in horse racing or greyhound racing organizations and memberships in any other organizations. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8813 and 74-8814; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988; amended Sept. 5, 2003.)

112-3-12. Management of racetrack facility. Each application for an organization license or a facility manager license in which the applicant proposes to manage a racetrack facility shall contain the following information: (a) The application shall include:

(1) The applicant's management plan;
 (2) the functions, job description and required qualifications of management personnel; and
 (3) an organization chart.

(b) The application shall list management personnel with the following information:

(1) Legal name, any aliases and any previous names;

(2) current residences, business addresses and telephone numbers;

(3) any qualification and experience in the following areas:

(A) General business;

(B) real estate development;

(C) construction;

(D) marketing, promotion, and advertising;

(E) finance and accounting;

(F) security; and

(G) human health and safety and animal health and safety;

(4) a description of the terms of employment. A copy of each contract, agreement or a statement of any oral agreement identified in this section shall be attached to the application; and

(5) personal background disclosure forms executed and verified by each of the individuals identified in this section shall be attached to the application.

(c) The application shall identify consultants and other contractors who have provided or will provide management related services to the applicant, to the extent known, and provide the following information for each service provider:

(1) The full name;

(2) the current address and telephone number;

(3) the nature of the services;

(4) any qualifications and experience; and

(5) a description of the terms and conditions of any contractor's agreement or contract. A copy of each agreement and contract or a statement of any oral agreement identified in this section shall be attached to the application.

(d) The application shall describe the applicant's marketing, promotion and advertising plans for:

(1) The pre-opening; and

(2) the first race meeting.

(e) The application shall describe the applicant's

plan for any concessions, including but not limited to food, beverage and other products. The owner and operator of concessions shall be identified. A copy of the contract or agreement or a statement of any oral agreement for each party identified in subsection (e) shall be attached to the application.

(f) The application shall include a schedule of rates charged for the performance of any service or for the sale of any article on the premises of the facility, whether directly or through a concessionaire.

(g) The application shall state the plan for pre-opening and continuing training for the applicant's personnel.

(h) The application shall include projected balance sheets by an independent certified public accountant that, for the end of the development or improvement period and for each of the first five years of racing, state current, fixed, and other noncurrent assets, current and long-term liabilities and capital accounts, including the accountant's review report of financial and cash flow projections based on, among others, the following assumptions, including support for the assumptions:

(1) The average daily attendance;

(2) the number of admissions to the track, including ticket prices and free admissions;

(3) any parking fees and revenues;

(4) any concessions and program sales including the schedule of charges;

(5) any fees or other rates charged on the premises of the facility not otherwise identified;

(6) any sales tax;

(7) any personal property tax;

(8) any real estate tax;

(9) any special assessments;

(10) any payroll;

(11) any operating supplies and services;

(12) any utilities;

(13) any repairs and maintenance;

(14) any equipment depreciation, stating the method of depreciation used;

(15) any facility depreciation, stating the method of depreciation used;

(16) any insurance;

(17) any travel expense;

(18) any membership expense;

(19) any security expense;

(20) any legal and audit expense;

(21) any debt service;

(22) any state and federal tax;

(23) any stall and kennel rent;

(24) any advertising and promotion; and
 (25) any interest expense; and any other assumptions of financial and cash flow projections.

(i) The application shall include an information sheet detailing the background of the independent certified public accountant who provided the financial projections requested in subsection (h).

(j) The application shall state whether the applicant, any officers, directors and principal stockholders have complied with and are in compliance with K.S.A. 1987 Supp. 74-8810.

(k) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8813; 74-8814 and 74-8815; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-13. Economic, demographic and other information. Each application for a facility owner license or an organization license in which the applicant proposes to construct or own a racetrack facility shall contain the following information: (a) The application shall describe the climatic conditions prevalent during the proposed race meeting.

(b) The application shall state the population of the area, the growth trend and describe the potential track market;

(c) The application shall state the projected economic impact of the track, including:

(1) The economic impact for the respective horse breeding or greyhound breeding industries in Kansas;

(2) any employment created, including:

(A) whether the employment is temporary or permanent;

(B) the type of work and compensation;

(C) the employer; and

(D) how the employment was created;

(3) any purchases of goods and services including the money amount and type of purchase;

(4) any public and private investment;

(5) any tax revenue generated; and

(6) any relative economic site advantage.

(d) The application shall state the projected social impact of the track, including how it may affect the following:

(1) The school system;

(2) the police service;

(3) the fire service;

(4) the ambulance service;

(5) the population growth;

(6) the housing demand; and

(7) the community planning and development scheme.

(e) The application shall state whether any area residents oppose the proposed track site, and state what effect, if any, that opposition will have on the economic welfare of the proposed track.

(f) The application shall state the ecological impact of the track site, including a plan for waste disposal;

(g) The application shall describe the effect of competition with any race track in and out of the state and with any other sport or recreational facility in the area. A detailed statement of what effect the competition from any other racetrack will have on the availability of track personnel and on the quality of racing stock shall be made.

(h) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8813; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-14. Public safety and security. Each application for a facility manager license or an organization license in which the applicant proposes to manage a racetrack facility shall contain the following information: (a) The application shall include the following information regarding security personnel:

(1) Whether the security personnel are or will be direct or contractual employees;

(2) a complete security force organization chart;

(3) a complete job description of the entire security force, including each level of security and the location to which each level will be assigned;

(4) the training, including the type of training and the training program, if applicable; and

(5) whether the security force is or will be bonded. If the security force is bonded, a certified copy of any bond document and a statement of the amount and when the applicant will satisfy the bond conditions shall be attached to the application.

(b) The application shall describe a complete security plan for the race period and the non-race period, including:

(1) The number and deployment of security personnel;

(2) the perimeter;

(3) the stable and the kennel compound;

(4) the cash room;

(5) the vault;

(6) the method of money transfer between wagering windows, cash room and any other location to which money will be transferred;

(7) the number of sworn law enforcement personnel assigned to any local law enforcement offices and the types of incidents to which the law enforcement personnel may be expected to respond;

(8) the coordination between the racetrack facility security and the local law enforcement personnel, including the location of the local law enforcement office and the approximate response time;

(9) any video monitoring equipment, including the type and location;

(10) any alarms, including the type and location;

(11) the testing or detention barn or paddock for horses;

(12) the greyhound paddock;

(13) the parking lot;

(14) the backside and the frontside;

(15) any emergency procedures, including ambulance, first aid or evacuation, and the location of any local emergency medical services and approximate response time;

(16) the exclusion and expulsion rules;

(17) the security force equipment;

(18) the policy and procedure for admittance of persons to any locations at the racetrack facility; and

(19) the control of traffic at the racetrack facility.

(c) The application shall describe a complete racetrack fire and safety policy, including:

(1) The standard operating procedures of security personnel to ensure the fire safety of any areas of the facility;

(2) the electrical safety and devices, including number, type, uses and locations;

(3) the inspections, including any inspection schedules;

(4) the straw, hay, and feed storage;

(5) the smoking;

(6) the sleeping quarters, if applicable;

(7) the barn, the stable, and the kennel compound;

(8) the grandstand;

(9) the club house or other special patron area;

(10) the administrative offices;

(11) the type and location of firefighting equipment; and

(12) the coordination between the track and any local fire department, including the location of the local fire department and the approximate response time.

(d) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987

Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8804, 74-8813, 74-8814 and 74-8815; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-15. Annual certified financial audit of organization licensee. (a) Each organization licensee shall file annually a financial audit as required by K.S.A. 1987, Supp. 74-8813(i) on or before 90 days after the licensee's fiscal year end. The licensee's audit shall be filed with the executive director at the commission office.

(b) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8813; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-16. Organization license application forms and fees for fair associations and the state of Kansas. (a) Modified organization license application forms may be drafted by the commission for fair associations and for the state of Kansas or any political subdivision thereof subject to the provisions of K.S.A. 74-8813 as amended by L. 1994, Ch. 146, Sec. 5, K.S.A. 74-8814 as amended by L. 1994, Ch. 146, Sec. 6, and K.S.A. 74-8815.

(b) The following application fees shall apply:

(1) \$50 for parimutuel racing not to exceed eleven days;

(2) \$100 for parimutuel racing with not less than twelve nor more than twenty-one days; and

(3) \$500 for parimutuel racing exceeding twenty-one days. (Authorized by K.S.A. 1993 Supp. 74-8804 as amended by L. 1994, Ch. 146, Sec. 3; implementing K.S.A. 1993 Supp. 74-8804 as amended by L. 1994, Ch. 146, Sec. 3, K.S.A. 74-8813 as amended by L. 1994, Ch. 146, Sec. 5, K.S.A. 74-8814 as amended by L. 1994, Ch. 146, Sec. 6, and K.S.A. 74-8815; effective, T-89-6, Jan. 21, 1988; effective Sept. 20, 1988; amended March 19, 1990; amended July 10, 1995.)

112-3-17. Submission of information. (a) Any license applicant or any licensee may be required by the commission to submit information to facilitate the review of an initial license application or any subsequent review of an existing license, or to ascertain compliance with any provision of this act or any rule and regulation adopted by the commission.

(b) Any licensee required to submit information under subsection (a) of this regulation shall submit the information within 10 days of the commission's request for the information.

(c) Any licensee proposing to enter into any contract described in K.S.A. 74-8804(h), K.S.A. 74-8813(n) or K.S.A. 74-8836(d)(3) and amendments thereto, or any other contract required to be submitted to the commission by any other provision of the parimutuel racing act, K.S.A. 74-8801 et seq. and amendments thereto, or any rule or regulation adopted by the commission, shall submit a copy of such proposed contract to the commission within five business days after the parties to such a proposed contract have concluded an agreement.

(d) Any licensee failing to submit information requested pursuant to subsection (a) of this regulation or copies of contracts pursuant to subsection (c) of this regulation within the time periods provided in subsections (b) and (c) of this regulation may after notice and hearing be assessed a civil fine of \$50.00 per day, up to a maximum of \$5,000, for each day such information or contract is submitted late. (Authorized by and implementing K.S.A. 1994 Supp. 74-8804; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988; amended March 1, 1996.)

112-3-18. Commission approval of sale or conveyance. (a) In the event the control of a facility owner or facility manager licensee is to be conveyed, no sale or conveyance shall take effect until approval is obtained from the commission. The application of the purchaser shall contain the same information required by K.A.R. 112-3-8 pertaining to the application procedure for a facility owner and facility manager applicant.

(b) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8804 and 74-8815; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-19. Background investigations. (a) Any entity or individual identified for investigation in these regulations or found to be material to the racing program shall submit to a background investigation conducted by the director of security, director of the Kansas bureau of investigation or other person designated by the commission. Each individual or entity identified in this regulation shall provide three sets of fingerprints, recorded on fingerprint cards by a certified law enforcement officer, and shall execute and verify a personal background disclosure form provided by the commission. The level of any background investigation may be designated by the commission.

(b) Each individual or entity identified in this regulation shall file the fingerprint cards and personal background disclosure form in the offices of the Kansas bureau of investigation or the Kansas racing commission as designated by the commission.

(c) Except as otherwise provided by law or rules and regulations adopted by the commission, no individual or entity identified for investigation in these regulations or found to be material to the racing program shall exercise any power, duty or function in the identified capacity until the background investigation for such individual or entity has been completed and approved by the commission.

(d) Each individual who regularly assumes duties similar to the following positions shall undergo a complete background investigation conducted by the commission's director of security, the Kansas bureau of investigation or any other person designated by the commission:

- (1) Board of directors of:
 - (A) The organization licensee;
 - (B) the facility owner licensee; and
 - (C) the facility manager licensee;
- (2) officers of fair associations seeking organizational licenses;
- (3) board of directors/officers of non-profit horsemen's organizations seeking organizational licenses;
- (4) chief executive officer of organization/facility licensee;
- (5) general manager;
- (6) assistant general manager;
- (7) horse racetrack officials;
- (8) greyhound racetrack officials;
- (9) backup horse racetrack officials;
- (10) backup greyhound racetrack officials;
- (11) director of security;
- (12) mutuel employee serving as money room manager;
- (13) concession manager/operator; and
- (14) any other position designated for good cause by the commission. (Authorized by and implementing K.S.A. 1995 Supp. 74-8804, as amended by K.S.A. 1995 Supp. 74-8804; effective, T-89-6, Jan. 21, 1988; effective Sept. 20, 1988; amended March 19, 1990; amended March 8, 1996.)

112-3-20. Testing for controlled substances. (a) Any commission licensees and any officers, directors, and employees of the licensees may be required by the commission to submit to tests determining the use of any controlled substance.

(b) This regulation shall take effect on and after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8804; effective, T-89-6, Jan. 21, 1988; effective Oct. 1, 1988.)

112-3-21. Race date fees, payment. Daily race date fees to be paid by an organization licensee pursuant to K.S.A. 1996 Supp. 74-8813(g) shall be paid in advance at least monthly by the licensee, remitting such daily license fees to the commission before the 25th day of the month preceding the month for which such fees are assessed. (Authorized by K.S.A. 1996 Supp. 74-8804; implementing K.S.A. 1996 Supp. 74-8813 and 74-8813a; effective July 25, 1997.)

Article 4.—OCCUPATION AND CONCESSIONAIRE LICENSES

112-4-1. Occupation licenses. (a) Before engaging in the following occupations at a race-track facility, each person shall pay the required fee and secure the appropriate license or licenses from the commission:

- (1) Administration-facility;
- (2) administration-organization;
- (3) administrative support-facility;
- (4) administrative support-organization;
- (5) amateur jockey;
- (6) apprentice jockey;
- (7) assistant trainer-horse/greyhound;
- (8) authorized agent;
- (9) backup greyhound racetrack official;
- (10) backup horse racetrack official;
- (11) blacksmith/plater/farrier;
- (12) breed registry;
- (13) concession employee;
- (14) concession manager/operator;
- (15) driver;
- (16) exercise person;
- (17) greyhound racetrack official;
- (18) groom/hot walker;
- (19) horse racetrack official;
- (20) horseman/kennel representative;
- (21) jockey;
- (22) jockey agent;
- (23) jockey guild representative;
- (24) kennel helper;
- (25) kennel owner;
- (26) kennel owner/trainer;
- (27) medical attendant;
- (28) owner-horse/greyhound;

- (29) owner/assistant trainer-horse/greyhound;
- (30) owner/trainer/driver-horse;
- (31) owner/trainer-horse/greyhound;
- (32) owner by open claim-horse;
- (33) photo finish operator;
- (34) pony person;
- (35) practicing veterinarian;
- (36) practicing veterinary assistant;
- (37) racing department staff;
- (38) racing judge;
- (39) selection sheet operator;
- (40) service provider;
- (41) steward;
- (42) totalisator employee;
- (43) trainee-racing official;
- (44) trainer-horse/greyhound;
- (45) video operator; and
- (46) any other personnel designated by the commission.

(b) Each applicant for an occupation license shall apply in writing on the application form approved and furnished by the commission.

(c) Each applicant for an occupation license acting as an employer required to carry workers compensation insurance pursuant to the workers compensation act of the state of Kansas, K.S.A. 44-501 et seq., and amendments thereto, shall submit proof of this insurance to the commission within 10 working days of the applicant's filing an application for an occupation license.

(d) Each person who is appointed by an owner or trainer to act as an authorized agent shall secure an occupation license. Each owner, trainer, or authorized agent shall file each authorized agent agreement form with the commission. Each authorized agent shall perform for the owner or trainer only the duties that are the subject of the authorized agent agreement form. Each authorized agent shall notify the commission in writing when the authorized agent agreement is terminated.

(e) An applicant for an occupation license shall not knowingly provide false information on any occupation license application form.

(f) An applicant for an occupation license shall not fail to disclose any material fact on any occupation license application form.

(g) No licensee shall alter or attempt to alter any information contained on an occupation license badge.

(h) Each person who loses an occupation license shall immediately perform the following:

- (1) Notify the commission office at the race-track facility;

- (2) secure a duplicate license; and
- (3) pay the required fee.

(i) An applicant shall pay each required fee when the occupation license is issued. Occupational licenses issued by the commission shall be for one-year or three-year periods.

(1) Each one-year or annual license shall be valid for a period commencing on January 1 and terminating on December 31 of the calendar year for which the license is issued.

(2) Each three-year or triennial license shall be valid for a period commencing on January 1 of the year in which the license is issued and terminating on December 31 of the final year.

(j) A computer check of license records from other racing jurisdictions shall be run annually on all licensees by the commission.

(k) Any applicant may be required to submit with the application at least two complete sets of fingerprint cards approved by the commission. If the fingerprints are not acceptable for processing, each applicant shall be required to resubmit fingerprint cards.

(l) Each applicant for an occupation license shall be at least 16 years of age. This provision shall not preclude dependent children under the age of 16 from working for a parent or guardian if the parent or guardian is licensed as a kennel owner, trainer, or assistant trainer and the parent or guardian has obtained approval from the organization licensee. Each licensed trainer or assistant trainer at a horse or greyhound racetrack facility shall be at least 18 years of age. Each racing official, security employee, and mutual employee shall be at least 18 years of age.

(m) Each employer at a racetrack facility shall ensure that each employee is properly licensed and shall immediately notify the commission office at the racetrack facility and the organization licensee when a licensee's employment status changes or when an employee is terminated. Each employer shall make an effort to secure the employee's occupation license and, if the license is secured, shall deliver the license to the commission office at the racetrack facility. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8804 and 74-8816; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-22-89, Aug. 22, 1989; amended Oct. 9, 1989; amended, T-112-12-30-91, Dec. 30, 1991; amended Feb. 24, 1992; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended, T-112-7-22-93, July 22, 1993;

amended Oct. 25, 1993; amended April 3, 1995; amended March 8, 1996; amended July 25, 1997; amended May 1, 1998; amended Aug. 25, 2000; amended June 1, 2001; amended Dec. 19, 2003.)

112-4-1a. Concessionaire licenses. (a) No organization licensee or facility manager licensee shall permit any entity not owned and operated by that licensee to sell goods or services within a racetrack facility where that licensee conducts race meetings unless the entity has been issued a concessionaire license by the commission pursuant to K.S.A. 74-8817 and amendments thereto.

(b) Before providing or selling any of the following goods or services within a racetrack facility, each person shall pay the required fee and secure the appropriate license or licenses from the commission:

- (1) Hay;
- (2) feed;
- (3) tack;
- (4) sawdust;
- (5) bedding;
- (6) horse walkers;
- (7) massage therapy;
- (8) horseshoes;
- (9) veterinarian services;
- (10) physical examinations by a physician;
- (11) win photos;
- (12) videos;
- (13) tip sheets;
- (14) food;
- (15) beverage machines and snack or cigarette machines;
- (16) amusement and entertainment devices or machines; or
- (17) any other goods or services.

(c) Each applicant shall apply for the license in the following category that best fits the services or goods that the applicant is providing:

(1) Each applicant who proposes to have an annual on-track sales revenue for goods or services totalling \$100,000 or more at a non-county fair race meet shall apply for a class 1 concessionaire license.

(2) Each applicant who proposes to have an annual on-track sales revenue for goods or services totalling less than \$100,000 at a non-county fair race meet shall apply for a class 2 concessionaire license.

(3) Each applicant who proposes to sell goods or services at a county fair association race meeting that is held for a total of not more than 21 race

days per calendar year shall apply for a class 3 concessionaire license.

(4) Each applicant who proposes to provide any coin-operated device that dispenses goods, entertainment, or amusement shall apply for a class 4 concessionaire license.

(5) Each applicant who proposes to provide any professional service or service requiring special training shall apply for a class 5 concessionaire license. This license category shall include physicians, veterinarians, masseuses, and farriers.

(6) Each applicant who proposes to sell goods or services for an event that lasts three days or less shall apply for a class 6 concessionaire license.

(d)(1) A class 7 concessionaire license may be issued only to the Kansas lottery for the purpose of providing lottery products for retail sale at a racetrack.

(2) On behalf of the Kansas lottery, the executive director of the Kansas lottery shall be eligible to apply for a class 7 concessionaire license after legally executing a contract with the facility manager licensee or the organization licensee at the racetrack facility at which the Kansas lottery wants to provide lottery products for retail sale. To apply for a license, the executive director of the Kansas lottery, on behalf of that agency, shall submit a completed application on a commission-provided form and a copy of the legally executed contract to the commission. No application fee or license fee shall be required.

(3) If a class 7 concessionaire license is granted by the commission, each employee or contracted agent of the Kansas lottery who has had a background investigation substantially equivalent to that of employees of the commission shall have access to that racetrack facility only for the purposes of providing lottery products and installing, maintaining, removing, and repairing lottery equipment, upon showing proper identification.

(e) The organization licensee or facility manager licensee shall notify the commission of all entities providing goods and services to third parties at the racetrack facility and shall be subject to the penalties provided in K.A.R. 112-3-17 for failure to notify the commission.

(f) Each applicant shall complete a concessionaire license application form furnished by the commission, which shall include the following:

(1) The applicant's name, address, and telephone number;

(2) Kansas tax identification number;

(3) federal tax identification number;

(4) the name of each individual employed by the applicant and working at the racetrack facility;

(5) proof of workers compensation if liable under the workers compensation act in Kansas; and

(6) the name, address, and telephone number of each partner, owner, officer, director, board member, policy-making manager, and any other person or entity having control or a voting interest in the business of the applicant, and the percentage of voting interest for each person or entity.

(g) Each applicant may be required to provide, on a quarterly basis, a financial report of on-track sales revenue.

(h) The applicant shall not knowingly provide false information on any concessionaire application or fail to disclose any material fact on the concessionaire application form.

(i) Each applicant shall obtain and provide, with the application, written authorization from the organization licensee or facility manager licensee to sell goods or services at the racetrack facility.

(j) Each owner, officer, board member, or other entity with a voting interest or ownership of three percent or more may be required to submit to a background investigation to be conducted by either of the following:

(1) The commission's director of security or the director's designee; or

(2) the Kansas bureau of investigation.

(k) Each applicant for a concessionaire license shall pay the appropriate application and license fees as designated by the commission.

(l) Each applicant shall pay any additional fees for background and fingerprint processing, as needed to pay the actual, reasonable expenses of processing the application and investigating the applicant's qualifications for licensure.

(m) Each applicant for a concessionaire license may be required to provide copies of income tax returns for each of the five years immediately preceding the application or all tax returns if the applicant has been organized for fewer than five years.

(n) The applicant shall not sell goods or services at the racetrack facility before being licensed by the commission.

(o) Each licensee or applicant for a license shall report immediately and in writing any change in license or application information to the commission.

(p) A licensed concessionaire may be permitted to sell veterinary prescription drugs or medications if the individual meets the following criteria:

(1) Is registered pursuant to K.S.A. 65-1601 et seq., and amendments thereto;

(2) has a valid written prescription from a licensed veterinarian for each prescription drug or medication; and

(3) maintains a copy of each written prescription for inspection purposes.

(q) Before the expiration of a concessionaire license, the concessionaire licensee may apply to the commission for renewal of this license on a form furnished by the commission. The renewal shall be granted by the commission if the licensee meets all of the qualifications required for an initial license. A fee may be charged by the commission for processing the renewal application. This fee shall not exceed the application fee authorized for an initial license. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8817; effective March 14, 2003; amended Jan. 6, 2006.)

112-4-1b. Racing or wagering equipment or services. (a) No organization licensee or facility manager licensee shall permit any business not owned and operated by that licensee to provide integral racing or wagering equipment or services, as designated in subsection (b), to that licensee unless the business has been issued a racing or wagering equipment or services license by the commission pursuant to K.S.A. 74-8837 and amendments thereto.

(b) "Integral racing and wagering equipment and services" shall mean those services and equipment that are provided on-site at the racetrack facility. This term shall include the following:

- (1) Tote services;
- (2) tote boards;
- (3) photo finish;
- (4) video replay;
- (5) video reception;
- (6) transmission services and equipment;
- (7) starting gate; and
- (8) lure.

(c) Before providing integral racing or wagering equipment or services at a racetrack facility, each individual or entity shall pay the required fee and secure the appropriate license or licenses from the commission.

(d) The organization licensee and facility manager licensee shall notify the commission of all racing or wagering equipment or services being provided at the racetrack facility pursuant to K.A.R. 112-3-17.

(e) Each applicant shall complete a racing or

wagering equipment or services application form furnished by the commission, which shall include the following:

(1) The applicant's name, address, and telephone number;

(2) the names of all individuals employed by the applicant and working at the racetrack facility;

(3) proof of workers compensation if liable under the workers compensation act in Kansas; and

(4) the name, address, and telephone number of each partner, owner, officer, director, board member, policy-making manager, and any other person or entity having control or a voting interest in the business of the applicant, and the percentage of voting interest for each person or entity.

(f) The applicant shall not knowingly provide false information on any racing and wagering equipment or services application or fail to disclose any material fact on the racing and wagering equipment or services application.

(g) Each applicant shall provide a copy of the contract entered into with the facility manager licensee or organization licensee, or both.

(h) Each partner, owner, officer, director, board member, policy-making manager, or other entity with a voting interest or ownership of three percent or more may be required to submit to a background investigation to be conducted by either of the following:

(1) The commission's director of security or the director's designee; or

(2) the Kansas bureau of investigation.

(i) Each applicant for a racing or wagering equipment or services license shall pay the appropriate application and license fees as designated by the commission.

(j) Each applicant shall pay any additional fees for background and fingerprint processing, as required to pay the actual, reasonable expenses of processing the application and investigating the applicant's qualifications for licensure.

(k) Each applicant for a racing or wagering equipment or services license may be required to provide copies of income tax returns for each of the five years immediately preceding the application or all tax returns if the applicant has been organized for fewer than five years.

(l) Each licensee or applicant for a license shall report immediately and in writing any change in license or application information to the commission.

(m) Before the expiration of a racing or wagering equipment or services license, the licensee may apply to the commission for renewal of this li-

cense on a form furnished by the commission. The renewal shall be granted by the commission if the licensee meets all of the qualifications required for an initial license. A fee may be charged by the commission for processing the renewal applications. This fee shall not exceed the application fee authorized for an initial license. (Authorized by K.S.A. 2001 Supp. 74-8804; implementing K.S.A. 2001 Supp. 74-8837; effective March 14, 2003.)

112-4-2. Inspection of license. Each commissioner or representative of the commission, and each organization, facility manager or facility owner licensee is hereby designated by the commission as an agent of the commission for purposes of inspecting the license of any person located in a restricted area at a racetrack facility. Each commissioner or representative of the commission, and each organization, facility manager or facility owner licensee is hereby designated by the commission as an agent of the commission for purposes of inspecting the documents relating to any horse or greyhound at the racetrack facility. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989.)

112-4-3. Knowledge of the law and regulations. Each licensee, to maintain qualifications for any license held, shall know the provisions of the Kansas parimutuel racing act, the requirements of these racing regulations, and each amendment to the law and regulations relating to the licensee's occupation license. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8816; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-22-89, Aug. 22, 1989; amended Oct. 9, 1989.)

112-4-4. Certain prohibited licenses. (a) The stewards or racing judges, with the approval of the commission, may prohibit an applicant from holding an occupation license when, in the opinion of the stewards or racing judges, a conflict of interest is created that reflects adversely on the honesty and integrity of racing.

(b) No commission-licensed veterinarian, racing official, or photo finish operator shall be licensed as an owner.

(c) No commission-licensed jockey, assistant starter, jockey room attendant or valet shall be licensed as a horse owner.

(d) No commission-licensed leadout or patrol judge shall be licensed as a greyhound owner.

(e) No person shall be licensed in any capacity that may constitute a licensing conflict. The fact that persons are married shall not, in and of itself, constitute a licensing conflict. If the stewards or racing judges are concerned that a conflict of interest may exist, they shall conduct a hearing concerning the potential conflict. They shall draft findings of fact and issue a licensing recommendation to the commission concerning the potential conflict. (Authorized by K.S.A. 1990 Supp. 74-8804(p); implementing K.S.A. 1990 Supp. 74-8804(p), K.S.A. 1990 Supp. 74-8816; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-22-89, Aug. 22, 1989; amended Oct. 9, 1989; amended, T-112-12-30-91, Dec. 30, 1991; amended March 23, 1992.)

112-4-4a. Crossover employment prohibited, exceptions. (a) For purposes of these regulations, "crossover employment" shall mean a situation in which an occupation licensee is concurrently employed at the same racing facility by an organization licensee and a facility owner licensee or facility manager licensee.

(b) Occupation licensees employed by organization licensees, facility owner licensees or facility manager licensees shall not engage in crossover employment except that:

(1) An employee of an organization licensee, facility owner licensee or facility manager licensee may crossover between internal departments of the same licensee upon the advance written approval of the stewards or racing judges and a finding that such crossover does not create a conflict of interest or violation of K.A.R. 112-4-4; and

(2) an employee of an organization licensee, facility owner licensee or facility manager licensee may crossover between licensees upon the advance written approval of the stewards or racing judges and a finding that such crossover does not create a conflict of interest or violation of K.A.R. 112-4-4.

(c) In no event shall employee crossover be approved in any of the following cases:

(1) between employees of the racing department and employees of the mutuels department;

(2) between employees of the racing or mutuels departments and horse or greyhound owners, trainers, operators or employees thereof;

(3) between employees of the security department and horse or greyhound owners, trainers, operators or employees thereof; or

(4) in any capacity or combination of subsections (1), (2) and (3) above that may, in the opinion of the stewards or racing judges, constitute a licensing conflict as provided in K.A.R. 112-4-4. (Authorized by K.S.A. 1994 Supp. 74-8804; implementing K.S.A. 1994 Supp. 74-8810, K.S.A. 1994 Supp. 74-8813, K.S.A. 74-8815 and 74-8816; effective March 1, 1996.)

112-4-4b. Prohibited license activity. (a) The racing judges or stewards, with the approval of the commission, may prohibit an occupation licensee from performing activities not related to the licensee's occupation license when, in the opinion of the racing judges or stewards, such activity reflects adversely on the honesty and integrity of racing.

(b) No occupation licensee licensed as a kennel owner shall act in the capacity of trainer unless properly licensed to do so. (Authorized by K.S.A. 1995 Supp. 74-8804; implementing K.S.A. 1995 Supp. 74-8810 and K.S.A. 74-8816; effective Nov. 22, 1996.)

112-4-5. License identification requirements. (a) Each license applicant shall provide identifying personal information including the following:

- (1) Full name;
- (2) permanent address, including zip code;
- (3) type of license;
- (4) date of application; and
- (5) date of birth.

(b) Each license shall be color-coded to identify the occupation and the individual's eligibility to enter restricted areas. While present in restricted areas of the racetrack facility, each license holder, except jockeys riding in a race and other licensees approved by the stewards or racing judges, shall attach the current license to an outer garment in a prominent position. (Authorized by K.S.A. 1991 Supp. 74-8804(p), as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; implementing K.S.A. 1991 Supp. 74-8816, as amended by L. 1992, Ch. 286, Sec. 8; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-22-89, Aug. 22, 1989; amended Oct. 9, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-4-6. License subject to conditions and agreements. (a) Each license issued to a licensee by the commission shall remain the property of the commission.

(b) Possession of a license shall not confer any right upon the holder to employment at a race-track facility.

(c) Each licensee shall immediately return the occupation license to the commission office at the racetrack facility when the employment requiring a commission license is terminated. (Authorized by K.S.A. 1991 Supp. 74-8804(p), as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; implementing K.S.A. 1991 Supp. 74-8816, as amended by L. 1992, Ch. 286, Sec. 8; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-4-7. Changes in application information. Each licensee or applicant for a license shall report immediately and in writing any change in license or application information to the commission. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989.)

112-4-8. 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) Unless otherwise authorized by the stewards or racing judges, any unsuccessful license examination applicant may be retested at 30 days following the first failure and six months following the second failure. Applicants failing the examination on the third attempt shall be ineligible for licensure for that license during that calendar year. (Authorized by K.S.A. 1991 Supp. 74-8804(p), as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; implementing K.S.A. 1991 Supp. 74-8816, as amended by L. 1992, Ch. 286, Sec. 8; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-22-89, Aug. 22, 1989; amended Oct. 9, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-4-9. Financial responsibility of applicants. Upon request of the commission, each applicant for a license as a horse or greyhound owner or trainer shall submit satisfactory evidence of financial ability to care for and maintain the racing animals owned or trained, or both, by the owner or

trainer. (Authorized by K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3; implementing K.S.A. 1987 Supp. 74-8816, as amended by L. 1988, Ch. 316, Sec. 4; effective, T-112-1-19-89, Jan. 19, 1989, effective April 10, 1989.)

112-4-9a. Financial responsibility of licensee. Each commission licensee who purchases food, shelter, medications, transportation, veterinary services, supplies, or any other item or service, for use in the licensee's racing operation and who fails to pay for the services or goods or writes a worthless check at a licensed racing facility shall be guilty of conduct detrimental to the best interests of racing and may be subject to license suspension or revocation. The burden to prove that debts are owed shall be on the person bringing the charges. This regulation shall not obligate the commission to collect debts owed by licensees. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8816 and 74-8825; effective, T-112-8-13-92, Aug. 13, 1992; effective, T-112-12-10-92, Dec. 10, 1992; effective Feb. 15, 1993; amended Jan. 18, 2008.)

112-4-10. Physical examination. As a condition of licensure, each person who is mounted on a race horse or driving a race horse within the enclosure or riding in a race shall submit proof of a satisfactory physical examination given by a licensed physician within the previous 12 months. As required in K.A.R. 112-7-20 and K.A.R. 112-14-10, the physical examination shall include visual acuity and hearing examinations. A reexamination of any jockey or driver may be required by the commission or the stewards at any time. Any jockey or driver may be prohibited from riding or driving by the commission or the stewards until the jockey or driver has successfully passed each examination. (Authorized by K.S.A. 1988 Supp. 74-8804 (p); implementing K.S.A. 1988 Supp. 74-8816; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-22-89, Aug. 22, 1989; amended Oct. 9, 1989.)

112-4-11. Qualifications for jockey. (a) Each person granted a jockey occupation license shall:

- (1) Be at least 16 years old; and
- (2) weigh no more than 130 pounds.

(b) In thoroughbred races, each applicant for a jockey license shall have completed the requirements for apprentice jockey. (Authorized by K.S.A. 1988 Supp. 74-8804; implementing K.S.A.

1988 Supp. 74-8816; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-22-89, Aug. 22, 1989; amended Oct. 9, 1989.)

112-4-12. Qualifications for apprentice jockey. (a) Any person who has ridden fewer than 40 winners or who has ridden for less than three years since first being licensed in any racing jurisdiction, and who otherwise meets the license qualifications of a jockey, may qualify as an apprentice jockey if the applicant completes satisfactory rides in at least two races under the observation of the stewards. Any apprentice jockey may be granted an apprentice certificate issued by the stewards and filed with the commission in replacement of a traditional apprentice contract.

(b) Each contract and transfer of contract shall be approved by the stewards and filed with the commission. Each contract employer shall not have any interest in the earnings of an apprentice jockey. Racetrack or commission officials and their licensed assistants and employees shall not directly or indirectly buy or sell any contract upon any jockey or apprentice jockey for themselves or any other person.

(c) In thoroughbred races, each apprentice jockey shall ride with a five-pound weight allowance beginning with the apprentice jockey's first mount. Each apprentice jockey's five-pound weight allowance shall:

(1) Continue for a one-year period beginning on the date of the apprentice jockey's fifth winning mount;

(2) continue for a second one-year period beginning on the date the initial one-year period expires if the apprentice jockey has not accumulated a total of 40 winning mounts from the date of the apprentice jockey's first winning mount; and

(3) then terminate:

(A) Upon the expiration of the second one-year period; or

(B) during the second one-year period when the apprentice jockey accumulates a total of 40 winning mounts from the date of the apprentice jockey's first winning mount, whichever first occurs.

(d) Only the results from thoroughbred races at authorized race meetings in the United States, Canada or Mexico that are reported in the daily racing form or other recognized racing publications approved by the commission shall be considered in determining license eligibility for apprentice jockeys.

(e) If an apprentice jockey is unable to ride for a period of 14 consecutive days or more after the date of the apprentice jockey's fifth winning mount because of service in the armed forces of the United States or because of physical disability, the time during which the apprentice weight allowance may be claimed may be extended by the commission for a period not to exceed the period the apprentice jockey was unable to ride. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; implementing K.S.A. 1991 Supp. 74-8816, as amended by L. 1992, Ch. 286, Sec. 8; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-4-13. (Authorized by K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3; implementing K.S.A. 1987 Supp. 74-8816, as amended by L. 1988, Ch. 316, Sec. 4; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; revoked, T-112-8-13-92, Aug. 13, 1992; revoked, T-112-12-10-92, Dec. 10, 1992; revoked Feb. 15, 1993.)

112-4-14. Program trainer. (a) Each regular trainer prevented from performing the trainer's duties, including responsibility for the condition of the horses in the trainer's care, by illness or other cause, or who is absent from any competition where horses under the trainer's care are entered and stabled, shall immediately notify the chief steward. At the same time, the trainer shall appoint a substitute trainer. Each substitute trainer's name shall be placed on the entry blank. After the appointment, each substitute trainer shall be equally responsible with the regular trainer for the condition of the horses in the substitute trainer's care. (Authorized by K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3; implementing K.S.A. 1987 Supp. 74-8816, as amended by L. 1988, Ch. 316, Sec. 4; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989.)

112-4-14a. Trainer responsibility. (a) Each trainer of record shall be responsible for the following regarding each horse in that trainer's care, with regard to commission orders, regulations, and statutes:

- (1) Eligibility;
- (2) weight or other allowances claimed;
- (3) physical fitness to perform credibly at the distance entered;

- (4) absence of prohibited substances;
- (5) proper shoeing, bandaging, and equipment;
- (6) timely arrival in the paddock; and
- (7) proper handling of the horse in the test barn.

(b) Each trainer shall be responsible for each positive test revealing any substance foreign to a horse in that trainer's care, unless the trainer can show by a preponderance of the evidence that neither the trainer nor any employee or agent of the trainer was responsible for or had knowledge of the administration of the substance causing the positive test.

(c) Each trainer shall be responsible for each puncture mark on a horse in that trainer's care, unless the trainer can show by a preponderance of the evidence that neither the trainer nor any employee or agent of the trainer was responsible for or had knowledge of an injection.

(d) Each trainer shall be responsible for the arrival of the horses in that trainer's care to the racetrack facility at least one hour before the first post time of the day on which the horse is entered to race. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8825; effective, T-112-8-22-89, Aug. 22, 1989; effective Oct. 2, 1989; amended Jan. 18, 2008.)

112-4-14b. Trainer responsibility. (a) Each trainer of record shall be responsible for greyhounds in the trainer's care as to:

- (1) Eligibility;
- (2) weight;
- (3) physical fitness;
- (4) absence of prohibited substances;
- (5) proper equipment; and
- (6) timely arrival in the paddock.

(b) Each trainer shall be held responsible for each positive test revealing any substance foreign to a greyhound in the trainer's care unless the trainer can show by a preponderance of the evidence that neither the trainer nor any employee or agent of the trainer was responsible for or had knowledge of the administration of the substance causing the positive test.

(c) Each trainer shall be held responsible for each puncture mark on a greyhound in the trainer's care unless the trainer can show by a preponderance of the evidence that neither the trainer nor any employee or agent of the trainer was responsible for or had knowledge of any injection. (Authorized by K.S.A. 1995 Supp. 74-8804; implementing K.S.A. 74-8816; effective March 25, 1991; amended Sept. 20, 1996.)

112-4-15. Suspended trainer engaged in the training of race horses under the pari-mutuel racing program of the state of Kansas.

(a) Each spouse, parent, grandparent, brother, sister, child, grandchild, uncle, aunt, parent-in-law, brother-in-law or sister-in-law of a trainer engaged in the training of race horses under the pari-mutuel racing program of the state of Kansas, suspended by the commission or otherwise shall not assume any of the trainer's responsibilities, acts or duties during the term of the suspended trainer's suspension.

(b) Each individual assuming the responsibility for the care, custody or control of the horses of a suspended trainer shall not be paid a salary directly or indirectly by the suspended trainer during the term of the suspended trainer's suspension.

(c) Each trainer assuming the responsibility for the care, custody or control of the horses of a suspended trainer, during the period of the suspended trainer's suspension, shall:

(1) Not use the farm or individual name of the suspended trainer to bill customers;

(2) bill customers directly on the trainer's own bill forms for any services rendered;

(3) maintain a separate account from the suspended trainer for deposits and payments of expenses, including wages of employees;

(4) maintain records of withholding of taxes and deductions from employee pay checks;

(5) maintain records of invoices for all expenses paid during the term of the suspension;

(6) have a written lease, approved by the commission, for the use of any equipment of the suspended trainer;

(7) make no payments of any kind to the suspended trainer, the suspended trainer's family as listed in subsection (a) of this regulation or any entity owned or controlled by the above parties, or to any other person for transfer of right to race, coach or train any of the suspended trainer's horses;

(8) not borrow funds from a suspended trainer or the suspended trainer's family as listed in subsection (a) of this regulation or any entity owned or controlled by the above parties for the purpose of going into the business of training; and

(9) not allow a suspended trainer, the suspended trainer's family as listed in subsection (a) of this regulation, or any entity owned or controlled by the above parties to sign any notes or loans for the trainer for the purpose of going into the business of training.

(d) Any suspended trainer and any trainer taking over the horses of a suspended trainer may be requested to deliver books, canceled checks, invoices, tax returns and other evidence to the commission to prove the details of any relationship between trainers and suspended trainers.

(e) Each suspended trainer found to have engaged in the responsibilities, acts or duties of a trainer during the term of the suspended trainer's suspension shall be subject to a second suspension, or fine, or both, which shall be consecutive to and in addition to the first term of suspension or fine or both. (Authorized by K.S.A. 1988 Supp. 74-8804, 74-8816; implementing K.S.A. 1988 Supp. 74-8816; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-4-16. Qualifications for license as a horse owner. (a) Each applicant for a horse owner license shall:

(1) Own a record of a properly registered race horse that the horse owner licensee applicant intends to race in Kansas;

(2) have the race horse in the care of a licensed trainer; and

(3) have an interest in the race horse as part owner or lessee or managing owner of a corporation, syndicate or partnership that is the legal owner of the race horse; or

(4) intend to claim a horse by open claim as authorized by K.A.R. 112-7-15. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; implementing K.S.A. 1991 Supp. 74-8816, as amended by L. 1992, Ch. 286, Sec. 8; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-4-17. Horse ownership by lease. Any leased horse may be raced if a completed lease form that includes the information required by the commission is attached to the registration certificate and is on file with the racing secretary. Each lessor and lessee shall be licensed as a horse owner. Each lease arrangement shall not be made for the purpose of avoiding insurance requirements or commission regulations. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; implementing K.S.A. 1991 Supp. 74-8816, as amended by L. 1992, Ch. 286, Sec. 8; effective,

T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-4-18. Greyhound ownership by lease. Any leased greyhound may be raced if a completed lease form that includes the information required by the commission is attached to the registration certificate and is on file with the director of racing. Each lessor and lessee shall be licensed as a greyhound owner. No lease arrangement shall be made for the purpose of avoiding insurance requirements or commission regulations. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; implementing K.S.A. 1991 Supp. 74-8816, as amended by L. 1992, Ch. 286, Sec. 8; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-4-19. Horse or greyhound ownership by corporation, partnership, syndicate or other association or entity. (a) If the legal owner of any horse or greyhound is a corporation, partnership, syndicate or other association or entity, each shareholder or partner shall be licensed as a horse or greyhound owner unless the stewards, racing judges or the commission determine upon a showing of just cause that the best interests of racing dictate that not all shareholders or partners should be licensed.

(b) Each corporation, partnership, syndicate, or other association or entity that owns a horse or greyhound at a racetrack facility shall file the following information with the commission:

(1) Organizational documents for the entity identifying each shareholder by name and mailing address including zip code;

(2) relative proportion of ownership interest;

(3) terms of sale with contingencies, arrangements or leases;

(4) documents declaring to whom winnings are payable and under what name the horse or greyhound shall be run; and

(5) the name and address including zip code of each licensed person or persons who assumes all responsibilities as owner of the horse or greyhound.

(c) No part owner of any horse or greyhound shall assign an ownership interest without the

written consent of the other partners. The assignor shall file each written consent with the commission.

(d) Each corporation, partnership, syndicate or other association or entity that owns a horse or greyhound shall register annually the information required by the regulations and pay the required fee or fees for the appropriate entity. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; implementing K.S.A. 1991 Supp. 74-8816, as amended by L. 1992, Ch. 286, Sec. 8; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-22-89, Aug. 22, 1989; amended Oct. 2, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-4-20. Stable name registration. (a) Each person who proposes to use a stable name shall annually register the stable name with the commission and shall pay the required fee. Each horse owned in whole or in part by the same person shall be run under the stable name.

(b) Each applicant shall disclose the identity or identities of each person using the stable name.

(c) Each change in stable name shall be reported immediately to the commission and approval obtained from the commission before the name is used.

(d) The commission shall be provided written notice of each cancellation of a stable name.

(e) Any person may change a stable name by registering a new stable name and by paying the required fee.

(f) Each stable name shall be clearly distinguishable from that of another registered stable name.

(g) Each stable name and the name of the owner or managing owner shall be published in the official racing program. If the stable name includes more than one person, the official program shall list the name of the managing owner along with the phrase "et al."

(h) If a partnership, corporation, syndicate or other association or entity proposes to use a stable name, it shall comply with commission regulations governing multiple ownership including any payment of fees in addition to fees for the registration of a stable name. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-22-89, Aug. 22, 1989; amended Oct. 9, 1989.)

112-4-21. Kennel name registration. (a) Each person who proposes to use a kennel name shall register the kennel name with the commission.

(b) The applicant shall disclose the identity or identities of every person using the kennel name.

(c) As long as a kennel name is registered, no individual using that kennel name shall register or use any other name or kennel name for racing purposes.

(d) A kennel name may be changed by registering a new kennel name.

(e) No person shall register a kennel name that has been previously registered with any organization licensee.

(f) Each kennel name shall be clearly distinguishable from all other registered kennel names.

(g) If a partnership, corporation, syndicate or other association or entity proposes to use a kennel name, it shall comply with commission regulations governing multiple ownership, including any payment of fees. (Authorized by K.S.A. 1989 Supp. 74-8804; implementing K.S.A. 1989 Supp. 74-8816; effective March 25, 1991.)

112-4-21a. Kennel owner license. (a) Each applicant for a kennel owner license shall:

(1) be the owner or partial owner of a kennel registered pursuant to K.A.R. 112-4-21; and

(2) have a current kennel contract with an organization licensee. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-8-13-92, Aug. 13, 1992; effective, T-112-12-10-92, Dec. 10, 1992; effective Feb. 15, 1993.)

112-4-22. Licensing required. (a) Each person shall complete all license procedures required by the commission before that person assumes any duties at a racetrack facility except as follows.

(b)(1) Any trainer or assistant trainer may apply for a 30-day license on behalf of an absentee horse owner and pay the required application fees. Each horse owned by an absentee horse owner shall be permitted only one start during the 30-day period. Each absentee horse owner shall complete the licensing procedure before the 30-day license expires. No organization licensee shall pay purse money to the absentee horse owner until the owner secures a permanent horse owner's license.

(2) If the permanent horse owner's license is not secured within 30 days, the trainer, assistant trainer, or absentee owner may be penalized by the commission. (Authorized by K.S.A. 1996

Supp. 74-8804; implementing K.S.A. 1996 Supp. 74-8816; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended, T-112-8-22-89, Aug. 22, 1989; amended Oct. 9, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended May 1, 1998.)

112-4-22a. Registrations required. (a) Any corporation, partnership, syndicate, stable, or other association or entity owning a horse shall register the entity with the commission before racing in a parimutuel race except as follows.

(b)(1) Any trainer or assistant trainer may apply for a 30-day temporary registration on behalf of the absentee legal owner owning a horse at a race-track facility and pay the required fees. Each horse owned by an entity with a temporary registration shall be permitted only one start during the 30-day period. The managing owner of the entity with this temporary registration shall complete the registration procedure before the 30-day registration expires. No organization licensee shall pay purse money to any such registered entity or managing owner until a permanent registration is secured.

(2) If the permanent registration is not secured within 30 days, the trainer, assistant trainer, or persons having an interest in the entity with the temporary registration may be penalized by the commission. (Authorized by K.S.A. 1996 Supp. 74-8804; implementing K.S.A. 1996 Supp. 74-8816; effective May 1, 1998.)

112-4-23. Conduct. No person shall perform any of the following: (a) engage in any conduct that by its nature is unsportsmanlike or detrimental to the best interests of racing;

(b) willfully ignore, refuse to comply, or interfere with verbal or written orders of a racing official or commission employee or representative in the performance of official duties; or

(c) threaten or use abusive or profane language when addressing a racing official, licensee, or commission employee or representative. (Authorized by and implementing K.S.A. 1997 Supp. 74-8804 and 74-8816; effective, T-112-8-13-92, Aug. 13, 1992; effective, T-112-12-10-92, Dec. 10, 1992; effective Feb. 15, 1993; amended May 15, 1998.)

112-4-24. Qualifications for amateur jockey. Each person granted an amateur jockey occupation license shall: (a) be at least 16 years old;

(b) meet all qualification rules for membership to the amateur riders' club of the Americas (ARCAS) as currently contained in the membership application form amended in December 1992;

(c) hold a current amateur rider's license from ARCAS and be a current member of ARCAS;

(d) weigh no more than 142 pounds;

(e) not hold a current license as a jockey or apprentice jockey;

(f) submit proof of a satisfactory physical examination given by a person licensed to practice medicine and surgery within the previous 12 months. As required by K.A.R. 112-7-20 and K.A.R. 112-14-10, the physical examination shall include visual acuity and hearing examinations. A reexamination of any amateur jockey may be required by the commission or the stewards at any time. An amateur jockey may be prohibited from riding by the commission or the stewards until the jockey has successfully passed each examination;

(g) wear properly fastened safety helmets while mounted on a race horse within the enclosure or riding in a race; and

(h) meet all licensing requirements stated in these racing regulations. (Authorized by K.S.A. 1992 Supp. 74-8804; implementing K.S.A. 1992 Supp. 74-8816; effective, T-112-7-22-93, July 22, 1993; effective Oct. 25, 1993.)

112-4-25. Qualifications for license as a greyhound owner. Each applicant for a greyhound owner license shall:

(1) possess a record of a properly registered greyhound, eligible to race, that the applicant intends to race in Kansas;

(2) have the greyhound in the care of a licensed trainer; and

(3) have an interest in the greyhound as owner, part owner or lessee, or managing owner of a corporation, syndicate or partnership that is the legal owner of the greyhound. (Authorized by K.S.A. 1993 Supp. 74-8804 and implementing K.S.A. 74-8816; effective Sept. 6, 1994.)

112-4-26. Denial of an occupation license. (a) Except as provided in K.A.R. 112-6-1 et seq., all proceedings relating to the denial, suspension, or revocation of an occupation license shall be conducted in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq.

(b) As used in K.S.A. 74-8816(e)(3) the phrase "qualified to perform the duties associated with the license being applied for" shall in the case

of all occupation license applicants include the requirement that such applicant shall have no present or prior activities, criminal record, or reputation, habits, or associations that meet either of these conditions:

(1) pose a threat to the public interest or to the effective regulation of parimutuel racing or wagering; or

(2) create or enhance the dangers of unsuitable, unfair, or illegal practices in the conduct or parimutuel racing or wagering. (Authorized by K.S.A. 1996 Supp. 74-8804; implementing K.S.A. 1996 Supp. 74-8816; effective July 25, 1997.)

Article 5.—RACE TRACK OFFICIALS

112-5-1. Horse racetrack officials and backup officials; prohibited interests; responsibility; accountability; identification and approval; unavailability. (a) Unless otherwise ordered by the commission, the racetrack officials at each race meet for horses shall be the following:

(1) The starter;

(2) the paddock judge;

(3) the patrol judges;

(4) the placing judges;

(5) the clerk of scales;

(6) the racing secretary;

(7) the mutuel manager;

(8) the horsemen's bookkeeper;

(9) the identifier;

(10) the general manager; and

(11) any backup to any of these positions.

(b) An individual, and any member of the individual's family as defined in K.S.A. 74-8810(c) and amendments thereto, who owns a horse or has a financial interest in a horse entered at a race meet, shall not serve as a racetrack official at the meet. A lessee or lessor of a horse shall be deemed to have a financial interest in the horse.

(c) Each racetrack official shall be strictly responsible to the commission for the performance of that official's duties and shall promptly report to the commission or the stewards any violation of the regulations of which the official has knowledge. Each racetrack official who fails to perform the official's duties shall be discharged by the stewards.

(d) Each employee of the racing and mutuel departments at a racetrack facility shall be an employee of the organization licensee and shall be accountable to the board of directors of the

organization licensee. An organization licensee or facility manager licensee shall not, either by contract or agreement, diminish the organization licensee's ultimate responsibility to conduct the races and the parimutuel system of wagering. However, any organization licensee may execute a contract or agreement with a facility manager licensee that permits the delegation of day-to-day management over the conduct of races and the parimutuel system of wagering.

(e) Each racetrack official and each backup racetrack official shall be approved by the stewards and the commission before the official assumes any race meet duties. Each organization licensee shall submit a list identifying each racetrack official and each backup racetrack official to the commission at least 30 days before the first day of the race meet for which the racetrack officials are to serve.

(f) Notwithstanding the provisions of K.A.R. 112-3-19(c), if a racetrack official is unavailable or unable to serve at a particular performance, and no backup racetrack official is available to serve, the organization licensee shall appoint a substitute, subject to the approval of the stewards, to serve for that performance only. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8813 and K.S.A. 74-8818; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 19, 1990; amended Aug. 9, 1996; amended Jan. 18, 2008.)

112-5-2. Commission officials, stewards.

(a) Each licensee and each individual attending horses during a race meet shall conduct the licensee's and individual's activities under the general authority and supervision of the stewards. The stewards may interpret any of these racing regulations, and the stewards may order any appropriate action not expressly authorized by these racing regulations in order to ensure a fair race and to protect the best interests of racing.

(b) The stewards shall determine each matter regarding entry, eligibility and racing. The stewards shall supervise each entry, declaration and scratch.

(c) If a vacancy occurs among the stewards, the chief steward shall immediately appoint a substitute. If the chief steward is absent, the senior associate steward shall make the appointment. The stewards shall immediately report each substitution to the commission office.

(d) The stewards' jurisdiction over any matter shall commence 72 hours before any entry is tak-

en for the first day of racing at the meet and shall extend until 30 days after the last day of the meet. If a dispute arises during a race meet that is not settled within the stewards' 30-day jurisdiction, the authority of the stewards may be extended by the commission until the matter is resolved or until it is referred or appealed to the commission.

(e) Any occupation licensee may be penalized by the stewards or the commission in accordance with the Kansas parimutuel racing act and the Kansas administrative procedure act. At the direction of the commission, all of the stewards, or any of them, may conduct summary adjudicative hearings in accordance with the Kansas administrative procedure act.

(f) The steward shall immediately report each penalty to the commission.

(g) The stewards may suspend any horse from participating in races for a period of time determined by the stewards if the horse does not meet the requirements of, or has been involved in any violations of these racing regulations or any provisions of the Kansas parimutuel racing act.

(h) Any matter within the jurisdiction of the stewards may be referred by the stewards to the commission with or without recommendation.

(i) The stewards shall maintain a detailed written account of each question, dispute, protest, complaint and objection. The stewards shall prepare and submit a daily report to the executive director within 72 hours of the race date that is the subject of the report. The report shall detail each raceday's activities, including:

- (1) each foul and disqualification;
- (2) each disciplinary hearing;
- (3) each suspension;
- (4) the conduct of each race;
- (5) each interruption and delay; and
- (6) the condition of the racetrack facility.

(j) A qualified person shall test or examine each horse that has entered a race or that has run in a race when ordered by the stewards. The stewards may examine any ownership papers, certificates, documents of eligibility, contracts or leases pertaining to any horse at the racetrack facility.

(k) If the stewards determine a race or races cannot be conducted in accordance with the regulations, the stewards shall cancel that race or those races. If a mechanical failure or any interference during the running of any race affects the horses in the race, the stewards may declare the race a no contest. If no horse covers the course of the race, the stewards shall declare the race a no contest.

(l) Any horse's trainer may select a substitute jockey if the jockey who is named to ride the horse in a race is unable to fulfill the jockey's engagement and is excused by the stewards. Each trainer shall secure a jockey for the trainer's entered horse. If no substitute jockey is available, the stewards may scratch the horse from the race. If the stewards scratch a horse, no individual shall be entitled to any refund of nomination, sustaining, penalty payments or entry fees. The stewards may place any horse in the temporary care of any trainer the stewards select if the trainer of a horse is absent. However, the owner and the substitute trainer shall approve the horse's entry or competition in a race before the horse is allowed to enter or race. Each substitute trainer shall sign the entry card.

(m) The stewards shall maintain a list that identifies the horses that are ineligible to be entered in any race because of poor or inconsistent performance, which includes but is not limited to failing to maintain a straight course or causing a hazard to the safety of any participant. The steward shall refuse entry to each horse on the stewards' list until the horse has demonstrated to the stewards or their representatives that the horse can race safely. (Authorized by K.S.A. 1994 Supp. 74-8804, as amended by L. 1995, Ch. 255, Sec. 8; implementing K.S.A. 1994 Supp. 74-8804, as amended by L. 1995, Ch. 255, Sec. 8, 1994 Supp. 74-8818 and 74-8816; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 19, 1990; amended March 8, 1996.)

112-5-3. The starter. (a) Each starter shall have complete jurisdiction over the starting gate and the starting of each horse. Any starter may issue orders to ensure each participant an equal opportunity to a fair start.

(b) Each starter shall appoint assistants. However, the starter shall not permit the assistants to handle or take charge of any horse in the starting gate without the starter's express permission. If the assistant starters are unavailable to head a horse, the horse's trainer shall be responsible to provide qualified individuals to head or tail a horse in the starting gate. Each starter shall establish qualifications for and maintain a list of qualified individuals approved by the stewards who may head or tail a horse in the starting gate. Each assistant starter or individual handling a horse at the starting gate shall not impede the start of the race, whether intentionally or otherwise. Only the jockey, starter, assistant starter or header handling

the horse at the starting gate may be permitted to strike a horse in an attempt to load the horse in the starting gate. Only each jockey shall slap, boot or otherwise attempt to dispatch the horse the jockey is riding from the starting gate.

(c) Each starter shall maintain a starter's list of each horse that is ineligible to be entered in any race because of poor or inconsistent performance in the starting gate. Each horse on the starter's list shall be refused entry until it has demonstrated to the starter or the starter's representative that it has been satisfactorily schooled in loading in the gate. Each starter or the starter's representative shall directly supervise the schooling. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 19, 1990.)

112-5-4. Paddock judge. (a) Each paddock judge shall exclude from the paddock each person who has no official business with any horse entered.

(b) Each paddock judge shall supervise the assembling of the horses scheduled to race, the saddling of horses in the paddock, the mounting of the jockeys and their departure for the post.

(c) Each paddock judge shall keep a record of all equipment carried by each horse in each race under the paddock judge's jurisdiction. Equipment carried by each horse shall not be changed without prior approval of the stewards. At the request of the stewards, each paddock judge shall report the equipment carried by any horse.

(d) Before each race, each paddock judge shall require the plater in attendance at the paddock to examine each horse entered and to determine whether the horse is properly shod. Each paddock judge shall report the findings of the plater immediately to the stewards.

(e) Any paddock judge may permit a horse to be lead to the post by a properly licensed pony person.

(f) Each paddock judge shall report any irregularity to the stewards. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by 1988 HB 2774, Sec. 3; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989.)

112-5-5. Patrol judges. (a) The stewards shall determine the number of patrol judges needed for the orderly conduct of the race meet and shall direct the placing of the patrol judges at points of vantage about the racetrack subject to the approval of the commission.

(b) Each patrol judge shall be subject to the orders of the stewards and shall report to the stewards any incident affecting the conduct of a race that they observe. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by 1988 HB 2774, Sec. 3; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989.)

112-5-6. Placing judges and timers. (a) Each placing judge and timer shall occupy the judges' or stewards' stand when the horses pass the finish line. The placing judges and timers shall hand time, place the horses in correct order of finish and report the results of the race. In case of a dead heat or a disagreement about the correct order of the finish, the decision of the stewards shall be final. If an objection is made and sustained against the winner or any horse placed within the purse, this regulation shall not prevent the placing judges from correcting any mistake subject to confirmation by the stewards.

(b) If the placing judges disagree about the order of finish, the placing judges shall inspect a photograph of the finish. A determination by a majority of the placing judges shall establish the order of finish, and that determination shall be final. If the winning range is less than half a length, or if the horses are widely spaced across the track, a photograph of the finish shall be inspected by the placing judges and an identical copy shall be posted for public observation.

(c) Each placing judge shall consider only the position of the horses' noses when determining the most forward point of progress. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by 1988 HB 2774, Sec. 3; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989.)

112-5-7. Clerk of scales. (a) Each clerk of scales shall be responsible for the presence of each jockey in the jockey room at the appointed time and shall verify that each jockey has a current occupation license.

(b) Each clerk of scales shall have the scales checked for accuracy by a certified person before the beginning of the race meet and at least once each 30 days thereafter during the race meet.

(c) Each clerk of the scales shall verify the correct weight of each jockey at weighing-out and weighing-in and shall immediately report any discrepancy to the stewards.

(d) Each clerk of scales shall be responsible for

the security of the jockeys' room, the conduct of the jockeys and the conduct of the jockey attendants.

(e) Each clerk of scales shall:

(1) Promptly report to the stewards each infraction of the regulations pertaining to weight, weighing, riding equipment or conduct;

(2) provide an accounting of all data required on the scale sheet and submit that data to the "horsemen's bookkeeper" at the end of each race day;

(3) maintain the record of applicable winning races on each apprentice certificate at the meet; and

(4) release the apprentice certificate to the apprentice jockey at the close of the meet or upon the apprentice jockey's departure. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by 1988 HB 2774, Sec. 3; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989.)

112-5-8. Racing secretary. (a) Each racing secretary shall write and publish conditions of each race and shall distribute them to "horsemen" as far in advance of the closing of entries as possible. The racing secretary shall submit the first condition book for each race meeting to the commission for approval 30 days before printing.

(b) Each racing secretary shall be responsible for safe keeping of the registration certificates during the race meet and shall return the certificates to the trainers on request or at the conclusion of the race meet. The racing secretary shall record the winning races for the horses on the forms supplied by the breed registry, which shall remain attached to the registration certificate.

(c) Each racing secretary shall maintain a list of horses stabled at the racing facility and the stalls assigned to each trainer. Each racing secretary shall update the list daily and provide a copy of the most current list to the stewards and the commission's security director each week.

(d) Each trainer shall maintain a record of the stall location of each horse in the trainer's care. The trainer shall provide this information to the commission upon request.

(e) The racing secretary shall:

(1) Take entries;

(2) check eligibility;

(3) close entries;

(4) select the races to be drawn;

(5) conduct the draw;

(6) post the overnight sheet;

(7) compile the official program; and

(8) discharge such other duties as required by the regulations or directed by the stewards. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 19, 1990.)

112-5-9. The identifier. (a) The identifier shall identify each horse starting in a race. Each identifier shall inspect documents of ownership, eligibility, registration or breeding as may be necessary to ensure proper identification of each horse that is eligible to compete in a race meet.

(b) Each identifier shall immediately report to the paddock judge and the stewards each horse that is not properly identified or any irregularities reflected in the official identification records.

(c) The identifier shall ensure that each horse is properly shod before departure for the post.

(d) The identifier shall report to the stewards and to the commission on general racing practices observed and shall perform other duties as the commission may require. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 19, 1990.)

112-5-10. The mutuel manager. (a) For purposes of these regulations, the mutuel manager shall be the individual who is responsible for overseeing the operations of the mutuel department and the money room.

(b) The mutuel manager shall have knowledge of all aspects of the Kansas racing commission rules and regulations pertaining to partimutuel wagering and shall perform the following duties:

(1) supervise all mutuel employees, including all mutuel tellers;

(2) be responsible for the training, scheduling and job performance of all mutuel employees;

(3) maintain efficient customer relations and oversee the services provided to patrons at the mutuel windows on a race by race basis;

(4) be responsible for working directly with the tote department in order to help oversee the tote operations and to assist in comparing prices and verifying mutuel payoffs; and

(5) report all pertinent parimutuel activity to the racing judges and stewards. (Authorized by K.S.A. 1993 Supp. 74-8804; implementing K.S.A. 74-8816 and K.S.A. 1993 Supp. 74-8818; effective Sept. 6, 1994.)

Article 6.—RACE TRACK OFFICIALS

112-6-1. Greyhound racetrack officials and backup officials; prohibited interests; responsibility; accountability; identification and approval; unavailability. (a) Unless otherwise ordered by the commission, racetrack officials at a race meet for greyhounds shall be as follows:

(1) The director of racing;

(2) the mutuel manager;

(3) the paddock judge;

(4) the kennel master;

(5) the clerk of scales;

(6) the starter;

(7) the lure operator;

(8) the chartwriter;

(9) the racing secretary;

(10) the general manager; and

(11) any backup to any of these positions.

(b) An individual or a member of an individual's family, as defined in K.S.A. 74-8810(c) and amendments thereto, who owns a greyhound or has a financial interest in a greyhound entered at a race meet, shall not serve as a racetrack official at the meet. A lessee or lessor of a greyhound shall be deemed to have a financial interest in the greyhound.

(c) Each racetrack official shall be strictly responsible to the commission for the performance of that official's duties and shall promptly report to the commission or the racing judges any violation of the regulations of which the official has knowledge. Each racetrack official who fails to perform the official's duties shall be discharged by the racing judges.

(d) Each employee of the racing and mutuel departments at a racetrack facility shall be an employee of the organization licensee and shall be accountable to the board of directors of the organization licensee. An organization licensee or facility manager licensee shall not, either by contract or agreement, diminish the organization licensee's ultimate responsibility to conduct the races and the parimutuel system of wagering. However, any organization licensee may execute a contract or agreement with a facility manager licensee that permits the delegation of day-to-day management of the conduct of races and the parimutuel system of wagering.

(e) Each racetrack official and each backup racetrack official shall be approved by the racing judges and the commission before the official assumes any race meet duties. Each organization

licensee shall submit a list identifying each race-track official and each backup racetrack official to the commission 30 days before the first day of the race meet for which the racetrack officials are to serve.

(f) Notwithstanding the provisions of K.A.R. 112-3-19(c), if a racetrack official is unavailable or unable to serve at a particular performance, and no backup racetrack official is available to serve, the organization licensee shall appoint a substitute, subject to the approval of the racing judges, to serve for that performance only. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8813 and K.S.A. 74-8818; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 25, 1991; amended Sept. 6, 1994; amended Aug. 9, 1996; amended Jan. 18, 2008.)

112-6-2. Commission officials, racing judges. (a) Each licensee and each individual attending greyhounds during a race meet shall conduct activities under the general authority and supervision of the racing judges. The racing judges may interpret any of these racing regulations, and the racing judges may order any appropriate action not expressly authorized by these racing regulations in order to ensure a fair race and to protect the best interests of racing.

(b) Each race day, any licensee who wishes to consult with the racing judges may do so at the offices of the racetrack facility.

(1) Two of the three racing judges shall be in attendance at least one-half hour before weighing in time.

(2) The third racing judge shall be in attendance at the racetrack facility at least one-half hour before post-time for the first official race.

(3) If all three of the racing judges are present in the judges' stand during a performance, one and only one racing judge may leave the judges' stand to supervise any racing-related matter as official duties may dictate.

(c) If a vacancy occurs among the racing judges, the chief judge may appoint a substitute in an emergency. If the chief judge is absent, the senior associate judge may make the appointment.

(1) The racing judges shall immediately report each substitute to the commission office.

(2) If a vacancy has occurred among the racing judges, and a substitute has not been appointed, the remaining two judges may conduct the business of the racing judges until the vacancy is filled in accordance with these racing regulations.

(d) The racing judges' jurisdiction over any matter shall commence 72 hours before any entry is taken for the first day of racing at the meet and shall extend until 30 days after the last day of the meet. If a dispute arises during a race meet that is not settled within the racing judges' 30-day jurisdiction, the authority of the racing judges may be extended by the commission until the matter is resolved or until it is referred or appealed to the commission.

(e) Any occupation licensee may be penalized by the racing judges or the commission in accordance with the Kansas parimutuel racing act and the Kansas administrative procedure act. At the direction of the commission, all of the racing judges, or any of them, may conduct summary adjudicative hearings in accordance with the Kansas administrative procedure act.

(f) The racing judges shall immediately report each penalty to the commission.

(g) The racing judges may excuse any greyhound that the racing judges determine is disabled or unfit to run.

(h) The racing judges may suspend any greyhound from participating in races for any period of time determined by the racing judges if the greyhound does not meet the requirements of, or has been involved in any violations of these racing regulations or any provisions of the Kansas parimutuel racing act.

(i) Any matter within the jurisdiction of the racing judges may be referred by the racing judges to the commission with or without recommendation.

(j) The racing judges shall maintain a detailed written account of each question, dispute, protest, complaint and objection. The racing judges shall prepare and submit a daily report to the executive director within 72 hours of the race date that is the subject of the report. The report shall detail each raceday's activities, including:

- (1) each derogatory comment;
- (2) each disciplinary hearing;
- (3) each fine;
- (4) each suspension;
- (5) the conduct of each race;
- (6) each interruption and delay; and
- (7) the condition of the racetrack facility.

(k) A qualified person shall test or examine each greyhound that has entered a race or that has run in a race when ordered by the racing judges. The racing judges may examine any ownership papers, certificates, documents of eligibility, contracts or leases pertaining to any greyhound at the racetrack facility.

(l) If the racing judges determine that any race or races cannot be conducted in accordance with the regulations, the racing judges shall cancel that race or those races.

(m) The timing of each race shall be conducted by the racing judges as follows.

(1) The racing judges shall declare the official time of each race.

(2) The racing judges shall hand-time each race using a stopwatch that has been inspected and certified by a competent watchmaker.

(3) The racing judges shall time each race to $\frac{1}{100}$ th of a second.

(4) The timing of the race shall commence with the opening of the lids of the starting box.

(5) The racing judges shall declare the time shown on the official timing device as the official time of the race if the racing judges are satisfied that the timing device is functioning properly. If the racing judges are not satisfied, the racing judges shall use the time shown on the hand-held stopwatch.

(n) The racing judges shall determine the official winner and other respective positions in the order of finish. The racing judges shall consider only the relative position of the respective racing muzzles of the greyhounds to determine each place at the finish.

(o) If a greyhound loses its racing muzzle or finishes with a hanging muzzle, the racing judges shall consider only the relative position of the nose of the greyhound that finishes without its racing muzzle in respect to the racing muzzles of the other greyhounds in the race.

(p) In each race, the racing judges shall promptly display the number of the first three greyhounds in order of their finish. The racing judges shall also display the number of the greyhound finishing fourth. If the racing judges disagree about the order of finish, the majority shall prevail.

(q) If the racing judges wish to consult a picture from the photo finish camera, the placements the racing judges have agreed upon may be posted without waiting for a picture and, after consulting the picture, the racing judges may post any changes in placement. However, the racing judges shall not declare the race official until the racing judges have determined which greyhounds finished first, second and third.

(r) Nothing in these racing regulations shall prevent the racing judges from correcting an error before the official sign is displayed or from recalling the official sign in the event it has been

displayed through error. (Authorized by K.S.A. 1994 Supp. 74-8804, as amended by L. 1995, Ch. 255, Sec. 8; implementing K.S.A. 1994 Supp. 74-8804, as amended by L. 1995, Ch. 255, Sec. 8, 1994 Supp. 74-8818 and 74-8816; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 25, 1991; amended Sept. 6, 1994; amended March 8, 1996.)

112-6-3. Director of racing. (a) The director of racing shall have general supervision over each owner, trainer and any other individual attendant on greyhounds.

(b) The director of racing shall have control over and free access to the racetrack facility.

(c) The director of racing shall determine all matters regarding eligibility, entries, withdrawals, scratches and the conduct of the races, except as those matters may be otherwise determined by the racing judges. (Authorized by K.S.A. 1989 Supp. 74-8804; implementing K.S.A. 1989 Supp. 74-8804; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 25, 1991.)

112-6-4. The paddock judge and the kennel master. (a) Each paddock judge shall complete an identification card for each greyhound before it is entered for official schooling. Each paddock judge shall ensure that each greyhound conforms to the card index identification and shall report each discrepancy to the racing judges.

(b) Under the supervision of the paddock judge and in cooperation with the commission animal health officer, each kennel master shall unlock the lock-out kennels immediately before weigh-in time to see that the lock-out kennels are in safe and perfect repair and that nothing has been deposited in them for the greyhounds to consume. The kennel master shall see that the lock-out kennels are sprayed, disinfected, and kept in proper sanitary condition. The kennel master or the kennel master's assistants shall receive each greyhound from its trainer, one at a time, and see that the greyhound is placed in its crate. After the kennel master receives the greyhounds, the kennel master shall remain on duty at the lock-out kennel until each greyhound is removed for the last race.

(c) No paddock judge or paddock judge's assistant shall allow anyone to present a greyhound for weigh-in at an official schooling or an official race except the greyhound's kennel owner, trainer, licensed assistant, or licensed kennel helper, as designated on the kennel roster.

(d) As each greyhound is weighed in, each paddock judge, kennel master, or paddock judge's assistant shall ensure that an identification tag is attached to the greyhound's collar that indicates the number of the race in which the greyhound is entered and its post position. The tag shall not be removed until the greyhound has been weighed out and blanketed.

(e) After the greyhounds are placed in the lock-out kennels, only the racing judges, the paddock judge, the kennel master, the animal health officer, the assistant animal health officers, or the lead outs shall enter the lock-out kennels. None of these individuals shall enter the lock-out kennels unaccompanied.

(f) Before the greyhounds leave the paddock for the starting box, each paddock judge or paddock judge's assistant shall carefully compare each greyhound with its identification card and shall determine that each greyhound is equipped with a regulation racing muzzle and blanket. The paddock judge or the paddock judge's assistant shall examine all muzzles and blankets to determine whether they are properly fitted before the greyhounds leave the paddock.

(g) The paddock judge shall assign lead outs to the respective post positions by lot before each racing program. However, if a greyhound is difficult to handle, the paddock judge may assign the greyhound to the particular lead out who is most capable of handling the greyhound, in the paddock judge's opinion. The paddock judge or the paddock judge's assistant shall maintain a written record of lead out assignments. (Authorized by K.S.A. 2001 Supp. 74-8804; implementing K.S.A. 2001 Supp. 74-8804; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 25, 1991; amended Jan. 31, 2003.)

112-6-4a. Lead outs. (a) The lead out shall not be considered an official for purposes of these regulations.

(b)(1) Each licensee shall train lead outs in the scope and proper performance of duties before working official races.

(2) Each licensee shall properly train lead outs in the handling of greyhounds. This training shall include the following:

- (A) The proper method of leading greyhounds;
- (B) weighing of, placement in, and removal of greyhounds from lock-out kennels;
- (C) handling of blankets, muzzles, and leashes;
- (D) placement in the starting box; and

(E) returning the greyhound to the kennel representative after the finish of a race.

(c)(1) A lead out shall not lead more than one greyhound from the paddock to the starting box during official purse races. More than one greyhound per lead out may be permitted upon application to the racing judges on a performance basis. In official schooling races, a lead out shall not lead more than two greyhounds from the paddock to the starting box.

(2) A lead out shall lead the greyhounds from the paddock to the starting box. Owners, trainers, or attendants shall not be allowed to lead any greyhound.

(3) Each lead out shall be assigned to a post position by lot by the paddock judge or paddock judge's assistant before each race or performance, and a record of that race or performance shall be maintained.

(d)(1) The lead out shall handle each greyhound in a humane manner and shall immediately report any infirmities or physical problems that the lead out observes in greyhounds under that individual's care to the nearest racing official, for notification to the commission veterinarian.

(2) The lead out shall be prohibited from holding any conversation with the public or with one another en route to the starting box unless pertaining to subsection (e) of this regulation.

(3) Each lead out shall be attired in a clean uniform, present a neat appearance, and act in an orderly manner.

(4) The lead out shall be prohibited from smoking unless that individual is 18 years of age or older and on a duly authorized break.

(5) The lead out shall be prohibited from smoking, drinking beverages other than water, or eating unless on a duly authorized break and in a designated area.

(e)(1) Once the first race of the performance has been removed from the lock-out kennel, each lead out shall remain in the restricted area of the paddock at all times except to accompany an assigned greyhound to the starting box.

(2) A lead out not on duty shall be prohibited from entering the paddock until the last race has left the paddock.

(3) A lead out shall not remove any racing blankets until the greyhounds are accepted by licensed kennel representatives at the conclusion of the race.

(f)(1) No lead out shall be permitted to have any interest in the greyhound racing for the licensee.

(2) The lead out shall be prohibited from wagering on the result of any greyhound racing at the racetrack where the lead out is assigned.

(g) Any individual found to be in violation of any of this regulation shall be subject to suspension, revocation, fine, or any combination, or any other action that the judges deem necessary. (Authorized by K.S.A. 1998 Supp. 74-8804; implementing K.S.A. 1998 Supp. 74-8816; effective Oct. 15, 1999.)

112-6-5. Clerk of scales. (a) Each clerk of scales shall monitor the weigh-in and weigh-out of each greyhound and shall post the accurate weight of each greyhound on the weight board for the information of the public. The established race weight, pre-post weight and track weight must be promptly posted or announced for the information of the public.

(b) Each clerk of scales shall keep a record of the weigh-in and the weigh-out weights and shall record any scratches and the reasons for them.

(c) Each clerk of scales shall be responsible for having the scales checked for accuracy by a certified person before each race meet. Each organization licensee shall equip the scales with a certified weight for the use of any interested person.

(d) Each clerk of scales shall promptly report to the racing judges each infraction of the regulations regarding weight or weighing. (Authorized by K.S.A. 1989 Supp. 74-8804; implementing K.S.A. 1989 Supp. 74-8804; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 25, 1991.)

112-6-6. The starter. (a) Each starter shall give the orders and take the actions necessary to secure a fair start for the entries.

(b) Each greyhound shall be started from a starting box that is approved by the commission. Unless otherwise approved by the commission, the starting box shall consist of eight positions, and the starting box lid shall be opened by an automatic starting device.

(c) Each starter shall report each delay of race and the cause of the delay to the racing judges.

(d) Each starter shall notify the racing judges if any greyhound appears to be disabled or unfit to run because of an accident that occurred before the greyhound was placed in the starting box.

(e) Each starting box to be used during a performance shall be tested before the first race of the performance.

(f) If the automatic starting device fails to op-

erate properly, each starter shall make only one manual attempt to open the starting box. If the starting box does not open completely after the first manual attempt, the starter shall notify the racing judges immediately. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 19, 1990.)

112-6-7. The lure operator. (a) Each lure operator shall direct complete attention to the operation of the mechanical lure during each race meet. Each organization licensee shall provide the lure operator with a room as free as possible from any disturbance that may distract the lure operator during the conduct of duties.

(b) Each lure operator shall run a consistent lure at all times and shall immediately report to the racing judges each circumstance that may prevent the running of a consistent lure.

(c) The lure operator shall run the mechanical lure completely around the racing strip at least twice prior to the first post time to determine that the lure is in perfect working condition. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by 1988 HB 2774, Sec. 3; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989.)

112-6-8. The racing secretary. (a) Each racing secretary shall maintain a file of each lease or ownership paper on each greyhound racing in the race meet. The racing secretary shall inspect all ownership and lease documents to confirm that they are accurate, complete and current. The racing secretary is responsible for the custody and safe keeping of each lease or national greyhound association ownership paper and shall permit only authorized personnel access to them. Each document shall not be removed from the racing secretary's custody by any individual except the greyhound's kennel owner or trainer.

(b) Each racing secretary shall maintain a complete record of all races, shall receive all stakes and entrance money and shall pay over all monies collected to officers or other persons entitled to receive them.

(c) Any racing secretary may request proof that a greyhound is not disqualified or nominated by or the property, wholly or in part, of a disqualified person. If sufficient proof is not given to satisfy the racing secretary, the racing secretary may declare the greyhound disqualified.

(d) Each racing secretary shall receive all entries and declarations.

(e) Any racing secretary may demand production of and inspect each owner's and trainer's license and each paper and document relating to owners, trainers, partnership agreements, appointment of authorized agents and adoption of kennel names. Each racing secretary shall make a reasonable attempt to establish that required individuals are licensed and that the regulations have been followed. The documents shall be available to the racing judges at all times.

(f) Each day, as soon as the entries are composed and compiled and the declarations made, each racing secretary shall post a list of entries in a conspicuous place. (Authorized by K.S.A. 1989 Supp. 74-8804; implementing K.S.A. 1989 Supp. 74-8804; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 25, 1991.)

112-6-9. The mutuel manager. For purposes of these regulations, the duties of the mutuel manager shall be defined the same in this article as in 112-5-10. (Authorized by K.S.A. 1993 Supp. 74-8804; implementing K.S.A. 74-8816 and K.S.A. 1993 Supp. 74-8818; effective Sept. 6, 1994.)

112-6-10. The chartwriter. (a) For purposes of these regulations, the chartwriter shall be the individual who shall obtain information to be printed in the racing program concerning each racing greyhound.

(b) The chartwriter's duties shall include:

(1) viewing the running of each official live race;

(2) viewing the tape of each race as many times as necessary to obtain the following information on each racing greyhound:

(A) the running time and order of finish, verified by the photo finish operator whenever possible, for each racing greyhound;

(B) the post positions and position calls during the race for each racing greyhound;

(C) the equivalent win odds for each racing greyhound;

(D) the parimutuel payoffs for each wagering race;

(E) the date, distance, grade, track condition and racing weight for each official race a greyhound competes in; and

(F) a comment referencing each greyhound's performance in each race;

(3) obtaining any other vital information relating to each racing greyhound; and

(4) overseeing the information provided in the racing program for use by the betting public. (Authorized by K.S.A. 1993 Supp. 74-8804; implementing K.S.A. 74-8816 and K.S.A. 1993 Supp. 74-8818; effective Sept. 6, 1994.)

Article 7.—RULES FOR RACING

112-7-2. Ownership. (a) The legal ownership of each horse, and the name of each owner that is printed on the official program for the horse, shall conform to the ownership declaration on the horse's certificate of registration, eligibility certificate or lease agreement on file with the organization licensee. Each stable name shall be registered with the commission as the owner or owners. If the owner is a syndicate, corporation, partnership or other association or entity, the horseowner whose name is printed on the official program shall be the responsible managing owner, officer or partner who assumes all responsibilities of the owner.

(b) Each horse owned in whole or in part or under the care and control of an individual who is excluded from a racetrack or who has a suspended license shall be ineligible to enter or to start in any race. The horse's eligibility may be reinstated when the individual's penalty terminates or when the horse is transferred through a bona fide sale to an owner approved by the stewards. Each individual who is excluded from a racetrack or who has a suspended license, whether acting as an agent or otherwise, shall not be qualified to subscribe for, to enter or to run any horse in any race either in the individual's own name or in the name of any other person until the termination of the penalty. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-7-3. Deceased owners. (a) Any personal representative of a deceased owner may exercise and transfer the deceased owner's nominations, entries and rights of nomination and entry subject to the regulations of the commission. Each personal representative shall be deemed to hold an owner's license with respect to horses belonging to the estate of the deceased until the

commission declares that the deceased owner's license is no longer in effect.

(b) When a horse is held by multiple ownership and a member of the multiple ownership dies, any nominations, entries and rights of nomination and entry continue and may be exercised by any remaining members.

(c) Nominations and all entries or rights of entry under them become void when the nominator dies subject to the following exceptions:

(1) When the horse is held by multiple ownership; or

(2) when the personal representative of an estate requests in writing that the benefits of the nominations accrue to the estate of the deceased nominator for the purpose of selling or transferring a horse, and the personal representative agrees to assume any and all obligations incident to the original entries, and the stewards approve the request. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-7-4. Documents. (a) Each win sheet, certificate of registration, certificate of eligibility, entry card or other document of ownership or registration shall have no information omitted and any required signature on the documents shall not be willfully altered or forged by any person.

(b) Each certificate of registration or document of ownership that is filed with the racing secretary to establish a horse's eligibility to enter a race shall be released only to the horse's trainer of record, except that the trainer may authorize the release of the certificate to the owner named on the certificate or the authorized owner's agent on a form provided by the racing secretary. Each dispute concerning a right to the registration certificate shall be decided by the stewards. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-7-5. Horses sold or transferred with engagements. (a) Each racing secretary shall require any licensee to provide evidence of any sale or transfer when a horse is sold or transferred with its engagements, and the failure to produce evidence shall render the horse ineligible to start in any race.

(b) No person shall transfer or receive the transfer of a horse or engagement of a horse for the purpose of avoiding any disqualification.

(c) Each sale or transfer of a horse located at a racetrack facility shall not be final until approved by the stewards. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-7-6. Registration and eligibility. (a) No person shall enter or start a horse in a race unless all of the following conditions are met:

(1) The horse is duly registered with and approved by the registry offices of one of the following:

(A) The jockey club, if a thoroughbred;

(B) the American quarter horse association, if a quarter horse;

(C) the Appaloosa horse club, if an Appaloosa;

(D) the Arabian horse club registry of America, if an Arabian;

(E) the American paint horse association, if a paint;

(F) the pinto horse association of America, inc., if a pinto;

(G) the American trotter's association, if a standardbred; or

(H) any successors to any of the registries named in paragraphs (a)(1)(A) through (G) or any other registry recognized by the commission.

(2) The horse's registration certificate, showing the tattoo number of the horse, is filed with the racing secretary by entry time for the race. In stakes races, the registration certificate shall be filed not less than two hours before the scheduled post time for the race, except as provided in paragraph (b) (10).

(3) The horse is in the care of a licensed trainer and owned by an owner licensed by scratch time, except that for the first 10 days of a race meeting or for stakes races, an owner shall be licensed by one hour before first post on the day of the race.

(4) At the time of entry, the horse is eligible under the conditions of the race as specified by the racing secretary and remains eligible until the race.

(5) If the horse's name is changed, its new name is registered with the appropriate registry listed in paragraphs (a) (1) (A) through (H). Both the horse's previous name and new name shall be stated in every entry list until the horse has run three races. Both names shall be printed in the official programs for those three races.

(b) No person shall enter or start a horse in a race if any of the following conditions is met:

- (1) The horse is suspended.
- (2) The horse is on the steward's list, starter's list, or veterinarian's list.
- (3) The certificate reflecting a negative Coggins test, performed upon the horse within the previous 12 months, has not been submitted to the racing secretary.
- (4) The identification markings of the horse do not agree with the identification as specified on the registration certificate to the extent that a correction is required from the appropriate breed registry, unless the permission of the stewards and the identifier is given.
- (5) The horse has not been lip-tattooed by a commission-approved tattooer.
- (6) The entry of the horse is not in the name of the true owner.
- (7) The horse has drawn into a field or started in a race on the same day.
- (8) The horse's age, as determined by an examination of its teeth by the official veterinarian, does not correspond to the age shown on its registration certificate.
- (9) The horse's certificate of registration reflects an unknown sire or dam.
- (10) An ownership transfer for a horse is being forwarded to a breed registry.

(c) No person shall start a horse in any race unless it has been properly entered in the race. A horse that is improperly entered shall not be entitled to any part of the purse. However, once the "official" sign is posted, this regulation shall not affect the wagering on the race.

(d) Each trainer shall be responsible for the eligibility of the horses entered by the trainer or an authorized agent of the trainer.

(e) Any nomination or entry of a horse or the transfer of any nomination or entry may be refused by the organization licensee for reasonable cause. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8825; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended March 25, 1991; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended Jan. 18, 2008.)

112-7-7. Entries. (a) Each horse entered for the first time at a race meeting shall be identified by its name, color, sex, age, and the name of its sire or sires and dam as registered. For every oth-

er race, each horse shall be identified by its name, color, sex, and age.

(b) Each nomination and entry shall be made in writing and signed by the owner or trainer of the horse, or the owner's licensed authorized agent or the trainer's licensed authorized agent. Each organization licensee shall provide forms upon which entries, scratches, and declarations are to be made for all races.

(1) Only each steward, racing secretary, and secretary's designee shall be authorized to receive entries, scratches, and declarations.

(2) Any entry may be made by telephone, facsimile, or telegraph, but each entry shall be confirmed in writing one hour before post time of the first race on the day of the race for which the horse is entered.

(3) In a stakes race, the closing of nominations, entries, interim payments, and declarations shall be in accordance with the conditions published by the organization licensee sponsoring the race.

(4) Each signed entry blank shall be prima facie evidence that the contents of the entry blank express the desire and intent of the person making the entry.

(c) Each nominator shall be liable for entrance money or stakes. A mistake in the entry of an eligible horse shall not release the subscriber or the subscriber's transfer from liability for stakes or entrance money. Entrance money or stakes shall not be refunded because of the death of a horse or because of its failure to start a race.

(d) No person shall perform any of the following:

- (1) enter in the person's name a horse of which the person is not the actual owner;
- (2) enter or cause to be entered or start a horse that the person knows or believes to be ineligible or disqualified;

(3) enter a horse in more than one race on any day, except stakes races; or

(4) enter a horse in a race if it is wholly or partly owned by, trained by, or under the management of a person whose license is under suspension or a person who acts in concert with or under the control of a person whose license is under suspension.

(e) Each entry from a person whose license is suspended and each entry of an ineligible horse shall be void, and any money paid for the entry shall be paid to the purse of the race.

(f) Except for decisions regarding disqualification for interference during the running of the race, each dispute, claim, and objection relating to the race and the interpretation of commission

regulations shall be decided by the stewards or, upon review, by the commission. (Authorized by and implementing K.S.A. 1996 Supp. 74-8804; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended May 1, 1998.)

112-7-8. Coupled entries. (a) Not more than two horses of the same licensed ownership or interest shall be entered and started in a race, except in stakes races and races that are conditioned for horses eligible for specified stakes.

(b) No owner or trainer shall enter more than two horses in an overnight event. Two horses shall not start to the exclusion of a single horse.

Two or more horses entered to run in a stakes race that are owned or trained, or both, by the same person, persons, or interests shall run as an uncoupled entry.

(c) Horses trained by a public stable trainer shall not be coupled with horses trained by another public stable trainer unless the horses are owned by the same person or are coupled as a field for wagering purposes.

(d) All horses owned wholly or in part or trained by the same person or the person's spouse and entered and started in a race except as noted in subsection (a) shall be coupled and run as an entry. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8825; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended Jan. 18, 2008.)

112-7-9. Loss of entries. Each person who alleges loss of an entry or declaration for a stakes race shall provide satisfactory proof to the racing secretary that it was mailed, facsimiled or telegraphed within a reasonable time before the designated time for closing, or it shall not be considered received. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-7-10. Closing of entries and drawing of post positions. (a) No entry or declaration for a stakes race shall be considered if received after the hour designated for closing. If an hour for

closing is not designated, any entry or declaration may be mailed, facsimiled or telegraphed before midnight of the day designated for closing, if the entry or declaration complies with every other condition of the race.

(b) Each drawing of entries for post positions shall be governed by the following procedures.

(1) If entries exceed the permitted number of starters, the number of starters shall be reduced to the proper number by the preferred date system. The date system may be used for the entire race or for each division of the race at the option of the organization licensee.

(2) The racing secretary shall select an owner or a trainer who is present in the entry office to draw the entry sheets and post position numbers in public view within a reasonable time following each closing of entries. Each entry shall be drawn from its approved receptacle before the number ball is released from the number box.

(3) In divided and split races, the starters in the separate divisions shall be selected by the preferred date system. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-7-11. Changing of races. Any organization licensee may withdraw or change any race with the permission of the stewards. If a race is declared off because of insufficient entries, the organization licensee may split any other race. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-7-12. Preference system. (a) Each racing secretary shall keep a list of all horses excluded from races because of excessive entries, and each excluded horse shall have preference in any later race in which they may be entered in accordance with a date system adopted by the racing secretary and approved by the stewards. This shall be known as the "preferred date system."

(b) When a horse is entered on one day and has an opportunity to start other than in a stakes race, as required in K.A.R. 112-7-7(d)(3), and is also entered for the following race day, the second entry shall be classified as an "in-today" and shall not be considered unless there are insufficient entries

in the race. Such a horse shall not be placed on the preferred list.

(c) If a race overfills, the second part of an entry shall receive preference over horses classified as "in-today" on the "also eligible" list.

(d) Each horse's name shall not be placed on the preferred list and all preference shall be forfeited if the owner does not accept, when presented, the opportunity to start the horse. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-7-13. Declarations and scratches.

(a) Each declaration and scratch shall be made in writing and signed by the owner or trainer of the horse or the owner's authorized agent. Each organization licensee shall provide forms on which scratches and declarations shall be made.

(1) No horse shall be scratched without permission of the stewards.

(2) Each scratch shall be made before the scratch time set by the organization licensee, except as provided in subsections (c) through (h) of this regulation.

(3) If a scratch reduces the number of horses in the race, each horse left in the race shall move into the lower numbered post positions before any horse is drawn from the also eligible list.

(b) If a scratch reduces the number of horses in the race below the number designated for the race, the designated number of horses shall be maintained by the drawing of lots from the also eligible list after the scratch has occurred, and each horse drawn by this procedure shall be required to race.

(c) Each scratch from an early-closing stakes race shall be made not less than one hour before post time of the race. Any steward or animal health officer, acting with the approval of the stewards, may scratch a horse at any time before post time of the race.

(d) If a horse is not named through the entry box at the usual time of closing in a stakes race, that horse shall be scratched from the race.

(e) Any nomination of a horse to a stakes race may be altered or withdrawn at any time before the closing time for nominations.

(f) Despite paragraph (a) (2) of this regulation, the stewards may permit the withdrawal of any horse after it has left the paddock for any reason that they determine to be in the best interests of racing.

(g) The stewards may declare a horse a non-starter for any occurrence before the running of a race.

(h) If any horse is so unruly in the saddling paddock that the identifier cannot read the tattoo number to properly identify the horse, or if any trainer or assistant is uncooperative in the effort to identify the horse, the horse may be scratched by order of the stewards.

(i) Each declaration of a horse out of an engagement shall be irrevocable. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-7-14. Penalties and allowances.

(a) Penalties and allowances shall be determined as follows:

(1) Penalties and allowances shall not be cumulative unless they are declared to be so in the conditions of the race. They shall be effective at the start except in overnight events when a horse shall have only the allowance to which it was entitled at the time of entry.

(2) Penalties and sex allowances shall be obligatory. Penalties or allowances shall be claimed at the time of entry. Each horse shall not enter or start a race with less than 102 pounds unless the race is a handicap or stakes.

(3) Each horse shall not receive an allowance of weight or be relieved from extra weight because it has been beaten in one or more races, but this shall not prohibit the awarding of a maiden allowance or allowances to horses that have not won a race within a specified period or a race of specified value.

(4) Failure to claim a weight allowance by oversight or omission shall not be cause for disqualification. Claims of weight allowance to which a horse is not entitled shall not disqualify the horse unless an incorrect weight is carried in the race. However, a fine may be imposed upon the person who claims an allowance to which the horse is not entitled.

(5) Eligibility, penalties and allowances of weight for all races shall be determined from the reports, records and statistics published by the daily racing form and from the horse registries identified in K.A.R. 112-7-6. However, responsibility for weight carried and eligibility shall remain with the owner and the trainer as stated in K.A.R. 112-7-6 (c).

(6) Each horse shall not incur a weight penalty for a placement from which it is disqualified, but each horse that places because of the disqualification of another horse shall incur the weight penalties of the placement. Each horse that places because of the disqualification of another horse shall not be ruled ineligible in a race that has already been run.

(b) For thoroughbreds only, in all races against male horses, two year old fillies shall be allowed three pounds and three year old and older fillies and mares shall be allowed five pounds before September 1 and three pounds after September 1. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-7-15. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; revoked, T-112-8-13-92, Aug. 13, 1992; revoked, T-112-12-10-92, Dec. 10, 1992; revoked Feb. 15, 1993.)

112-7-15a. Claiming. (a) Except as otherwise provided by these racing regulations, in a claiming race, each horse shall be subject to a claim for its entered price by one of the following:

(1) A licensed owner who has a horse registered to race at the current race meeting or the owner's authorized agent; or

(2) a person licensed as an owner by open claim.

(b) No owner shall make a claim directly or indirectly for the owner's own horse.

(c) The filing of claims shall be supervised by a steward or the steward's designee.

(d) Each claim shall be submitted in writing on a form and in an envelope that are provided by the organization licensee and approved by the commission. Each form and envelope shall be fully executed, and the information appearing on them shall be true and correct. Each horse's name shall be written as it appears on the official program.

(e) Each person making a claim shall be responsible for determining the age and sex of the horse.

(f) Each claim shall be deposited in a locked box provided by the racing secretary not later than 10 minutes before post time of the race in which the horse being claimed is to start. No person shall place money or any other consideration in the claim box.

(g) Before the deadline for filing claims, no person shall open the box in which the claims are deposited or reveal any information regarding any claim.

(h) After the deadline for filing claims, a steward or a designee of the stewards shall open the box, examine the claims and notify the stewards of any successful claim. The racing secretary and horsemen's bookkeeper then shall be notified of the claim to determine whether the appropriate amount is on deposit with the horsemen's bookkeeper and to debit the claimant's account for the amount of the claim and applicable fees.

(i) If more than one claim is filed for the same horse, the successful claimant shall be determined by lot under the supervision of the steward or steward's designee.

(j) Each title to a horse that is claimed shall be vested in the successful claimant when the stall door of the starting gate opens in front of the horse. This requirement shall apply regardless of any subsequent injury to the horse during or after the race.

(k) On the day a claim is made, each claimed horse shall run in the interest of and for the account of the owner from whom the horse was claimed.

(l) Except as otherwise provided by this regulation, each claim that is filed in accordance with these provisions shall be irrevocable.

(m) If the stewards excuse a horse before it is a starter, each claim for the horse shall be invalid.

(n) If the stewards declare a claiming race a "no race," each claim filed for that race shall be invalid.

(o) To file a valid claim, each person shall deposit with the horsemen's bookkeeper cash, a money order, a certified check, or a cashier's check in an amount equal to the sum of the claim, all transfer fees, and any applicable taxes. With the prior written approval of the organization licensee, a person may deposit a personal check with the horsemen's bookkeeper to satisfy the claim and transfer fees. Each organization licensee shall guarantee and be liable for any insufficient funds related to a personal check that the licensee has approved for this purpose.

(p) A person who files a claim shall not exhaust the person's account with the horsemen's bookkeeper during the two-hour period after the claim was filed.

(q) After the claiming race, each horse that has been claimed shall be taken to the area designated by the organization licensee for delivery to the claimant, unless the horse is designated for testing.

(r) No person shall refuse to deliver a claimed horse.

(s) Each engagement of a claimed horse automatically shall transfer to the new owner. Each claimed horse shall be ineligible to enter a future race unless the entry is made on behalf of the new owner.

(t) Without written authorization from a steward or the steward's designee, no claimed horse shall be delivered to a successful claimant.

(u) Each claimed horse that has been designated for post-race testing shall remain the responsibility of its trainer until after the collection of the test specimen. After the required test procedures are completed, the trainer shall deliver the claimed horse to the successful claimant.

(v) During the 30-day period after a person claims a horse or until the end of the meet, the claimant shall not sell or transfer any ownership interest in the claimed horse by any method except a claiming race.

(w) If a horse is claimed at a recognized race meeting governed by the rules of another racing jurisdiction, the claiming rules of the jurisdiction where the horse was claimed shall be recognized in Kansas. However, while the horse races in Kansas, this regulation shall apply. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8825; effective, T-112-8-13-92, Aug. 13, 1992; effective, T-112-12-10-92, Dec. 10, 1992; effective Feb. 15, 1993; amended Jan. 18, 2008.)

112-7-15b. Claiming, vacated stable. (a) Except as otherwise provided by this regulation, each owner whose stable is vacated by the sale or removal of horses from the racetrack facility shall lose any right to claim horses at the race meeting

(b) Each owner whose stable is vacated by claims shall be entitled to make claims until the later of:

(1) the end of the race meeting at which the stable was vacated; or

(2) the 31st race day after the date the stable was vacated.

(c) Each owner whose stable was vacated and who intends to make a claim at a subsequent race meeting shall file with the claim a certificate from the stewards who presided at the race meeting at which the stable was vacated.

(d) Any owner whose stable was vacated because of fire or like event may be permitted by the stewards to claim horses in accordance with this regulation. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective,

T-112-8-13-92, Aug. 13, 1992; effective, T-112-12-10-92, Dec. 10, 1992; effective Feb. 15, 1993.)

112-7-16. Invalid or void claims and prohibitions on claims. (a) Each claim shall be invalid if any of the following conditions is met:

(1) The name of the horse to be claimed is erroneously spelled or is not specified in the space provided on the claim form.

(2) The claimant does not have at least the amount of the claim and any applicable state sales tax on deposit or credited with the horsemen's bookkeeper.

(3) The claim form does not specify the designated price as printed in the official program, is not signed, does not fully indicate the name of the party making the claim, or is otherwise incorrectly completed.

(4) The claim envelope is inaccurate.

(b) If a claim is voided by the stewards, the horse claimed shall be returned to the original owner who, in turn, shall refund all of the claim money to the unsuccessful claimant.

(c) No person or racing interest shall take any of the following actions:

(1) Claiming more than one horse from any one race;

(2) claiming that person's or racing interest's own horse or causing the horse to be claimed, directly or indirectly, for that person's or racing interest's own account;

(3) refusing to deliver a claimed horse to the successful claimant;

(4) removing any horse that has been entered in a claiming race from the racetrack facility where it has been entered to race, or failing or refusing to comply with any commission order, regulation, or statute of the Kansas racing and gaming commission or any condition of the race meeting for the purpose of avoiding or preventing a claim for the horse;

(5) offering or entering into an agreement to claim or not to claim or attempting to prevent another person from claiming any horse in a claiming race;

(6) attempting to intimidate or prevent anyone from running a horse in any claiming race;

(7) claiming horses owned or trained by the claimant's trainer's spouse, child, sibling, parent, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;

(8) claiming a horse from an owner whose horse is trained by the claimant's trainer;

(9) if a trainer, claiming a horse from an owner for whom the trainer trains;

(10) entering or allowing to be entered any horse against which any claim is held, either by mortgage or lien of any kind, without having filed the written consent of the holder of the mortgage or lien with the racing secretary and horsemen's bookkeeper before the entry; or

(11) leaving a horse that is claimed in the care or custody of the owner from whom the horse was claimed.

(d) If the stewards have reasonable doubt about the validity of a claim, the claimant shall be required by the stewards to execute an affidavit stating that the claimant is claiming the horse for the claimant's own account or as an authorized agent, and not for any other person.

(e) Each claimant shall be solely responsible for determining the true age and sex of a claimed horse, and mistakes in that regard printed in the official program or elsewhere shall not be considered a basis for invalidating the claim.

(f) Not later than 30 minutes after the race is run, written protest of a claim may be submitted to the stewards, who shall investigate the matter as quickly as possible. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8825; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended Jan. 18, 2008.)

112-7-16a. Disclosure of mare in foal. (a)

A mare or filly that has been serviced may be entered in a claiming race if:

(1) the owner files with the racing secretary a certificate from a licensed veterinarian that is dated no earlier than 40 days after the date the mare or filly was last serviced and that states the mare or filly is not in foal; or

(2) before entering the mare or filly, the owner:

(A) files with the racing secretary a statement disclosing the servicing of the mare or filly, which shall be posted in the office of the racing secretary;

(B) files with the racing secretary a signed statement agreeing to deliver without cost to a successful claimant the valid stallion service certificate regarding the servicing of the mare or filly; and

(C) makes all payments due for the stallion service or for any resulting live foal.

(b) Any successful claimant of a mare or filly in a claiming race may file with the stewards, not more

than 30 days after the date of the claim, a petition to rescind the claim if:

(1) the claimant learns the mare or filly is in foal; and

(2) the owner of the mare or filly has not complied with subsection (a) of this regulation. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-8-13-92, Aug. 13, 1992; effective, T-112-12-10-92, Dec. 10, 1992; effective Feb. 15, 1993.)

112-7-17. Claiming authorization. (a)

Each person who makes an application for a claiming authorization on the forms provided shall receive a claiming authorization from the commission or its appointed representatives, provided the person:

(1) Is licensed as an owner or an owner by open claim;

(2) has an agreement with a licensed trainer to take charge of, care for and train any horse claimed pursuant to the claiming authorization; and

(3) has at least the amount of the claim and applicable taxes on deposit or credited with the "horsemen's bookkeeper."

(b) Each holder of a claiming authorization and each trainer shall promptly notify the stewards in writing if the agreement is terminated before a horse is successfully claimed.

(c) Each claiming authorization shall be valid for 30 days or until the person to whom the authorization was issued becomes a horse owner either through use of the claiming authorization or through a private purchase, whichever is sooner.

(d) Each applicant for a claiming authorization shall pay to the commission the same fee that is charged for an owner's license before the authorization is issued. Each holder of a claiming authorization shall not be entitled, by virtue thereof, to admission to the grandstand, clubhouse or other spectator facility at prices less than those charged to the general public. The holder of a claiming authorization who previously has not been granted an owner's license shall be issued an owner's license without payment of any additional fees.

(e) Any application for claiming authorization may be denied or revoked for any reason that would justify denial, suspension or revocation of an owner's license. Each person whose claiming authorization is denied or revoked shall have the same rights to notice and hearing as an owner would have whose license is denied, suspended

or revoked. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-7-18. Jockeys. (a) Each jockey engaged to ride in a race shall report to the jockey room at least one hour before post time of the first race and shall weigh out at the appointed time. After reporting to the jockey room, the jockey shall not leave it except to ride in a race until all of that jockey's riding engagements have been fulfilled, unless the jockey has permission from the stewards.

(b) Only jockeys, jockey attendants, racing officials, commission representatives, security officers on duty, and organization employees performing required duties may enter the jockey room from one hour before post time for the first race until after the last race. No other person shall enter the jockey room at the time identified in this subsection, except with the permission of the stewards or the commission.

(c) Each horse owner shall deposit the jockey mount fee for a horse in the race with the "horsemen's bookkeeper" before the time for weighing out. Failure to deposit the minimum fee shall be cause for disciplinary action against the owner and shall be cause for the stewards to scratch the horse for which the fee is to be deposited. Each organization licensee shall assume the obligation to pay the jockey mount fee when it is earned by the engaged jockey. The jockey mount fee shall be earned when the jockey is weighed out by the clerk of scales unless a jockey who is capable of riding elects not to ride the horse in that race without proper cause in the opinion of the stewards.

(d) No jockey who is engaged for a certain race or for a specified time shall fail or refuse to abide by the agreement unless the jockey is excused by the stewards.

(e) Without the permission of the owner or trainer, no jockey shall weigh out if the jockey weighs more than two pounds over the weight assigned to the horse. Under no circumstances shall the margin over the weight limit exceed seven pounds. In such a case, no jockey mount fee shall be due to the overweight jockey.

(f) Each jockey shall submit to a breath, urine or blood test, or any combination thereof, prior to the jockey's first mount on each race day. No jockey shall have a blood alcohol content of .05 percent or more. No jockey's urine or blood test shall indicate the presence of any controlled substance, as defined by K.S.A. 1995 Supp. 65-4101.

Each jockey who violates this subsection shall be subject to the penalties set forth in K.A.R. 112-11-13a, subsections (b) through (e) inclusive.

(g) When directed by the stewards, each jockey shall report to the stewards for film review.

(h) Each jockey shall give a best effort to win in any race in which the jockey is riding. (Authorized by and implementing K.S.A. 1995 Supp. 74-8804; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended Dec. 13, 1996.)

112-7-18a. Jockey agent. (a) Any jockey agent may represent a jockey if the jockey agent is registered with the stewards and licensed by the commission as a jockey agent. No jockey agent shall represent more than three jockeys and one apprentice jockey at the same time.

(b) No jockey agent shall give to anyone, directly or indirectly, any information or advice on races, commonly known as "touting," for personal gain.

(c) Each jockey agent shall maintain a record of all engagements made for the jockeys that the agent represents. The record shall specify first and second calls in each race. The officials may require that the jockey agent file the first and second calls with the racing secretary and display the agent's record of engagements.

(d) Any trainer or owner may demand from a jockey or jockey agent written confirmation of an engagement. Each jockey shall be bound by agreements made on the jockey's behalf by the jockey's agent.

(e) Each conflicting claim for the services of a jockey shall be decided by the stewards.

(f) Each jockey agent shall notify the stewards in writing within 24 hours if the jockey agent no longer represents a jockey. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8825; effective, T-112-8-13-92, Aug. 13, 1992; effective, T-112-12-10-92, Dec. 10, 1992; effective Feb. 15, 1993; amended Jan. 18, 2008.)

112-7-19. Jockey mount fees. (a) In the absence of a written contract or special agreement between the parties, the following jockey mount fees shall be assessed:

Purse	Winning Mount	Second Mount	Third Mount	Losing Mount
\$599 & Under	\$33.00	\$33.00	\$33.00	\$33.00
600 - 699	36.00	33.00	33.00	33.00

Purse	Winning Mount	Second Mount	Third Mount	Losing Mount
700 - 999	10%-Win Purse	33.00	33.00	33.00
1,000 - 1,499	10%-Win Purse	33.00	33.00	33.00
1,500 - 1,999	10%-Win Purse	35.00	33.00	33.00
2,000 - 3,499	10%-Win Purse	45.00	40.00	38.00
3,500 - 4,999	10%-Win Purse	55.00	45.00	40.00
5,000 - 9,999	10%-Win Purse	65.00	50.00	45.00
10,000 - 14,999	10%-Win Purse	5%-Place Purse	5%-Show Purse	50.00
15,000 - 24,999	10%-Win Purse	5%-Place Purse	5%-Show Purse	55.00
25,000 - 49,999	10%-Win Purse	5%-Place Purse	5%-Show Purse	65.00
50,000 - 99,999	10%-Win Purse	5%-Place Purse	5%-Show Purse	80.00
100,000 & up	10%-Win Purse	5%-Place Purse	5%-Show Purse	105.00

(b) If the parties enter an agreement regarding the jockey mount fee, the parties shall deliver a written contract or agreement, signed by the jockey or the jockey's agent and the owner or the owner's authorized agent, that details the mount fee for a winning mount, a second place mount, a third place mount, and a losing mount, to the horsemen's bookkeeper before the running of the race. Each horsemen's bookkeeper shall debit the owner's purse account in accordance with the provisions of the written contract or agreement. If no written contract or agreement is executed and delivered to the horsemen's bookkeeper before the running of the race, the horsemen's bookkeeper shall debit the owner's purse account in accordance with the fee scale set forth in this regulation. (Authorized by and implementing K.S.A. 1999 Supp. 74-8804; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended May 4, 2001.)

112-7-20. Safety helmets required; physical examination required. Each person who is mounted on any horse within the racetrack facility or riding in a race shall wear a properly fastened safety helmet. Each person who is mounted on a race horse within the racetrack facility shall have on file at the racetrack commission office a record of that person's physical examination, including vision and hearing tests, conducted by a person licensed to practice medicine and surgery within

the year immediately preceding. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8825; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended Jan. 18, 2008.)

112-7-21. Paddock to post. (a) Each horse in a race shall carry a conspicuous saddlecloth number and a head number corresponding to the horse's number on the official program. In the case of a coupled entry, each horse making up the entry shall bear the same number as the first part of the entry and also a distinguishing letter immediately following the number on the head and saddlecloth. In the case of a field, the horses comprising the field shall bear an individual number or a particular number immediately followed by a distinguishing letter.

(b) Each trainer shall have the entered horse in the paddock no fewer than 15 minutes before post time. The trainer shall attend the horse in the paddock and be present to supervise its saddling unless the trainer has obtained the permission of a steward to send an assistant trainer or another trainer as a substitute. Each horse shall be saddled in the paddock unless permission has been granted by the stewards to saddle elsewhere.

(c) Each blanket and bandage except any bandage that will be worn during a race shall be removed immediately upon arrival in the paddock. If weather conditions dictate, blankets may be worn after saddling with the permission of the paddock judge.

(d) The stewards may permit a horse to be led directly to the post and to be excused from the post parade.

(e) Each lead pony and each rider shall be permitted to enter the saddling paddock or walking ring only after the stewards have given permission.

(f) The post parade shall not last longer than 14 minutes after the horses enter the racetrack, except in cases of unavoidable delay. When the horses reach the post, they shall be started without unnecessary delay.

(g) After the horses enter the racetrack, no jockey shall dismount and no horse shall be entitled to the care of an attendant without the permission of the stewards or the starter. Each horse shall be free of all hands other than those of the jockey, lead pony rider, assistant starter or header before the field is dispatched by the starter. In case of accident to a jockey or to the horse or equipment,

any steward or any starter may permit the affected jockey to dismount and the horse to be cared for during the delay and also may permit any other jockeys to dismount and any other horses to be attended during the delay.

(h) Each horse shall carry its assigned weight from paddock to post and from post to finish. If a jockey is thrown on the way from the paddock to the post, the horse shall be remounted, and if reasonably possible, returned to where the jockey was thrown and shall proceed over the route of the parade to the post.

(i) If the jockey sustains an injury on the way to the post that requires substitution of another jockey, the horse shall be returned to the paddock. Another jockey shall mount and then ride the horse over any uncompleted portion of the exact route of the parade to the starting point.

(j) If a horse leaves the course while proceeding from paddock to post, the horse shall return to the course at the nearest practical point where it left the course. It shall then complete its parade to the post from the point at which it left the course.

(k) No person shall willfully delay the arrival of a horse at the post.

(l) The use of any mechanical device applied to a horse's ears at the starting gates shall be strictly prohibited. This prohibition shall include twitches, tongs, pliers, or any device designed to hold fast or squeeze the skin or other tissues.

(m) The use of a buggy whip, flexible cane, or any similar device to assist the loading of a horse into the gates shall be limited. If, in the opinion of the commission veterinarian or the stewards, there is excessive use of this device, the commission veterinarian or stewards shall order that the use of the device be stopped immediately. Any person using the device in excess shall be subject to disciplinary action at the discretion of the stewards.

(n) Only the jockey shall be permitted to strike a horse to assist in starting. (Authorized by and implementing K.S.A. 1998 Supp. 74-8804; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended Feb. 11, 2000.)

112-7-22. Post to finish. (a) No horse shall be permitted to start unless it has been tattooed and fully identified.

(b) Each horse shall take a position in numerical order from the inside rail. The order shall be determined by post positions.

(c) Each horse shall be a starter after the doors of the starting gate in front of it open when the official starter dispatches the horses.

(d) Each horse shall be ridden past the finish line in every race and shall carry the assigned weights from the post to finish, unless disqualified.

(e) Each horse that leaves the course during a race shall be disqualified.

(f) The following rules shall apply to the running of a race.

(1) In a straightaway race, each jockey shall maintain the horse as nearly as possible in the lane in which it starts.

(2) Each jockey shall make a best effort to control and guide the mount in such a manner as not to cause a foul.

(3) No jockey shall willfully strike or touch another jockey or another jockey's horse or equipment during a race for the purpose of interfering with the horse or jockey. No jockey shall strike the jockey's horse on or about the head.

(4) Any rider may be fined or suspended, or both, by the stewards for willful fouling or careless riding. The nature and seriousness of the offense shall be considered by the stewards.

(5) Any jockey whose horse has been disqualified or who unnecessarily causes the horse to change or shorten its stride for the purpose of losing a race may be fined or suspended.

(g) The stewards shall be vested with the discretion to determine the propriety and nature of a disqualification and whether it applies to any other part of an entry. The stewards' decision shall be final.

(1) To determine the disqualification of a horse in any race, the stewards may either place the horse behind the horse or horses with which they believe it interfered, they may place it last or they may unplace it.

(2) When a horse of one ownership or interest is coupled with a horse or horses of the same or another ownership or interest, the disqualification of one shall not necessarily affect the placing of the other.

(h) Each jockey shall give the best effort in races. Any instructions or advice to jockeys to ride or handle their mounts except for the purpose of winning shall be prohibited and shall subject each person giving or following those instructions or advice to disciplinary action by the stewards and the commission. If two horses run in one interest in any race, each horse shall be ridden to give its best effort.

(i) Only the owner, trainer or jockey alleged to be aggrieved shall make a protest relating to the running of the race. Each protest shall be made to the stewards, the outrider if designated by the stewards or the clerk of scales before or immediately after weighing in. Any owner, trainer or jockey who makes a frivolous protest may be fined or suspended.

(j) No person shall help a jockey remove the equipment that is to be included in the jockey's weight from the jockey's horse unless the stewards give permission.

(k) No person shall throw any covering over any horse at the place of dismounting until the jockey has removed the equipment that is to be included in the jockey's weight.

(l) Each dead heat shall be governed in the following manner:

(1) If two or more horses run a dead heat, the dead heat shall not be run off.

(2) Each horse shall be considered a winner in a dead heat for first place.

(3) If two or more horses finish in a dead heat and a protest is filed and allowed against a horse that finished in front of the dead heat, the horses that ran the dead heat shall be deemed to have run from the higher position.

(4) Owners of horses that finish in a dead heat for any position shall divide equally all money and other prizes. If no agreement is reached as to which of them shall receive an indivisible prize, they shall draw lots for it in the presence of one or more of the stewards.

(m) If a race is run by all of the horses at the wrong weights or over a wrong distance, and if a protest is filed and allowed before the flashing of the "official" sign on the totalisator board, the stewards shall declare the race no contest.

(n) Each of the following procedures shall apply if any horse is disabled or otherwise is unable to finish a race.

(1) The horse shall be dismounted, unsaddled and removed from the racetrack without passing the stand. The horse shall not be destroyed on the racetrack or in the presence of the public without the permission of the stewards.

(2) If a bone is broken and the horse is disabled, the horse shall remain on the racetrack until the horse ambulance arrives and removes it.

(3) If destruction of the horse is necessary, the animal health officer shall destroy the horse by use of an intravenous injection out of the vision of the public. If destruction in the view of the public

is necessary, an ambulance screen shall be made available by the organization licensee.

(4) If a horse is disabled, a drug test for prohibited substances shall be performed on the horse. If destruction of the horse is necessary, a postmortem examination may be performed upon order of the stewards at the expense of the owner. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-7-23. Workouts. (a) Each licensee exercising a horse shall, upon the request of the clocker or assistant clockers, correctly state the distance over which the horse is to be worked and the point on the racetrack where the workout will start. The licensee shall identify the horse if requested to do so. The clocker or assistant clocker shall file with the stewards a daily report listing the date, track condition, name of each horse worked and the time and distance for each workout.

(b) Each licensee shall secure permission from a steward before exercising a horse on the racetrack between races.

(c) If a horse is warming up or exercising on the racetrack, a public announcement shall be made that states the horse's name and explains its presence on the racetrack.

(d) If a horse has not raced in 45 days, it shall not start any race before it completes one workout. If a horse has never raced or has not raced within the last 12 months, it shall not start any race before it completes two workouts. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-8-13-92, Aug. 13, 1992; effective, T-112-12-10-92, Dec. 10, 1992; effective Feb. 15, 1993.)

112-7-24. Safety vests required. (a) A jockey or apprentice jockey shall not ride in a race unless the jockey or apprentice jockey is wearing a safety vest.

(b) Each safety vest shall provide shock absorbing protection to the upper body with a minimum rating of five, as defined by the British equestrian trade association (BETA).

(c) A safety vest shall weigh no more than two pounds and shall not be included in the jockey's weight when weighing out to race. (Authorized

by and implementing K.S.A. 1993 Supp. 74-8804; effective, T-112-5-13-94, May 13, 1994; effective Sept. 6, 1994.)

Article 8.—RULES OF RACING

112-8-2. Registration. (a) No greyhound shall be entered or permitted to race or to be schooled at any racetrack licensed by the commission unless it is properly registered by the national greyhound association of Abilene, Kansas. The national greyhound association shall be recognized as the official registry of all greyhounds subject to K.S.A. 1987 Supp. 74-8832 (b) and (c).

(b) A greyhound's four past-performance lines, or all past-performance lines if there are fewer than four, shall be submitted to the racing secretary when the greyhound is to be schooled, entered or raced.

(c) A certificate of registration for each greyhound shall be filed with the racing secretary at the racetrack where the greyhound is to be schooled, entered, or raced. Each certificate of registration shall be available at any time for inspection by the racing judges.

(d) Each transfer of title to a leasehold or other interest in a greyhound that is to be schooled, entered or raced at any race track shall be registered and recorded with the national greyhound association of Abilene, Kansas.

(e) Each title, leasehold, or other interest in any greyhound shall not be recognized by the commission until the title, leasehold, or other interest is evidenced by a written instrument duly filed with and recorded by the national greyhound association of Abilene, Kansas, and certified copies are filed with the racing secretary at the race track where the greyhound is to be schooled, entered or raced.

(f) When a greyhound is sold or transferred or any interest in a greyhound is sold or transferred, during a meet and after the greyhound has been registered for the meet, a photocopy of the certificate of registration shall be filed with the racing secretary and shall be retained by the racing secretary for two weeks.

(g) Each lessee of a greyhound shall file a copy of the lease agreement with the racing secretary. Each lease agreement shall include:

- (1) The name of the greyhound;
- (2) the name and address of the owner;
- (3) the name and address of the lessee;
- (4) the kennel name, if any, of each party; and

(5) the terms of the lease. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by 1988 HB 2774, Sec. 3; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989.)

112-8-3. Entries. (a) Each greyhound entered in a race shall be entered in the name of the registered owner. The following information shall be registered with the racing secretary before each greyhound starts at any meet:

(1) the full name of each person having any ownership interest in a greyhound or in a greyhound's winnings; and

(2) the full name of each person who is party to a transaction whereby the ownership interest in a greyhound or in the greyhound's winnings changes during the race meeting.

(b) Each entrance in a race shall be free unless otherwise stipulated in the conditions.

(c) The person having the greatest ownership or property interest in a greyhound shall assume all rights or duties of an owner as provided by these regulations, including but not limited to the right of entry and withdrawal.

(d) Any racing judge may call on any person in whose name a greyhound is entered to produce proof that the greyhound entered is not owned wholly or in part by any person who is disqualified, or to produce proof of the extent of any ownership or property interest in the greyhound. If the racing judge is not satisfied by the proof, the racing judge shall scratch the greyhound from the race.

(e) Any greyhound that has not been fully identified shall not start in any race.

(f) Each person who misrepresents the identity of a greyhound or its ownership shall be liable as an owner would be liable and shall be subject to the same penalty as the owner in the case of fraud or attempted fraud.

(g) No greyhound shall enter or start any race if the greyhound:

- (1) has been disqualified;
 - (2) is owned in whole or in part or is under the control, directly or indirectly, of a disqualified person;
 - (3) is not under the control of a licensed trainer or a licensed assistant trainer; or
 - (4) is on the veterinarian's list or schooling list.
- (h) A female greyhound in season shall not be permitted on the race track. A female greyhound in milk shall not school officially or race.

(i) The racing secretary shall without delay compile and conspicuously post each entry that has been closed.

(j) No kennel shall have more than two greyhounds in any race except in stakes races. Double entries shall not be allowed until all single entries are used.

(k) Each entry for every official race shall be established by blind draw by the racing secretary or the racing secretary's designee in the presence of a racing judge and in full view of any licensed persons wishing to observe the draw. The time and place of each draw shall be posted in the paddock, and each draw shall occur at least one raceday before the running of each race. The kennel owners and trainers may be represented at the draw at the designated time. The racing secretary may select entries for two Grade A—Feature races weekly without using the blind draw method.

(l) Each post position for every official race shall be established by blind draw by the racing secretary or the racing secretary's designee in the presence of a racing judge or the chief racing judge's designee and in full view of any persons wishing to observe the draw. Each draw shall be held at least one day before the running of each race at a time and place posted in the paddock. The kennel owners and trainers may be represented at the draw at the designated time. The racing secretary shall draw post positions for official schooling races.

(m) Each organization licensee shall have the right to withdraw or change any unclosed race.

(1) Each entry for stakes races, the conditions of which have been published previously, shall be closed at the time advertised, and no entry shall be received after that time.

(2) Unless notice is given, each entrance and withdrawal for stakes races that close on the eve of a race meet shall close at the office of the racing secretary. Each entrance and withdrawal for all other stakes races shall close at the office of the organization licensee.

(3) If the number of entries to any stakes race exceeds the number of greyhounds that may be permitted to start because of track limitations, the racing secretary shall determine the starters for the race in accordance with the conditions of the race.

(4) Each person entering a greyhound shall be liable for the entrance fees.

(5) The entrance money in every race shall be distributed as provided in the conditions of the race. If a race is not run, all stakes or entrance money shall be refunded.

(6) The death of the nominator or subscriber shall not void any entry, subscription or right of entry under it.

(7) No person shall enter or start a greyhound in a race unless any stakes or entrance money payable for the race has been duly paid.

(8) Each racing secretary shall be authorized to receive entries and withdrawals. (Authorized by K.S.A. 1989 Supp. 74-8804; implementing K.S.A. 1989 Supp. 74-8804; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 25, 1991.)

112-8-4. Withdrawals and scratches. (a) Each withdrawal of a greyhound from a race shall be irrevocable.

(b) Each withdrawal in stakes races shall be made in the same manner as that provided by K.A.R. 112-8-3 for making entries to the racing secretary, who shall record the day and hour of receipt of any withdrawal and post the withdrawal.

(c) Each withdrawal in official races shall be made by the owner, trainer, or authorized agent to the racing secretary at least one-half hour before the time designated for the drawing of post positions or at the time the racing secretary may appoint.

(d) Each greyhound that is withdrawn by a kennel from a race after the post positions are drawn shall lose all preference accrued up to that date and shall not be eligible for reentry until the race from which the greyhound was withdrawn has been run, unless otherwise approved by the racing judges. No substitution for the withdrawn greyhound shall be made from the kennel that withdrew the greyhound. Each greyhound that is withdrawn after the printing of the official program shall be deemed a scratch.

(1) Each owner, trainer, or authorized agent shall demonstrate sufficient cause to satisfy the racing judges before the judges may scratch any greyhound that has been entered in a race. Each cause to scratch a greyhound shall be reported to the racing judges as soon as the cause is known.

(2) If any greyhound is scratched as a result of the violation of a racing regulation, the greyhound may be penalized or suspended, or both, for six live racing days. The racing judges shall determine penalties for scratches due to other causes.

(3) If any owner or trainer fails to have the greyhound entered at the racetrack at the appointed time for weighing in and the greyhound is scratched because of the failure, the owner or

trainer may be fined or suspended, or both, by the racing judges.

(4) If three or more greyhounds are scratched in any one race, the race may be canceled by the racing judges.

(5) A greyhound may be scratched from a race for sufficient cause by the racing judges.

(6) Each greyhound that is scratched from a race because of being overweight or underweight shall be suspended six calendar days and shall school back before starting in an official race. Any greyhound that is scratched because it is overweight or underweight may school back during its suspension. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8804; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 25, 1991; amended Sept. 5, 2003.)

112-8-5. Schooling. (a) Each greyhound shall be schooled properly in the presence of the racing judges. The judges shall determine that a greyhound is sufficiently experienced before the greyhound may be entered or started in a race.

(b) The distance of each schooling race shall be not less than the distance nearest to $\frac{5}{16}$ mile used at the racetrack.

(c) Each greyhound that has not raced for 10 live racing days or 15 calendar days, whichever is less, shall be schooled officially at least once at its racing weight before it is eligible for entry.

(d) Except as specified in this subsection, each official schooling race shall consist of at least six greyhounds. However, the racing judges may permit fewer greyhounds to facilitate schooling.

(e) Each greyhound participating in an official schooling race shall be at its established racing weight and start from the box wearing a racing muzzle and blanket approved by the racing judges.

(f) Any greyhound may be ordered on the schooling list by the racing judges at any time for good cause. The greyhound shall be schooled officially and satisfactorily before it is allowed to enter a race.

(g) Each organization licensee shall provide a photo-finish camera, approved by the commission, which shall be operated at all official schooling races. The organization licensee shall provide videotapes of official schooling races. The tapes shall be available for viewing at the times posted at the racetrack.

(h) Except as specified in this subsection, each organization licensee shall provide, without cost, a minimum of two official schooling days and two un-

official schooling days per week at the parimutuel racetrack facility during the race meet. However, if an organization licensee schedules only three or fewer race days per week, the licensee shall provide a minimum of one official schooling day and two unofficial schooling days per week during the race meet. The official and unofficial schoolings shall be scheduled at specific times and for sufficient duration to allow reasonable time for the greyhounds to school. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8804; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 25, 1991; amended Sept. 5, 2003.)

112-8-6. Qualification of greyhounds. (a) Each organization licensed by the commission shall establish criteria to qualify greyhounds based on a satisfactory schooling and subject to the approval of the racing judges.

(b) Each organization licensee shall notify the racing judges of the criteria for qualifying greyhounds and detail what constitutes a satisfactory schooling at least three days before the first day of official schooling. The criteria shall be continuously posted on a notice board in the paddock during the time they are in effect. During the course of the meet, each change in the established qualifying criteria shall be made only with the approval of the racing judges. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by 1988 HB 2774, Sec. 3; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989.)

112-8-7. Grading and purse systems. (a) Each organization licensee shall implement a grading system to be approved by the commission. The system shall use the designations A—Feature, A,B,C,D,E and M. Each organization shall also implement a purse system to be approved by the commission. The system shall allocate the total purse. The total purse shall be divided to allocate fifty percent to first place, twenty-five percent to second place, fifteen percent to third place and ten percent to fourth place. The percentages of the total purse shall not apply to stakes money.

(b) Each organization licensee shall submit the proposed grading system and proposed purse system to the commission for approval at least 30 days before the opening of the meet. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by 1988 HB 2774, Sec. 3; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989.)

112-8-8. Weights, weighing, and weigh-in. (a) Each greyhound shall be weighed not less than one hour before the time of the first race of the day unless prior permission is granted by a racing judge.

(b) Before any greyhound may officially school or race, each kennel owner or trainer shall establish the racing weight of the greyhound with the clerk of scales.

(c) If there is a variation of more than one and one-half pounds above or below the established weight of the greyhound at weighing-in time, the racing judges shall order the greyhound scratched.

(d) If any greyhound has lost more than two pounds at weigh-out time from its weigh-in weight while in the lock-out kennel, the racing judges may order the greyhound scratched. If the loss of weight does not impair the racing condition of the greyhound in the opinion of the assistant animal health officer, the racing judges may allow the greyhound to race. Each greyhound that is a weight loser shall be identified with the initials WL on the racing program.

(e) Each weight regulation set out in subsections (a) through (d) of this regulation shall be printed in the racing program.

(f) The racing judges shall scratch a greyhound if there is a variation of more than two pounds between the greyhound's weighing-in weight for the present race and the weighing-in weight for its last race.

(g) Any kennel owner or trainer may file a written request to change a greyhound's racing weight with the racing judges. The judges shall state in writing whether the change is allowed and shall direct the change to be made four calendar days before the greyhound is permitted to start at the new weight.

(1) Each greyhound that has an established weight change of more than one pound shall be schooled at least once at the new established weight before it is eligible to start in a race. The racing judges may require more than one schooling in this event.

(2) Any greyhound that has not raced or schooled officially for a period of three weeks may be allowed to establish a new racing weight with the permission of the racing judges.

(h) Subject to the approval of the commission, a second weigh-in may be held during performances with more than 13 races, if a sufficient number of crates are available in the lock-out kennels.

(i) Each greyhound shall be placed in the lock-out kennel under the supervision of the paddock judge immediately after it is weighed in, and only the paddock judge, the animal health officer, the assistant animal health officers, the kennel master, the lead-outs, or the racing judges shall enter the lock-out kennels. None of these individuals shall enter the lock-out kennels unaccompanied. (Authorized by K.S.A. 1989 Supp. 74-8804; implementing K.S.A. 1989 Supp. 74-8804; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 25, 1991.)

112-8-9. Before and between the races.

(a) One assistant animal health officer, one racing judge, and one representative of the organization licensee shall walk the racing strip before the commencement of the first race of each performance and between races, if necessary, to determine whether the racing strip is safe for racing.

(b) If the assistant animal health officer, the racing judge, and the representative of the organization licensee at any time before or between any races determine that formful and safe racing cannot be conducted, then the assistant animal health officer and the racing judge or management may cancel the remainder of the race program.

(c) One representative of the kennel operators and trainers may accompany the assistant animal health officer, the representative of the organization licensee, and the racing judge during each walk around the racing strip. The number of individuals walking the racing strip before the first race of each performance shall not exceed four. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8825; effective, T-112-3-31-89, March 31, 1989; effective April 10, 1989; amended June 26, 1989; amended Jan. 18, 2008.)

112-8-10. Rules of the race. (a) Each greyhound shall wear a racing muzzle and blanket approved by the racing judges while racing.

(b) Before the greyhounds leave for the post, each racing muzzle and blanket shall be carefully examined in the paddock by the paddock judge subject to the supervision of the chief racing judge or the chief racing judge's designee. Each muzzle and blanket shall be examined once more at the judges' stand in the presence of the racing judges and the public.

(c) Each greyhound shall be exhibited in the show paddock before post time for the race in which it is entered.

(d) A race starts when the lid to the starting box opens completely.

(e) All greyhounds shall be removed from the starting box in the event of a false start. After the malfunction in the equipment is corrected, the racing judges shall determine whether the race will be canceled or run.

(f) If a greyhound remains in the box when the lid of the starting box opens, there shall be no refund of wagers.

(g) If a greyhound bolts the course, runs in the opposite direction or does not run the entire prescribed distance for the race, the greyhound shall forfeit all rights in the race. The greyhound shall be considered a starter, but the finish of the race shall be declared the same as if it were not a contender.

(h) If a greyhound bolts the course or runs in the opposite direction during the course of the race and, in the opinion of the racing judges, interferes with any other greyhound in the race, the race shall be declared a "no race" by the racing judges, and all moneys wagered shall be refunded, except when the interference did not affect the outcome of the race in the opinion of the racing judges.

(i) If a greyhound fails to leave the box for any reason, refuses to race or falls and it appears that the greyhound may interfere with the running of the race, any person under the supervision of the racing judges stationed around the track, may remove the greyhound from the track. However, the greyhound shall be considered a starter.

(j) No race shall be called official unless the lure is in advance of the greyhounds at all times during the race. If any greyhound or greyhounds catch or pass the lure during the race, the race shall be declared a "no race" by the racing judges, and all moneys shall be refunded.

(k) The racing judges shall closely observe the operation of the lure and hold the lure operator to strict accountability for any inconsistency in its operation.

(l) If any race is marred by jams, spills or racing circumstances other than accident to the machinery while the race is being run, and three or more greyhounds finish, the race shall be declared finished by the racing judges. However, if fewer than three greyhounds finish, the race shall be declared "no race" by the racing judges, and all moneys shall be refunded.

(m) The winner of a race shall be the greyhound whose racing muzzle first reaches the finish line, unless the greyhound is disqualified by the racing judges for ineligibility or other good cause. In the

event a greyhound loses its muzzle or finishes with a hanging muzzle, the tip of the greyhound's nose shall determine its order of finish.

(n) If two greyhounds run a dead heat for first place, all prizes and moneys to which the first and second greyhounds would have been entitled shall be divided equally between them. This regulation applies to any division of prizes and moneys, whatever the number of greyhounds running a dead heat and whatever places for which the dead heat is run. (Authorized by K.S.A. 1989 Supp. 74-8804; implementing K.S.A. 1989 Supp. 74-8804; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 25, 1991.)

112-8-11. Limitation on performances.

Each organization licensee shall not schedule more than two greyhound performances during one race day. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by 1988 HB 2774, Sec. 3; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989.)

112-8-12. Complaints. Each complaint against an official or officials shall be made in writing, signed by the complainant and filed with the racing judges. Complaints that allege the violation of any law of the state of Kansas or regulation of the commission may be made by any person. Each complaint and the racing judges' decision concerning it shall be reported to the commission. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by 1988 HB 2774, Sec. 3; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989.)

112-8-13. Housing of greyhounds. (a) All greyhounds entered into an official race shall be housed in kennel facilities located on the premises provided by the organization licensee.

(b) Greyhounds brought to the racetrack for the specific purpose of participating in stakes races, qualifying rounds and schoolings necessary for the stakes race, may be housed off the racetrack facility subject to the terms and conditions specified by the racetrack facility and with the approval of the racing judges. (Authorized by and implementing K.S.A. 1993 Supp. 74-8804; effective Sept. 6, 1994.)

Article 9.—PARIMUTUEL WAGERING

112-9-1. Definitions as used in these regulations and the racing act. (a) "Business day," as used in K.S.A. 74-8823(c) and amendments

thereto, shall mean the first working day following a performance.

(b) "Working day," as used in subsection (a) above, shall have the same meaning as set forth for "business day" in K.S.A. 45-217(a), and amendments thereto. (Authorized by K.S.A. 1993 Supp. 74-8804 as amended by L. 1994, Ch. 146, Sec. 3 and implementing K.S.A. 1993 Supp. 74-8823; effective Sept. 6, 1994; amended July 10, 1995.)

112-9-2. Mutuel facilities. (a) Each organization licensee shall provide:

(1) A window for each teller-cashier with a clear, legible sign, visible to the public, and showing the number of the window; and

(2) a ticket-issuing machine for each teller or teller-cashier.

(b) Each organization licensee shall use ticket-issuing machines linked to a computer-based totalisator system that:

(1) Records the progressive, the aggregate, and the final total of dollars bet in each pool and on each wagering entry or mutuel field;

(2) computes the approximate and final odds in the win pool for each wagering entry in each race in intervals not greater than 90 seconds or at such other lesser intervals, and relays those odds to the infield display board, and if applicable, to other display devices;

(3) computes commissions, breaks and components thereof; and

(4) computes the pay-off prices.

(c) For the purpose of confirming the final record of parimutuel sales for each race, each organization licensee shall for win, place, show and feature pools:

(1) Either obtain a ticket-issuing machine take-off and teller history, or store on magnetic media the following information for each ticket-issuing machine:

(A) Each bet sold on each wagering entry or combination of entries; and

(B) the total number of bets sold on each entry and combination of entries and their dollar equivalent, by each individual ticket-issuing machine and in total; and

(2) produce upon request by the commission or its designated representatives a computer print-out that shows the information required in subparagraph (B).

(d) Each organization licensee shall provide an alternate system of electrical supply to provide an alternate system of electrical supply to provide

sufficient power to operate the central processing unit or the unit that accepts or stores wagering data.

(e) Each organization licensee shall provide, for the purpose of locking ticket-issuing machines at the start of each race:

(1) one device located in an approved area within the stewards' or judges' stand that:

(A) is controlled by a commission representative;

(B) logically disables all ticket-issuing machines from issuing tickets on the current race; and

(C) stops betting on a race no later than the official start of that race; and

(2) one device located in the totalisator room for use as an emergency locking device.

(f) Each ticket shall be identified by a unique computer-generated ticket number. Where non-resettable, ticket-issuing machine counters are used, each counter shall be read and recorded before the start and after the finish of wagering for each race. Where the counts are accumulated by machine, the sales accumulators shall be set to zero after the sales have been recorded and before wagering on the next race begins. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8804 and 74-8813; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended, T-112-3-1-93, March 1, 1993; amended, T-112-6-15-93, June 15, 1993; amended Sept. 27, 1993.)

112-9-3. Parimutuel wagering. Each form of wagering shall be used only with permission of the commission and in accordance with the provisions of the Kansas parimutuel racing act. (Authorized by K.S.A. 1988 Supp. 74-8804 (p); implementing K.S.A. 1988 Supp. 8819 (b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-4. Parimutuel tickets. (a) Each parimutuel ticket shall be evidence of a contribution to the parimutuel pool operated by the organization licensee and shall be evidence of the obligation of the organization licensee to pay to each holder the portion of the distributable amount of the parimutuel pool that is represented by each valid parimutuel ticket. Each organization licensee shall cash each valid, unutilized winning ticket when each ticket is presented for payment during the course of the meeting where sold, and for a period of 60 days after the close of the race meeting.

(b) Each valid parimutuel ticket shall have been issued by a parimutuel ticket machine operated by

the organization licensee and recorded as a ticket entitled to a share of the parimutuel pool, and contained imprinted information as to:

(1) The name of the organization licensee operating the meeting and the racetrack;

(2) the date of the wagering transaction and the date of the race;

(3) a unique identifying number or code;

(4) the race number for which the pool is conducted;

(5) the type or types of wager represented;

(6) the number or numbers representing the wagering interest for which the wager is recorded;

(7) the amount or amounts of the contribution to the parimutuel pool or pools for which the ticket is evidence; and

(8) the number of the ticket issuing machine.

(c) Each parimutuel ticket recorded or reported as previously paid, canceled or nonexistent shall be deemed an invalid parimutuel ticket by the organization licensee.

(d) Any organization licensee may withhold payment and may refuse to cash any parimutuel ticket deemed not valid. (Authorized by K.S.A. 1988 Supp. 74-8804 (p); implementing K.S.A. 1988 Supp. 74-8819; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-5. Claim for payment for parimutuel pool. (a) Each organization licensee shall accept a written, verified claim for payment from a parimutuel pool in any case where the organization licensee has withheld payment or has refused to cash a parimutuel ticket presented for payment within 60 days after the close of the race meeting. Each claim shall be made on a form approved by the commission. Each claimant making a claim shall do so under penalty of perjury. The original of each claim shall be promptly forwarded to the commission.

(b) Each organization licensee shall deliver to the commission each claim made for payment of a mutilated parimutuel ticket that contains the total imprinted elements required in K.A.R. 112-9-4.

(c) Each claim shall be adjudicated and decided by the commission. (Authorized by K.S.A. 1988 Supp. 74-8804 (p); implementing K.S.A. 1988 Supp. 74-8822; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 19, 1990.)

112-9-6. Lost or destroyed tickets. Each claim for a lost or destroyed parimutuel ticket

shall not be accepted by the organization licensee nor by the commission. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8822; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-7. Uncashed tickets. (a) Each organization licensee shall carry on its books an account that shows the total amount due on outstanding uncashed mutuel tickets. Each winning ticket remaining unpaid at the close of each performance shall be entered in a book known as the "outsbook" at the actual price paid to the public. A record of all unpaid parimutuel tickets shall be prepared and forwarded to the commission within 61 days after the close of the race meeting. Each unclaimed ticket cashed after the close of the season shall bear the date it was paid, check number and the amount paid.

(b) when outsbooks are compiled by data processing systems or computerized totalisator equipment, the following minimum requirements shall apply:

(1) All printed outs summaries and printed outs ledger sheets shall be placed in a separate binder in chronological order. Each organization licensee shall safeguard these records; and

(2) the daily outs summary printout shall include for each previous performance:

(A) The performance number;

(B) the number and amount of tickets outstanding before the current performance;

(C) the number and amount of tickets cashed during the current performance; and

(D) the remaining number and amount of uncashed tickets at the close of the current performance.

(c) Before the close of the next business day after each performance, each organization licensee shall deliver to the commission office a copy of the totalisator company report showing the daily accumulation of the outs.

(d) Each organization licensee shall safeguard all records pertaining to parimutuel operations including all cash winning parimutuel tickets and admission records, for as long as the commission requires. The records shall not be destroyed without written permission of the commission. (Authorized by K.S.A. 1988 Supp. 74-8804 (p); implementing K.S.A. 1988 Supp. 74-8804 (c) and 74-8804 (p); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 19, 1990.)

112-9-8. Accounting. (a) Each organization licensee conducting race meetings shall submit to the commission by the close of the next business day following the end of the race meet a report listing the total number of paid admissions, passes and occupation licensees, not employed by the organization licensee or the commission, admitted to the racetrack facility, the total amount contributed to each parimutuel pool on each race and the amount of money received daily from paid admission fees. (Authorized by K.S.A. 1988 Supp. 74-8804 (c) and 74-8804 (p); implementing K.S.A. 1988 Supp. 74-8804 (p); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 19, 1990.)

112-9-9. Parimutuel pools. (a) Each organization licensee shall provide win, place and show pools in each race in which there are five or more separate wagering interests that are obligated to start.

(b) Each organization licensee shall provide win and place pools in each race where there are four separate wagering interests that are obligated to start.

(c) Each organization licensee shall provide a win pool in each race where less than four separate wagering interests are obligated to start.

(d) The requirement for a place or show pool in any race may be waived by the stewards or racing judges. (Authorized by K.S.A. 1988 Supp. 74-8804 (p) and implementing K.S.A. 74-8819 (b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-10. Distribution of pools. After the results of each race have been declared official by the stewards or racing judges, each parimutuel pool shall be distributed to each parimutuel ticket holder entitled to share in a respective pool in accordance with the provisions of the Kansas parimutuel racing act and article 112 of these regulations. If two wagering interests finish in a race, the show pool, if any, shall be distributed the same as in a place pool. When only one wagering interest finishes in a race, the place pool and show pool, if any, shall be distributed the same as in a win pool. If no wagering interest finishes in a race or the race is declared a no contest by the stewards or racing judges, all money wagered on the race shall be refunded to ticket holders. (Authorized by K.S.A. 1988 Supp. 74-8804 (p); implementing 74-8819 (b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-11. Race declared official. (a) Each decision of the stewards or racing judges regarding the order of finish shall be final at the time the stewards or racing judges order the official sign displayed on the totalisator board. Each ruling of the stewards or racing judges or the commission regarding the order of finish or any award of purse money made after the result of the race has been declared official shall not affect the parimutuel payoff or the distribution of any parimutuel pool. An inadvertent mistake in the posting of the official order of finish may be corrected by the stewards or judges before the running of the next race.

(b) Each racing animal shall be considered a starter for a race when the doors of the starting gate or starting box open in the front of the racing animal at the time the official starter dispatches the racing animals. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 19, 1990.)

112-9-11a. General provisions. (a) Each parimutuel wagering pool shall be independently calculated and distributed. The takeout shall be deducted from each gross pool as authorized by law. The remaining monies in the pool shall constitute the net pool for distribution as payoff on winning wagers.

(b) For each wagering pool, the amount wagered on the winning betting interest or betting combinations shall be deducted from the net pool to determine the profit. The profit then shall be divided by the amount wagered on the winning betting interest or combinations, the quotient being the profit per dollar.

(c) The standard or the net price calculation procedure shall be used to calculate single commission pools, but only the net price calculation procedure shall be used to calculate multi-commission pools.

(d) If a profit split results in only one covered winning betting interest or combinations it shall be calculated the same as a single price pool.

(e) Minimum payoffs and the method used for calculating breakage shall be established by the commission. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8819, as amended by L. 1991, ch. 247, § 5; effective June 1, 1992.)

112-9-12. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp.

74-8819(b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; revoked June 1, 1992.)

112-9-12a. Win pools. (a) The amount wagered on the betting interest which finishes first shall be deducted from the net pool. The balance remaining shall be the profit. The profit shall be divided by the amount wagered on the betting interest finishing first, the quotient being the profit per dollar wagered to win on the betting interest.

(b) The net win pool shall be distributed as a single price pool to winning wagers in the following precedence, based upon the official order of finish:

(1) to those whose selection finishes first, but if there are no such wagers; then

(2) to those whose selection finishes second, but if there are no such wagers; then

(3) to those whose selection finishes third, but if there are no such wagers; then

(4) the entire pool shall be refunded on win wagers for that contest.

(c) If there is a dead heat for first involving contestants representing the same betting interest, the win pool shall be distributed as if no dead heat occurred.

(d) If there is a dead heat for first involving contestants representing two or more betting interests, the win pool shall be distributed as a profit split. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 74-8819, as amended by L. 1991, ch. 247, § 5; effective June 1, 1992.)

112-9-13. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8819(b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 19, 1990; revoked June 1, 1992.)

112-9-13a. Place pools. (a) The amounts wagered to place on the first two betting interests to finish shall be deducted from the net pool. The balance remaining shall be the profit. The profit shall be divided into two equal portions, one being assigned to each winning betting interest and divided by the amount wagered to place on that betting interest, the quotient being the profit per dollar wagered to place on that betting interest.

(b) The net place pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) if contestants of a coupled entry or mutuel field finish in the first two places, as a single price

pool to those who selected the coupled entry or mutuel field; otherwise

(2) as a profit split to those whose selection is included within the first two finishers; but if there are no such wagers on one of those two finishers, then

(3) as a single price pool to those who selected the one covered betting interest included within the first two finishers; but if there are no such wagers, then

(4) as a single price pool to those who selected the third-place finisher; but if there are no such wagers, then

(5) the entire pool shall be refunded on place wagers for that contest.

(c) If there is a dead heat for first involving contestants representing the same betting interest, the place pool shall be distributed as a single price pool.

(d) If there is a dead heat for first involving contestants representing two or more betting interests, the place pool shall be distributed as a profit split.

(e) If there is a dead heat for second involving contestants representing the same betting interest, the place pool shall be distributed as if no dead heat occurred.

(f) If there is a dead heat for second involving contestants representing two or more betting interests, the place pool shall be divided, with one-half of the profit distributed to place wagers on the betting interest finishing first and the remainder distributed equally among place wagers on those betting interests involved in the dead heat for second. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8819, as amended by L. 1991, ch. 247, § 5; effective June 1, 1992.)

112-9-14. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8819(b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; revoked June 1, 1992.)

112-9-14a. Show pools. (a) The amounts wagered to show on the first three betting interests to finish shall be deducted from the net pool. The balance remaining shall be the profit. The profit shall be divided into three equal portions, one being assigned to each winning betting interest and divided by the amount wagered to show on that betting interest, the quotient being the

profit per dollar wagered to show on that betting interest.

(b) The net show pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) if contestants of a coupled entry or mutuel field finish in the first three places, as a single price pool to those who selected the coupled entry or mutuel field; otherwise

(2) if contestants of a coupled entry or mutuel field finish as two of the first three finishers, the profit shall be divided, with two-thirds distributed to those who selected the coupled entry or mutuel field and one-third distributed to those who selected the other betting interest included within the first three finishers; otherwise

(3) as a profit split to those whose selection is included within the first three finishers; but if there are no such wagers on one of those three finishers, then

(4) as a profit split to those who selected one of the two covered betting interests included within the first three finishers; but if there are no such wagers on two of those three finishers, then

(5) as a single price pool to those who selected the one covered betting interest included within the first three finishers; but if there are no such wagers, then

(6) as a single price pool to those who selected the fourth-place finisher; but if there are no such wagers, then

(7) the entire pool shall be refunded on show wagers for that contest.

(c) If there is a dead heat for first involving two contestants representing the same betting interest, the profit shall be divided, with two-thirds distributed to those who selected the first-place finishers and one-third distributed to those who selected the betting interest finishing third.

(d) If there is a dead heat for first involving three contestants representing a single betting interest, the show pool shall be distributed as a single price pool.

(e) If there is a dead heat for first involving contestants representing two or more betting interests, the show pool shall be distributed as a profit split.

(f) If there is a dead heat for second involving contestants representing the same betting interest, the profit shall be divided with one-third distributed to those who selected the betting interest finishing first and two-thirds distributed to those who selected the second-place finishers.

(g) If there is a dead heat for second involving contestants representing two betting interests, the show pool shall be distributed as a profit split.

(h) If there is a dead heat for second involving contestants representing three betting interests, the show pool shall be divided, with one-third of the profit distributed to show wagers on the betting interest finishing first and the remainder distributed equally among show wagers on those betting interests involved in the dead heat for second.

(i) If there is a dead heat for third involving contestants representing the same betting interest, the show pool shall be distributed as if no dead heat occurred.

(j) If there is a dead heat for third involving contestants representing two or more betting interests, the show pool shall be divided, with two-thirds of the profit distributed to show wagers on the betting interests finishing first and second and the remainder distributed equally among show wagers on those betting interests involved in the dead heat for third. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8819, as amended by L. 1991, ch. 247, § 5; effective June 1, 1992.)

112-9-15. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8819(b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; revoked June 1, 1992.)

112-9-15a. Daily double pools. (a) The daily double requires selection of the first-place finisher in each of two specified contests.

(b) The net daily double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) as a single price pool to those whose selection finishes first in each of the two contests; but if there are no such wagers, then

(2) as a profit split to those who selected the first-place finisher in either of the two contests; but if there are no such wagers, then

(3) as a single price pool to those who selected the one covered first-place finisher in either contest; but if there are no such wagers, then

(4) as a single price pool to those whose selection finishes second in each of the two contests; but if there are no such wagers, then

(5) the entire pool shall be refunded on daily double wagers for those contests.

(c) If there is a dead heat for first in either of the two contests involving contestants representing the same betting interest, the daily double pool shall be distributed as if no dead heat occurred.

(d) If there is a dead heat for first in either of the two contests involving contestants representing two or more betting interests and there is more than one covered winning combination, the daily double pool shall be distributed as a profit split.

(e) If a betting interest in the first-half of the daily double is scratched before the first daily double contest is declared official, all money wagered on combinations including the scratched betting interest shall be deducted from the daily double pool and refunded.

(f) If a betting interest in the second-half of the daily double is scratched before the close of wagering on the first daily double contest, all money wagered on combinations including the scratched betting interest shall be deducted from the daily double pool and refunded.

(g) If a betting interest in the second-half of the daily double is scratched after the close of wagering on the first daily double contest, all wagers combining the winner of the first contest with the scratched betting interest in the second contest shall be allocated a consolation payoff. In calculating the consolation payoff the net daily double pool shall be divided by the total amount wagered on the winner of the first contest and an unbroken consolation price obtained. The broken consolation price shall be multiplied by the dollar value of wagers on the winner of the first contest combined with the scratched betting interest to obtain the consolation payoff. Breakage shall not be included in this calculation. The consolation payoff shall be deducted from the net daily double pool before calculation and distribution of the winning daily double payoff. Dead heats including separate betting interests in the first contest shall result in a consolation payoff calculated as a profit split.

(h) If either of the daily double contests is canceled prior to the first daily double contest, or the first daily double contest is declared "no contest," the entire daily double pool shall be refunded on daily double wagers for those contests.

(i) If the second daily double contest is canceled or declared "no contest" after the conclusion of the first daily double contest, the net daily double pool shall be distributed as a single price pool to wagers selecting the winner of the first daily double contest. In the event of a dead heat involving separate betting interests, the net daily double

pool shall be distributed as a profit split. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8819, as amended by L. 1991, ch. 247, § 5; effective June 1, 1992.)

112-9-16. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8819(b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; revoked June 1, 1992.)

112-9-16a. Quinella pools. (a) The quinella requires selection of the first two finishers, regardless of order, for a single contest.

(b) Each net quinella pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) if contestants of a coupled entry or mutuel field finish as the first two finishers, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish; otherwise

(2) as a single price pool to those whose combination finishes as the first two betting interests; but if there are no such wagers, then

(3) as a profit split to those whose combination includes either the first- or second-place finisher; but if there are no such wagers on one of those two finishers, then

(4) as a single price pool to those whose combination includes the one covered betting interest included within the first two finishers; but if there are no such wagers, then

(5) the entire pool shall be refunded on quinella wagers for that contest.

(c) If there is a dead heat for first involving contestants representing the same betting interest, the quinella pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish.

(d) If there is a dead heat for first involving contestants representing two betting interests, the quinella pool shall be distributed as if no dead heat occurred.

(e) If there is a dead heat for first involving contestants representing three or more betting interests, the quinella pool shall be distributed as a profit split.

(f) If there is a dead heat for second involving contestants representing the same betting interest, the quinella pool shall be distributed as if no dead heat occurred.

(g) If there is a dead heat for second involving contestants representing two or more betting interests, the quinella pool shall be distributed to wagers in the following precedence, based upon the official order of finish:

(1) as a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then

(2) as a single price pool to those combining the winner with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then

(3) as a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then

(4) as a profit split to those whose combination includes the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second; but if there are no such wagers, then

(5) the entire pool shall be refunded on quinella wagers for that contest. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8819, as amended by L. 1991, ch. 247, § 5; effective June 1, 1992.)

112-9-16b. Quinella double pools. (a) The quinella double requires selection of the first two finishers, regardless of order, in each of two specified contests.

(b) The net quinella double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) if a coupled entry or mutuel field finishes as the first two contestants in either contest, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest, as well as the first two finishers in the alternate quinella double contest; otherwise

(2) as a single price pool to those selecting the first two finishers in each of the two quinella double contests; but if there are no such wagers, then

(3) as a profit split to those selecting the first two finishers in either of the two quinella double contests; but if there are no such wagers on one of those contests, then

(4) as a single price pool to those selecting the first two finishers in the one covered quinella double contest; but if there are no such wagers, then

(5) the entire pool shall be refunded on quinella double wagers for those contests.

(c) If there is a dead heat for first in either of the two quinella double contests involving contestants representing the same betting interest, the quinella double pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest.

(d) If there is a dead heat for first in either of the two quinella double contests involving contestants representing two betting interests, the quinella double pool shall be distributed as if no dead heat occurred.

(e) If there is a dead heat for first in either of the two quinella double contests involving contestants representing three or more betting interests, the quinella double pool shall be distributed as a profit split.

(f) If there is a dead heat for second in either of the quinella double contests involving contestants representing the same betting interest, the quinella double pool shall be distributed as if no dead heat occurred.

(g) If there is a dead heat for second in either of the quinella double contests involving contestants representing two or more betting interests, the quinella double pool shall be distributed as a profit split.

(h) If a betting interest in the first-half of the quinella double is scratched before the first quinella double contest is declared official, all money wagered on combinations including the scratched betting interest shall be deducted from the quinella double pool and refunded.

(i) If a betting interest in the second-half of the quinella double is scratched before the close of wagering on the first quinella double contest, all money wagered on combinations including the scratched betting interest shall be deducted from the quinella double pool and refunded.

(j) If a betting interest in the second-half of the quinella double is scratched after the close of wagering on the first quinella double contest, all wagers combining the winning combination in the first contest with a combination including the scratched betting interest in the second contest shall be allocated a consolation payoff. In calculating the consolation payoff, the net quinella double pool shall be divided by the total amount wagered on the winning combination in the first contest and an unbroken consolation price obtained. The unbroken consolation price shall be multiplied by the dollar value of wagers on the winning combination in the first contest together with a com-

bination including the scratched betting interest in the second contest to obtain the consolation payoff. Breakage shall not be included in this calculation. The consolation payoff shall be deducted from the net quinella double pool before calculation and distribution of the winning quinella double payoff. In the event of a dead heat involving separate betting interests, the net quinella double pool shall be distributed as a profit split.

(k) If either of the quinella double contests is canceled before the first quinella double contest, or the first quinella double contest is declared "no contest," the entire quinella double pool shall be refunded on quinella double wagers for those contests.

(l) If the second quinella double contest is canceled or declared "no contest" after the conclusion of the first quinella double contest, the net quinella double pool shall be distributed as a single price pool to wagers selecting the winning combination in the first quinella double contest. If there are no wagers selecting the winning combination in the first quinella double contest, the entire quinella double pool shall be refunded on quinella double wagers for those contests. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8819, as amended by L. 1991, ch. 247, § 5; effective June 1, 1992.)

112-9-17. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8819(b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; revoked June 1, 1992.)

112-9-17a. Exacta pools. (a) The exacta requires selection of the first two finishers, in their exact order, for a single contest.

(b) Each net exacta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) if contestants of a coupled entry or mutuel field finish as the first two finishers, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish; otherwise

(2) as a single price pool to those whose combination finishes in correct sequence as the first two betting interests; but if there are no such wagers, then

(3) as a profit split to those whose combination includes either the first-place betting interest to

finish first or the second-place betting interest to finish second; but if there are no such wagers on one of those two finishers, then

(4) as a single price pool to those whose combination includes the one covered betting interest to finish first or second in the correct sequence; but if there are no such wagers, then

(5) the entire pool shall be refunded on exacta wagers for that contest.

(c) If there is a dead heat for first involving contestants representing the same betting interest, the exacta pool shall be distributed as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish.

(d) If there is a dead heat for first involving contestants representing two or more betting interests, the exacta pool shall be distributed as a profit split.

(e) If there is a dead heat for second involving contestants representing the same betting interest, the exacta pool shall be distributed as if no dead heat occurred.

(f) If there is a dead heat for second involving contestants representing two or more betting interests, the exacta pool shall be distributed to ticket holders in the following precedence, based upon the official order of finish:

(1) as a profit split to those combining the first-place betting interest with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then

(2) as a single price pool to those combining the first-place betting interest with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then

(3) as a profit split to those wagers correctly selecting the winner for first-place and those wagers selecting any of the dead-heated betting interests for second-place; but if there are no such wagers, then

(4) the entire pool shall be refunded on exacta wagers for that contest. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8819, as amended by L. 1991, ch. 247, § 5; effective June 1, 1992.)

112-9-18. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8819(b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 19, 1990; revoked June 1, 1992.)

112-9-18a. Trifecta pools. (a) The trifecta requires selection of the first three finishers, in their exact order, for a single contest.

(b) Each net trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish and disregarding all coupled or field entries other than the first contestant of a coupled or field entry to finish:

(1) as a single price pool to those whose combination finishes in correct sequence as the first three betting interests; but if there are no such wagers, then

(2) as a single price pool to those whose combination includes, in correct sequence, the first two betting interests; but if there are no such wagers, then

(3) as a single price pool to those whose combination correctly selects the first-place betting interest only; but if there are no such wagers, then

(4) the entire pool shall be refunded on trifecta wagers for that contest.

(c) If fewer than three betting interests finish and the contest is declared official, payoffs shall be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest shall be ignored.

(d) If there is a dead heat for first involving contestants representing three or more betting interests, all of the wagering combinations selecting three betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(e) If there is a dead heat for first involving contestants representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, regardless of order, shall share in a profit split along with the third-place betting interest.

(f) If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second shall share in a profit split.

(g) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, shall share in a profit split along with any of the betting interests involved in the dead heat for third. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing K.S.A. 1991 Supp. 74-8819, as amended by L. 1992, Ch. 27,

Sec. 6; effective June 1, 1992; amended, T-112-11-9-92, Nov. 9, 1992; amended, T-112-3-1-93, March 1, 1993; amended May 3, 1993.)

112-9-19. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8819(b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; revoked June 1, 1992.)

112-9-19a. Twin quinella pools. (a) The twin quinella requires selection of the first two finishers, regardless of order, in each of two designated contests. Each winning ticket for the first twin quinella contest must be exchanged for a free ticket on the second twin quinella contest in order to remain eligible for the second-half twin quinella pool. Such tickets may be exchanged only at attended ticket windows prior to the second twin quinella contest. There shall be no monetary reward for winning the first twin quinella contest. Both of the designated twin quinella contests shall be included in only one twin quinella pool.

(b) In the first twin quinella contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin quinella contest:

(1) if a coupled entry or mutuel field finishes as the first two finishers, those who select the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish shall be winners; otherwise

(2) those whose combination finishes as the first two betting interests shall be winners; but if there are no such wagers, then

(3) those whose combination includes either the first- or second-place finisher shall be winners; but if there are no such wagers on one of those two finishers, then

(4) those whose combination includes the one covered betting interest included within the first two finishers shall be winners; but if there are no such wagers, then

(5) the entire pool shall be refunded on the twin quinella wagers for that contest.

(c) In the first twin quinella contest only, if there is a dead heat for first involving contestants representing the same betting interest, those who select the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish shall be winners.

(d) In the first twin quinella contest only, if there is a dead heat for first involving contestants representing two betting interests, the winning

twin quinella wagers shall be determined as if no dead heat occurred.

(e) In the first twin quinella contest only, if there is a dead heat for first involving contestants representing three or more betting interests, those whose combination includes any two of the betting interests finishing in the dead heat shall be winners.

(f) In the first twin quinella contest only, if there is a dead heat for second involving contestants representing the same betting interest, those who select the first-place finisher combined with the coupled entry or mutuel field in second-place shall be winners.

(g) In the first twin quinella contest only, if there is a dead heat for second involving contestants representing two or more betting interests, those who combine the first-place finisher with any of the betting interests involved in the dead heat for second shall be winners.

(h) In the second twin quinella contest only, the entire net twin quinella pool shall be distributed to winning wagerers in the following precedence, based upon the official order of finish for the second twin quinella contest:

(1) if a coupled entry or mutuel field finishes as the first two finishers, as a single price pool to those who select the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish; otherwise

(2) as a single price pool to those whose combination finishes as the first two betting interests; but if there are no such wagers, then

(3) as a profit split to those whose combination includes either the first- or second-place finisher; but if there are no such wagers on one of those two finishers, then

(4) as a single price pool to those whose combination includes the one covered betting interest included within the first two finishers; but if there are no such wagers, then

(5) as a single price pool to all the exchange ticket holders for that contest; but if there are no such tickets, then

(6) in accordance with subparagraph (b) of this racing regulation.

(i) In the second twin quinella contest only, if there is a dead heat for first involving contestants representing the same betting interest, the net twin quinella pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish.

(j) In the second twin quinella contest only, if there is a dead heat for first involving contestants representing two betting interests, the net twin quinella pool shall be distributed as if no dead heat occurred.

(k) In the second twin quinella contest only, if there is a dead heat for first involving contestants representing three or more betting interests, the net twin quinella pool shall be distributed as a profit split to those whose combination includes any two of the betting interests finishing in the dead heat.

(l) In the second twin quinella contest only, if there is a dead heat for second involving contestants representing the same betting interest, the net twin quinella pool shall be distributed as if no dead heat occurred.

(m) In the second twin quinella contest only, if there is a dead heat for second involving contestants representing two or more betting interests, the net twin quinella pool shall be distributed as a profit split to those who combine the first-place finisher with any of the betting interests involved in the dead heat for second.

(n) If a winning ticket for the first-half of the twin quinella is not presented for exchange before the close of betting on the second-half twin quinella contest, the ticket holder forfeits all rights to any distribution of the twin quinella pool resulting from the outcome of the second contest.

(o) If a betting interest in the first-half of the twin quinella is scratched, those twin quinella wagers including the scratched betting interest shall be refunded.

(p) If a betting interest in the second-half of the twin quinella is scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged before the close of betting for the second twin quinella contest, the ticket holder forfeits all rights to the twin quinella pool.

(q) If either of the twin quinella contests is canceled prior to the first twin quinella contest, or the first twin quinella contest is declared "no contest," the entire twin quinella pool shall be refunded on twin quinella wagers for that contest.

(r) If the second-half twin quinella contest is canceled or declared "no contest" after the conclusion of the first twin quinella contest, the net twin quinella pool shall be distributed as a single price pool to wagers selecting the winning combi-

nation in the first twin quinella contest and all valid exchange tickets. If there are no such wagers, the net twin quinella pool shall be distributed as described in subparagraph (b) of this racing regulation. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8819, as amended by L. 1991, ch. 247, § 5; effective June 1, 1992.)

112-9-20. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8819(b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; revoked June 1, 1992.)

112-9-21. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8819(b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 19, 1990; revoked June 1, 1992.)

112-9-21a. Pick three pools. (a) The pick three requires selection of the first-place finisher in each of three specified contests.

(b) The net pick three pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) as a single price pool to those whose selection finishes first in each of the three contests; but if there are no such wagers, then

(2) as a single price pool to those who select the first-place finisher in any two of the three contests; but if there are no such wagers, then

(3) as a single price pool to those who select the first-place finisher in any one of the three contests; but if there are no such wagers, then

(4) the entire pool shall be refunded on pick three wagers for those contests.

(c) If there is a dead heat for first in any of the three contests involving contestants representing the same betting interest, the pick three pool shall be distributed as if no dead heat occurred.

(d) If there is a dead heat for first in any of the three contests involving contestants representing two or more betting interests, the pick three pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(e) If a betting interest in any of the three pick three contests is scratched, the actual favorite, as determined by total amounts wagered in the win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. If the win pool total for two or more favorites is iden-

tical, the substitute selection shall be the betting interest with the lowest program number. The racing or wagering equipment or services licensee shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(f) If all three pick three contests are canceled or declared "no contest," the entire pool shall be refunded on pick three wagers for those contests.

(g) If one or two of the pick three contests are canceled or declared "no contest," the pick three pool shall remain valid and shall be distributed in accordance with subsection (b) of this regulation. (Authorized by K.S.A. 1993 Supp. 74-8804 as amended by L. 1994, Ch. 146, Sec. 3; implementing K.S.A. 74-8819; effective June 1, 1992; amended July 10, 1995.)

112-9-22. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8819(b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 19, 1990; revoked June 1, 1992.)

112-9-22a. Pick (N) pools. (a) The pick (N) requires selection of the first-place finisher in each of a designated number of contests. The number of contests so designated shall be more than three. The organization licensee shall obtain written approval from the commission for the schedule of pick (N) contests, the designation of one of the methods prescribed in subparagraph (b) of this regulation and the amount of any cap to be set on the carryover. The organization licensee shall not modify these pick (N) conditions without prior written approval from the commission.

(b) The pick (N) pool shall be apportioned under one of the following methods:

(1) The net pick (N) pool and carryover, if any, shall be distributed as a single price pool to those who select the first-place finisher in each of the pick (N) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who select the first-place finisher in the greatest number of pick (N) contests, and the remainder shall be added to the carryover.

(2) The major share of the net pick (N) pool and the carryover, if any, shall be distributed to those who select the first-place finisher in each of the

pick (N) contests, based upon the official order of finish. The minor share of the net pick (N) pool shall be distributed to those who select the first-place finisher in the second greatest number of pick (N) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (N) contests, the minor share of the net pick (N) pool shall be distributed as a single price pool to those who select the first-place finisher in the greatest number of pick (N) contests, and the major share shall be added to the carryover.

(3) The net pick (N) pool shall be distributed as a single price pool to those who select the first-place finisher in the greatest number of pick (N) contests, based upon the official order of finish. If there are no winning wagers, the pool shall be refunded.

(4) The major share of the net pick (N) pool shall be distributed to those who select the first-place finisher in the greatest number of pick (N) contests, based upon the official order of finish. The minor share of the net pick (N) pool shall be distributed to those who select the first-place finisher in the second greatest number of pick (N) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of pick (N) contests, the minor share of the net pick (N) pool shall be combined with the major share for distribution as a single price pool to those who select the first-place finisher in the greatest number of pick (N) contests. If the greatest number of first-place finishers selected is one, the major and minor shares shall be combined for distribution as a single price pool. If there are no winning wagers, the pool shall be refunded.

(5) The major share of the net pick (N) pool shall be distributed to those who select the first-place finisher in each of the pick (N) contests, based upon the official order of finish. The minor share of the net pick (N) pool shall be distributed to those who select the first-place finisher in the second greatest number of pick (N) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all pick (N) contests, the entire net pick (N) pool shall be distributed as a single price pool to those who select the first-place finisher in the greatest number of pick (N) contests. If there are no wagers selecting the first-place finisher in a second greatest number of pick (N) contests, the minor share of the net pick (N) pool shall be combined

with the major share for distribution as a single price pool to those who select the first-place finisher in each of the pick (N) contests. If there are no winning wagers, the pool shall be refunded.

(c) If there is a dead heat for first in any of the pick (N) contests involving contestants representing the same betting interest, the pick (N) pool shall be distributed as if no dead heat occurred.

(d) If there is a dead heat for first in any of the pick (N) contests involving contestants representing two or more betting interests, the pick (N) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(e) If a betting interest in any of the pick (N) contests is scratched, the actual favorite, as demonstrated by total amounts wagered in the win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. If the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(f) The pick (N) pool shall be canceled and all pick (N) wagers for the individual performance shall be refunded if:

(1) at least two contests included as part of a pick 3 are canceled or declared "no contest"; or

(2) at least three contests included as part of a pick 4, pick 5 or pick 6 are canceled or declared "no contest"; or

(3) at least four contests included as part of a pick 7, pick 8 or pick 9 are canceled or declared "no contest"; or

(4) at least five contests included as part of a pick 10 are canceled or declared "no contest."

(g) If at least one contest included as part of a pick (N) is canceled or declared "no contest," but not more than the number specified in subsection (f) of this regulation, the net pool shall be distributed as a single price pool to those whose selection finishes first in the greatest number of pick (N) contests for that performance. Such distribution shall include the portion ordinarily retained for the pick (N) carryover but not the carryover from previous performances.

(h) The pick (N) carryover may be capped at a designated level approved by the commission in accordance with these racing regulations.

(i) An organization licensee may request permission to distribute the pick (N) carryover on a specific performance. The request shall be submitted to the commission in writing and shall include justification for the distribution, an explanation of the benefit to be derived and the intended date and performance when the distribution will be made.

(j) If the pick (N) carryover is designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the pick (N) contests, the entire pool shall be distributed as a single price pool to those whose selection finishes first in the greatest number of pick (N) contests. The pick (N) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(1) upon written approval from the commission as provided in subsection (h) of this regulation; or

(2) upon written approval from the commission when there is a change in the carryover cap, a change from one type of pick (N) wagering to another or when the pick (N) is discontinued; or

(3) on the closing performance of the race meeting or split meeting.

(k) If for any reason the pick (N) carryover is carried over to the corresponding pick (N) pool of a later race meeting, the carryover shall be deposited in an interest-bearing account approved by the commission. The pick (N) carryover plus accrued interest then shall be added to the net pick (N) pool of the following race meeting on a date and performance designated by the commission.

(l) If it secures written commission approval, an organization licensee may contribute to the pick (N) carryover a sum of money up to the amount of any designated cap.

(m) Providing information to any person regarding covered combinations, amounts wagered on specific combinations or number of tickets sold is prohibited. This shall not prohibit any necessary communication for the processing of pool data between totalisator and parimutuel department employees.

(n) The organization licensee may suspend previously approved pick (N) wagering only with the prior written approval of the commission. Any carryover shall be held until the suspended pick (N) wagering is reinstated.

(o) An organization licensee may request approval of a pick (N) wager or separate wagering pool for specific performances. (Authorized by

K.S.A. 1991 Supp. 74-8804; implementing K.S.A. 1991 Supp. 74-8819; effective June 1, 1992.)

112-9-23. Payoff on minus pool. Each organization licensee shall pay to each holder of any ticket entitling the holder to participate in the distribution of a parimutuel pool the amount wagered by the holder plus a minimum of five percent. This requirement shall be unaffected by the existence of a parimutuel pool that does not contain sufficient money to distribute the five percent to each person holding the tickets. (Authorized by K.S.A. 1988 Supp. 74-8804 (p); implementing K.S.A. 1988 Supp. 74-8819 (b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 19, 1990.)

112-9-24. Errors in posted payoff. If an error is discovered in the payoff amounts posted on the public board, the error shall be corrected promptly and an announcement of the correction shall be made over the public address system. After the error is discovered, the correct amount shall be used in the payoff. (Authorized by K.S.A. 1988 Supp. 74-8804 (p); implementing K.S.A. 1988 Supp. 74-8819 (b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-25. Payment for errors. (a) If an error occurs in the payment amounts for parimutuel tickets that are cashed or entitled to be cashed, and as a result of the error the parimutuel pool involved in the error is not correctly distributed among winning ticket holders, the following shall apply:

(1) If the error creates an overpayment to ticket holders, the organization licensee shall be responsible for the overpayment; and

(2) if the error creates an underpayment to ticket holders, the organization licensee shall add the amount of the underpayment to the next similar parimutuel pool, whether during the race meet at which the underpayment occurred or the first similar parimutuel pool of the following race meet. (Authorized by K.S.A. 1988 Supp. 74-8804 (p); implementing K.S.A. 1988 Supp. 74-8819 (b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-26. Mutuel managers. (a) Each mutuel manager shall be responsible for the correctness of all posted payoff prices.

(b) If any emergency arises in connection with the operation of the parimutuel department of the organization licensee not covered by the pari-

mutuel regulations and an immediate decision is necessary, the manager of the parimutuel department shall make the decision and shall deliver a detailed, written report to the commission within 24 hours of the incident. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804 (p); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-27. Cooperation of parimutuel department. Each parimutuel manager and each representative of any totalisator company or service providing parimutuel equipment or service at any race meeting shall cooperate fully in any investigation by the commission or in any proceeding before the commission relating to any parimutuel operations. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804 (c) and 74-8804 (p); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-28. Acceptance of wagers from outside enclosure. Each organization licensee shall accept no mail or telephone wagers, nor knowingly accept any wagers by or for a person who is prohibited from participating in parimutuel wagering. (Authorized by K.S.A. 1988 Supp. 74-8804; implementing K.S.A. 1988 Supp. 74-8804, 74-8810, 74-8819; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-29. Probable odds on morning line. Unless otherwise approved by the commission, each organization licensee shall calculate and print in the official program the probable win odds for each wagering interest in each race. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804 (p); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 19, 1990.)

112-9-30. Closing of wagering in a race. (a) Prior to the official start of a race, the stewards or racing judges shall lock the parimutuel machines and shall close the wagering in the race, after which time no parimutuel tickets shall be sold for the race.

(b) Each organization licensee shall maintain in good order an electrical or other system approved by the commission for locking the parimutuel machines.

(c) It shall be the secondary responsibility of the mutuel manager to ensure that wagering is terminated.

(d) With prior approval from the commission, wagers placed on greyhounds only may be canceled for a period of time not to exceed five seconds after wagering is terminated. (Authorized by K.S.A. 74-8804 and implementing K.S.A. 74-8816 and 84-8818; effective, T-112-3-31-89, March 31, 1989; effective, June 26, 1989; amended, T-112-3-1-93, March 1, 1993; amended, T-112-6-15-93, June 15, 1993; amended Sept. 27, 1993.)

112-9-31. Wagering by minors prohibited. Each person under 18 years of age shall not buy or cash any parimutuel ticket. Each employee of the organization licensee shall not knowingly sell or cash for a person under 18 years of age any parimutuel ticket. (Authorized by K.S.A. 1988 Supp. 74-8804 (p); implementing K.S.A. 1988 Supp. 74-8810; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-32. Wagering prohibited. Each mutuel department employee shall not wager on the result of a race while on duty at the race track facility of employment. (Authorized by K.S.A. 1988 Supp. 74-8804 (p); implementing K.S.A. 1988 Supp. 74-8810; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-33. Racing selection services. Each organization licensee shall prohibit the sale, offering for sale, or gift of any racing selection sheet or other racing prediction upon the premises of the organization licensee, except for any service that is authorized by the organization licensee and is licensed by the commission. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804 (p) and 74-8816 (a)(2); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-34. Wagering by jockey. Each jockey shall not make any wager, or have any wager made in his behalf, on any card in which he participates. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804 (c) and 74-8804 (p); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 19, 1990.)

112-9-35. Wagering interest. A wagering interest may be any one entry in a race, or may be two or more entries coupled as a single wagering interest, including a field entry. A declaration or withdrawal of one entry from a wagering interest which consists of more than one entry shall have no effect on any wagers made on the wagering interest. (Authorized by and implementing K.S.A.

1988 Supp. 74-8804 (p) and 74-8819 (b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-36. Evidence of pool distribution.

In the event of loss by the organization licensee, its agent or employees, of any evidence of proper distribution of parimutuel pools, including, but not limited to, parimutuel tickets that have been cashed, outs ledgers, parimutuel machine recording registers, or cashier outslips, the organization licensee shall upon discovery of the loss immediately notify the commission and file with the commission within 72 hours of the discovery of the loss, a report and supporting affidavits. The report of loss may be accepted or the matter may be heard by the commission in its discretion. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804 (c) and 74-8804 (p); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-37. Dead heats. (a) In each dead heat for first place, the win pool pay-off price shall be figured as in a place pool.

(b) In each dead heat for second in the place pool, each winner of the race shall receive one-half share of the profits in that pool, and each of the two entries that run a dead heat for second shall receive one-half of the remaining half of the profits.

(c) In each dead heat for third or show in the show pool, each of the two entries that place first and second each shall receive a normal one-third of the profits in that pool; and of the two entries that run a dead heat for third, each shall receive one-half of the remaining third of the profits.

(d) If two or more entries racing for one interest or field participate in dead heats, each dead heat entry shall be entitled to the proportionate share of the profits in the pool in which the dead heat occurs and the other pools affected.

(e) If two or more entries racing for one interest or field run a dead heat or run a multiple dead heat in one race, each dead heat entry shall be entitled to the proportionate award of the profits in whatever pool or pools are affected by the dead heat or dead heats. The sum of total profits in each pool for the entry or field shall then be used as a dividend to calculate the payoff for the dead heat entry in that pool. (Authorized by K.S.A. 1988 Supp. 74-8804 (p); implementing K.S.A. 1988 Supp. 74-8819 (b); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 19, 1990.)

112-9-38. Purses for dead heats. Each purse, prize or award for a race in which a dead heat has occurred shall be divided equitably by determination of the stewards. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804(p); effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-9-39. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 74-8819(b); effective, T-112-8-22-89, Aug. 22, 1989; effective Oct. 2, 1989; revoked June 1, 1992.)

112-9-39a. Superfecta pools. (a) The superfecta requires selection of the first four finishers, in their exact order, for a single contest.

(b) The net superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish and disregarding all coupled or field entries other than the first contestant of a coupled or field entry to finish:

(1) as a single price pool to those whose combination finishes in correct sequence as the first four betting interests; but if there are no such wagers, then

(2) as a single price pool to those whose combination includes, in correct sequence, the first three betting interests; but if there are no such wagers, then

(3) as a single price pool to those whose combination includes, in correct sequence, the first two betting interests; but if there are no such wagers, then

(4) as a single price pool to those whose combination correctly selects the first-place betting interest only; but if there are no such wagers, then

(5) the entire pool shall be refunded on superfecta wagers for that contest.

(c) If fewer than four betting interests finish and the contest is declared official, payoffs will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest shall be ignored.

(d) If there is a dead heat for first involving contestants representing four or more betting interests, all of the wagering combinations selecting four betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(e) If there is a dead heat for first involving contestants representing three betting interests, all of the wagering combinations selecting the three

dead-heated betting interests, regardless of order, along with the fourth-place betting interest shall share in a profit split.

(f) If there is a dead heat for first involving contestants representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, regardless of order, along with the third-place and fourth-place betting interests shall share in a profit split.

(g) If there is a dead heat for second involving contestants representing three or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three betting interests involved in the dead heat for second shall share in a profit split.

(h) If there is a dead heat for second involving contestants representing two betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated betting interests, regardless of order, and the fourth-place betting interest shall share in a profit split.

(i) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers in correct sequence shall share in a profit split along with any two of the betting interests involved in the dead heat for third.

(j) If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers in correct sequence shall share in a profit split along with any of the betting interests involved in the dead heat for fourth. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing K.S.A. 1991 Supp. 74-8819, as amended by L. 1992, Ch. 27, Sec. 6; effective June 1, 1992; amended, T-112-11-9-92, Nov. 9, 1992; amended, T-112-3-1-93, March 1, 1993; amended May 3, 1993.)

112-9-40. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 74-8819(b); effective, T-112-8-22-89, Aug. 22, 1989; effective Oct. 2, 1989; revoked June 1, 1992.)

112-9-40a. Tri-superfecta pools. (a) The tri-superfecta requires selection of the first three finishers, in their exact order, in the first of two designated contests and the first four finishers, in exact order, in the second of the two designated contests. Each winning ticket for the first tri-superfecta contest must be exchanged for a free ticket on the second tri-superfecta contest in order to remain eligible for the second-half tri-superfecta pool. Such tickets may be exchanged

only at attended ticket windows prior to the second tri-superfecta contest. Winning first-half tri-superfecta tickets shall receive both an exchange and a monetary payoff. Both of the designated tri-superfecta contests shall be included in only one tri-superfecta pool.

(b) After wagering closes for the first-half of the tri-superfecta and the takeout has been deducted from the pool, the net pool then shall be divided into two separate pools: the first-half tri-superfecta pool and the second-half tri-superfecta pool.

(c) In the first tri-superfecta contest only, winning tickets shall be determined using the following precedence, based upon the official order of finish for the first tri-superfecta contest and disregarding all coupled or field entries other than the first contestant of a coupled or field entry to finish:

(1) as a single price pool to those whose combination finishes in correct sequence as the first three betting interests; but if there are no such wagers, then

(2) as a single price pool to those whose combination includes, in correct sequence, the first two betting interests; but if there are no such wagers, then

(3) as a single price pool to those whose combination correctly selects the first-place betting interest only; but if there are no such wagers, then

(4) the entire tri-superfecta pool shall be refunded on tri-superfecta wagers for that contest, and the second-half shall be canceled.

(d) If no first-half tri-superfecta ticket selects the first three finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half tri-superfecta pool. In such case, the second-half tri-superfecta pool shall be retained and added to any existing tri-superfecta carryover pool.

(e) Winning tickets from the first-half of the tri-superfecta shall be exchanged for tickets selecting the first four finishers of the second-half of the tri-superfecta. The second-half tri-superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second tri-superfecta contest and disregarding all coupled or field entries other than the first contestant of a coupled or field entry to finish:

(1) as a single price pool, including any existing carryover monies, to those whose combination finishes in correct sequence as the first four betting interests; but if there are no such tickets, then

(2) the entire second-half tri-superfecta pool for that contest shall be added to any existing

carryover monies and retained for the corresponding second-half tri-superfecta pool of the next performance.

(f) If a winning first-half tri-superfecta ticket is not presented for cashing and exchange prior to the second-half tri-superfecta contest, the ticket holder may still collect the monetary value associated with the first-half tri-superfecta pool, but forfeits all rights to any distribution of the second-half tri-superfecta pool.

(g) If a betting interest in the first-half of the tri-superfecta is scratched, those tri-superfecta tickets including the scratched betting interest shall be refunded.

(h) If a betting interest in the second-half of the tri-superfecta is scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second tri-superfecta contest, the ticket holder forfeits all rights to the second-half tri-superfecta pool.

(i) If, due to a late scratch, the number of betting interests in the second-half of the tri-superfecta is reduced to a fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half tri-superfecta pool for that contest as a single price pool, but not the tri-superfecta carryover.

(j) If there is a dead heat or multiple dead heats in either the first- or second-half of the tri-superfecta, all tri-superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in the first-half of the tri-superfecta, the payoff shall be calculated as a profit split. In the case of a dead heat occurring in the second-half of the tri-superfecta, the payoff shall be calculated as a single price pool.

(k) If either of the tri-superfecta contests is canceled prior to the first tri-superfecta contest, or the first tri-superfecta contest is declared "no contest," the entire tri-superfecta pool shall be refunded on tri-superfecta wagers for that contest, and the second-half shall be canceled.

(l) If the second-half tri-superfecta contest is canceled or declared "no contest," all exchange tickets and outstanding first-half winning tri-superfecta tickets shall be entitled to the net tri-superfecta pool for that contest as a single price pool, but not the tri-superfecta carryover.

If there are no such tickets, the net tri-superfecta pool shall be distributed as described in subparagraph (c) of this regulation.

(m) The tri-superfecta carryover may be capped at a designated level as provided in these racing regulations.

(n) An organization licensee may request permission to distribute the tri-superfecta carryover on a specific performance. The request shall be submitted to the commission in writing and shall include justification for the distribution, an explanation of the benefit to be derived and the intended date and performance when the distribution will be made.

(o) If the tri-superfecta carryover is designated for distribution on a specified date and performance, the following precedence shall be followed in determining winning tickets for the second-half of the tri-superfecta after completion of the first-half of the tri-superfecta:

(1) as a single price pool to those whose combination finishes in correct sequence as the first four betting interests; but if there are no such wagers, then

(2) as a single price pool to those whose combination includes, in correct sequence, the first three betting interests; but if there are no such wagers, then

(3) as a single price pool to those whose combination includes, in correct sequence, the first two betting interests; but if there are no such wagers, then

(4) as a single price pool to those whose combination includes, in correct sequence, the first-place betting interest only; but if there are no such wagers, then

(5) as a single price pool to holders of valid exchange tickets; but if there are no valid exchange tickets, then

(6) as a single price pool to holders of outstanding first-half winning tickets.

(p) Notwithstanding the provisions of this regulation, during a performance designated to distribute the tri-superfecta carryover, exchange tickets shall be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the tri-superfecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first- and second-place betting interests. If there are no wagers correctly selecting the first-

and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the tri-superfecta, all first-half tickets shall become winners and shall receive 100 percent of that day's net tri-superfecta pool and any existing tri-superfecta carryover as a single price pool.

(q) The tri-superfecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(1) upon written approval from the commission as provided in subparagraph (n) of this regulation; or

(2) upon written approval from the commission when there is a change in the carryover cap or when the tri-superfecta is discontinued; or

(3) on the closing performance of the meeting or split meeting.

(r) If, for any reason, the tri-superfecta carryover must be carried over to the corresponding tri-superfecta pool of a subsequent meeting, the carryover shall be deposited in an interest-bearing account approved by the commission. The tri-superfecta carryover plus accrued interest shall then be added to the second-half tri-superfecta pool of the following meeting on a date and performance designated by the commission.

(s) Providing information to any person regarding covered combinations, amounts wagered on specific combinations or number of tickets sold is prohibited. This shall not prohibit any necessary communication for the processing of pool data between totalisator and parimutuel department employees.

(t) At the beginning of each meeting each organization licensee shall obtain written approval from the commission concerning the scheduling of tri-superfecta contests, the percentages of the net pool added to the first-half pool and the second-half pool and the designated amount of any cap to be set on the carryover. Any modification of the approved tri-superfecta procedures requires prior approval from the commission. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing K.S.A. 1991 Supp. 74-8819, as amended by L. 1992, Ch. 27, Sec. 6; effective June 1, 1992; amended, T-112-11-9-92, Nov. 9, 1992; amended, T-112-3-1-93, March 1, 1993; amended May 3, 1993.)

112-9-41. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8819(b); effective, T-112-8-22-89, Aug. 22, 1989; effective Oct. 2, 1989; revoked, T-112-9-26-91, Sept. 26, 1991; revoked, T-112-1-21-92, Jan. 21, 1992; revoked June 1, 1992.)

112-9-41a. Twin trifecta. (a) The twin trifecta requires selection of the first three finishers, in their exact order, in each of two designated contests. Each winning ticket for the first twin trifecta contest must be exchanged for a free ticket for the second twin trifecta contest in order to remain eligible for the second-half twin trifecta pool. These tickets may be exchanged only at attended ticket windows prior to the second twin trifecta contest. Winning first-half twin trifecta wagers will receive both an exchange and a monetary payoff. Both of the designated twin trifecta contests shall be included in only one twin trifecta pool.

(b) After wagering closes for the first-half of the twin trifecta and commissions have been deducted from the pool, the net pool then shall be divided into separate pools: the first-half twin trifecta pool and the second-half twin trifecta pool.

(c) In the first twin trifecta contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin trifecta contest and disregarding all coupled or field entries other than the first contestant of a coupled or field entry to finish:

(1) as a single price pool to those whose combination finishes in the same sequence as the first three betting interests; but if there are no such wagers, then

(2) as a single price pool to those whose combination includes, in correct sequence, the first two betting interests; but if there are no such wagers, then

(3) as a single price pool to those whose combination correctly selects the first-place betting interest only; but if there are no such wagers, then

(4) the entire twin trifecta pool shall be refunded on twin trifecta wagers for that contest and the second-half shall be canceled.

(d) If no first-half twin trifecta ticket selects the first three finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half twin trifecta pool. In such case, the second-half twin trifecta pool shall be retained and added to any existing twin trifecta carryover pool.

(e) Winning tickets from the first-half of the twin trifecta shall be exchanged for tickets selecting the first three finishers of the second-half of the twin trifecta. The second-half twin trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin trifecta contest and disregarding all coupled or field entries other than the first contestant of a coupled or field entry to finish:

(1) as a single price pool, including any existing carryover monies, to those whose combination finishes in the same sequence as the first three betting interests; but if there are no such tickets, then

(2) the entire second-half twin trifecta pool for that contest shall be added to any existing carryover monies and retained for the corresponding second-half twin trifecta pool of the next consecutive performance.

(f) If a winning first-half twin trifecta ticket is not presented for cashing and exchange prior to the second-half twin trifecta contest, the ticket holder may collect the monetary value associated with the first-half twin trifecta pool, but forfeits all rights to any distribution of the second-half twin trifecta pool.

(g) If a betting interest in the first-half of the twin trifecta is scratched, those twin trifecta wagers, including the scratched betting interest, shall be refunded.

(h) If a betting interest in the second-half of the twin trifecta is scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for the exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second twin trifecta contest, the ticket holder forfeits all rights to the second-half twin trifecta pool.

(i) If, due to a late scratch, the number of betting interests in the second-half of the twin trifecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin trifecta pool for that contest as a single price pool, but not the twin-trifecta carryover.

(j) If there is a dead heat or multiple dead heats in either the first- or second-half of the twin trifecta, all twin trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat

occurring in the first-half of the twin trifecta, the payoff shall be calculated as a profit split. In the case of a dead heat occurring in the second-half of the twin trifecta, the payoff shall be calculated as a single price pool.

(k) If either of the twin trifecta contests is canceled prior to the first twin trifecta contest or if the first twin trifecta contest is declared a "no contest," the entire twin trifecta pool shall be refunded on twin trifecta wagers for that contest, and the second-half of the twin trifecta shall be canceled.

(1) If the second-half twin trifecta contest is canceled or declared "no contest," all exchange tickets and outstanding first-half winning twin trifecta tickets shall be entitled to the net twin trifecta pool for that contest as a single price pool, but not to the twin trifecta carryover. If there are no such tickets, the net twin trifecta pool shall be distributed as described in subparagraph (c) of this regulation.

(m) The twin trifecta carryover may be capped at a designated level as provided in these racing regulations.

(n) An organization licensee may request permission to distribute the twin trifecta jackpot on a specific performance. The request shall be submitted to the commission in writing and shall include justification for the distribution, an explanation of the benefit to be derived and the intended date and performance when the distribution will be made.

(o) If the twin trifecta carryover is designated for distribution on a specified date and performance, the following precedence shall be followed in determining winning tickets for the second-half of the twin trifecta after completion of the first-half of the twin trifecta:

(1) as a single price pool to those whose combination finishes in the same sequence as the first three betting interests; but if there are no such wagers, then

(2) as a single price pool to those whose combination includes, in correct sequence, the first two betting interests; but if there are no such wagers, then

(3) as a single price pool to those whose combination correctly selects the first-place betting interest only; but if there are no such wagers, then

(4) as a single price pool to holders of valid exchange tickets, but if there are no holders of valid exchange tickets, then

(5) as a single price pool to holders of outstanding first-half winning tickets.

(p) Notwithstanding the provisions of this regulation, during a performance designated to distribute the twin trifecta carryover, exchange tickets shall be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the twin trifecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first- and second-place betting interests. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the twin trifecta, all first-half tickets shall become winners and shall receive 100 percent of that day's net twin trifecta pool and any existing twin trifecta carryover as a single price pool.

(q) The twin trifecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(1) upon written approval from the commission as provided in subparagraph (n) of this regulation; or

(2) upon written approval from the commission when there is a change in the carryover cap or when the twin trifecta is discontinued; or

(3) on the closing performance of the meeting or split meeting.

(r) If, for any reason, the twin trifecta carryover must be carried over to the corresponding twin trifecta pool of a subsequent meeting, the jackpot shall be deposited in an interest-bearing account approved by the commission. The twin trifecta carryover and accrued interest then shall be added to the second-half twin trifecta pool of the following meeting on a date and performance designated by the commission.

(s) Providing information to any person regarding covered combinations, amounts wagered on specific combinations or number of tickets sold is prohibited. This shall not prohibit any necessary communication for the processing of pool data between totalisator and parimutuel department employees.

(t) The organization licensee shall obtain written approval from the commission concerning the scheduling of twin trifecta contests, the percentages of the net pool added to the first-half pool and second-half pool and the designated amount

of any cap to be set on the carryover. Any modification of the approved twin trifecta procedures requires prior approval from the commission. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing K.S.A. 1991 Supp. 74-8819, as amended by L. 1992, Ch. 27, Sec. 6; effective, T-112-9-26-91, Sept. 26, 1991; effective June 1, 1992; amended, T-112-11-9-92, Nov. 9, 1992; amended, T-112-3-1-93, March 1, 1993; amended May 3, 1993.)

112-9-42. Twin superfecta pools. (a) The twin superfecta requires selection of the first four finishers, in their exact order, in each of two designated contests. Each winning ticket for the first twin superfecta contest must be exchanged for a free ticket on the second twin superfecta contest in order to remain eligible for the second-half twin superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second twin superfecta contest. Winning first-half twin superfecta tickets shall receive both an exchange and a monetary payoff. Both of the designated twin superfecta contests shall be included in only one twin superfecta pool.

(b) After wagering closes for the first-half of the twin superfecta and the takeout has been deducted from the pool, the net pool shall then be divided into two separate pools: the first-half twin superfecta pool and the second-half twin superfecta pool.

(c) In the first twin superfecta contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin superfecta contest and disregarding all coupled or field entries other than the first contestant of a coupled or field entry to finish:

(1) as a single price pool to those whose combination finishes in correct sequence as the first four betting interests; but if there are no such wagers, then

(2) as a single price pool to those whose combination includes, in correct sequence, the first three betting interests; but if there are no such wagers, then

(3) as a single price pool to those whose combination includes, in correct sequence, the first two betting interests; but if there are no such wagers, then

(4) as a single price pool to those whose combination correctly selects the first-place betting interest only; but if there are no such wagers, then

(5) the entire twin superfecta pool shall be refunded on twin superfecta wagers for that contest, and the second-half shall be canceled.

(d) If no first-half twin superfecta ticket selects the first four finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half twin superfecta pool. In such case, the second-half twin superfecta pool shall be retained and added to any existing twin superfecta carryover pool.

(e) Winning tickets from the first-half of the twin superfecta shall be exchanged for tickets selecting the first four finishers of the second-half of the twin superfecta. The second-half twin superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin trifecta contest and disregarding all coupled or field entries other than the first contestant of a coupled or field entry to finish:

(1) as a single price pool, including any existing carryover monies, to those whose combination finishes in correct sequence as the first four betting interests; but if there are no such tickets, then

(2) the entire second-half twin superfecta pool for that contest shall be added to any existing carryover monies and retained for the corresponding second-half twin superfecta pool of the next performance.

(f) If a winning first-half twin superfecta ticket is not presented for cashing and exchange prior to the second-half twin superfecta contest, the ticket holder may still collect the monetary value associated with the first-half twin superfecta pool but forfeits all rights to any distribution of the second-half twin superfecta pool.

(g) If a betting interest in the first-half of the twin superfecta is scratched, those twin superfecta tickets including the scratched betting interest shall be refunded.

(h) If a betting interest in the second-half of the twin superfecta is scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second twin superfecta contest, the ticket holder forfeits all rights to the second-half twin superfecta pool.

(i) If, due to a late scratch, the number of betting interests in the second-half of the twin superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half win-

ning tickets shall be entitled to the second-half twin superfecta pool for that contest as a single price pool, but not the twin superfecta carryover.

(j) If there is a dead heat or multiple dead heats in either the first- or second-half of the twin superfecta, all twin superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in the first-half of the twin superfecta, the payoff shall be calculated as a profit split. In the case of a dead heat occurring in the second-half of the twin superfecta, the payoff shall be calculated as a single price pool.

(k) If either of the twin superfecta contests is canceled prior to the first twin superfecta contest, or the first twin superfecta contest is declared "no contest," the entire twin superfecta pool shall be refunded on twin superfecta wagers for that contest, and the second-half shall be canceled.

(l) If the second-half twin superfecta contest is canceled or declared "no contest," all exchange tickets and outstanding first-half winning twin superfecta tickets shall be entitled to the net twin superfecta pool for that contest as a single price pool, but not the twin superfecta carryover. If there are no such tickets, the net twin superfecta pool shall be distributed as described in subparagraph (c) of this regulation.

(m) The twin superfecta carryover may be capped at a designated level as provided in these racing regulations.

(n) An organization licensee may request permission to distribute the twin superfecta carryover on a specific performance. The request shall be submitted to the commission in writing and shall include justification for the distribution, including how the distribution will serve the best interests of the wagering public, an explanation of the benefit to be derived and the intended date and performance when the distribution will be made. The benefit to both the public and the state shall be weighed in determining whether to approve such a request.

(o) If the twin superfecta carryover is designated for distribution on a specified date and performance, the following precedence shall be followed in determining winning tickets for the second-half of the twin superfecta after completion of the first-half of the twin superfecta:

(1) as a single price pool to those whose combination finishes in correct sequence as the first four betting interests; but if there are no such wagers, then

(2) as a single price pool to those whose combination includes, in correct sequence, the first three betting interests; but if there are no such wagers, then

(3) as a single price pool to those whose combination includes, in correct sequence, the first two betting interests; but if there are no such wagers, then

(4) as a single price pool to those whose combination correctly selects the first-place betting interest only; but if there are no such wagers, then

(5) as a single price pool to holders of valid exchange tickets; but if there are no valid exchange tickets, then

(6) as a single price pool to holders of outstanding first-half winning tickets.

(p) Notwithstanding the provisions of this regulation, during a performance designated to distribute the twin superfecta carryover, exchange tickets shall be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the twin superfecta. If there are no wagers correctly selecting the first-, second-, third-, and fourth-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-, second-, and third-place betting interests. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first- and second-place betting interests. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the twin superfecta, all first-half tickets shall become winners and shall receive 100 percent of that day's net twin superfecta pool and any existing twin superfecta carryover as a single price pool.

(q) The twin superfecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(1) upon written approval from the commission as provided in subparagraph (n) of this regulation; or

(2) upon written approval from the commission when there is a change in the carryover cap or when the twin superfecta is discontinued; or

(3) on the closing performance of the meeting or split meeting.

(r) If, for any reason, the twin superfecta carryover must be carried over to the corresponding twin superfecta pool of a subsequent meeting, the carryover shall be deposited in an interest-bearing account approved by the commission. The twin superfecta carryover plus accrued interest then shall be added to the second-half twin superfecta pool of the following meeting on a date and performance designated by the commission.

(s) Providing information to any person regarding covered combinations, amounts wagered on specific combinations or number of tickets sold is prohibited. This shall not prohibit any necessary communication for the processing of pool data between totalisator and parimutuel department employees.

(t) At the beginning of each race meeting each organization licensee shall obtain written approval from the commission concerning the scheduling of twin superfecta contests, the percentages of the net pool added to the first-half pool and second-half pool and the designated amount of any cap to be set on the carryover. Any modification of the approved twin superfecta procedures requires prior approval from the commission. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing K.S.A. 1991 Supp. 74-8819, as amended by L. 1992, Ch. 27, Sec. 6; effective June 1, 1992; amended, T-112-11-9-92, Nov. 9, 1992; amended, T-112-3-1-93, March 1, 1993; amended May 3, 1993.)

112-9-43. Capping carryover pools. The Pick (N), the twin trifecta, the tri-superfecta, and the twin superfecta carryover pools may be capped at a designated level or on a designated performance as approved by the commission. When the commission authorizes the capping of a carryover it shall select one of the following methods to govern subsequent contributions to the carryover pool: (a) When the amount in the wager's carryover pool equals or exceeds the designated cap at the close of any performance, the carryover pool shall be frozen, and 100 percent of the designated contributions to the carryover pool shall be paid out to the wager's regular pool until the carryover pool is paid out.

(b) Within three working days of the date when the designated cap is reached, each organization licensee shall notify the commission or its designee of the occurrence and specify the date it intends to force a payout of the carryover pool, provided the capped carryover pool is not paid

out prior to the specified date. Each forced payout shall be made within ten race days after the date when the designated cap is reached. After the designated cap is reached the carryover pool shall continue to receive its regular contribution from all wagers.

(c) When the designated cap on the carryover pool is reached the organization licensee shall freeze the carryover pool at the designated cap amount and create a new seed pool. The seed pool shall receive and hold all contributions that would normally flow to the carryover pool until the capped carryover pool is paid out. The carryover pool shall be paid out under the regular procedures, or, if the organization licensee so elects, under the forced payout procedures stated in subparagraph (b) of this regulation. Once the capped carryover pool is paid out, the seed pool shall become the carryover pool. If the seed pool's balance ever equals or exceeds the designated cap the seed pool shall be frozen the same as the carryover pool, and another seed pool shall be created.

(d) When a carryover pool is capped on a designated performance and the designated performance date is reached, the organization licensee shall pay out 100 percent of the contributions to the carryover pool using one of the following methods, as directed by the commission:

(1) to holders of tickets in accordance with the procedures stated in K.A.R. 112-9-41a(o) for twin trifecta wagers, K.A.R. 112-9-40a(o) for tri-superfecta wagers and K.A.R. 112-9-42(o) for twin superfecta wagers; or,

(2) to holders of second-half winning tickets using the following precedence:

(A) as a single price pool to those whose combination finishes in the same sequence as the first three betting interests for twin trifecta wagers or in the same sequence as the first four betting interests for twin superfecta and tri-superfecta wagers; then,

(B) as a single price pool to holders of valid exchange tickets; then,

(C) as a single price pool to holders of outstanding first-half winning tickets. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing K.S.A. 1991 Supp. 74-8819, as amended by L. 1992; Ch. 27, § 6; effective June 1, 1992; amended, T-112-11-9-92, Nov. 9, 1992; amended, T-112-3-1-93, March 1, 1993; amended May 3, 1993.)

112-9-44. Place pick (N) pools. (a) The place pick (N) shall require selection of the first-place or second-place finisher in each of a designated number of contests. Each licensee shall secure written approval from the commission concerning the scheduling of place pick (N) contests, the designation of one of the methods stated in subsection (b) of this regulation, the distinctive name identifying the pool, and the amount of any cap to be set on the carryover pool. Each change to the approved place pick (N) format shall be approved by the commission before that change is implemented.

(b) Each place pick (N) pool shall be apportioned using one of the following methods:

(1) For a place pick (N) with carryover pool, each net place pick (N) pool and carryover pool, if any, shall be distributed as a single-price pool to those who select the first-place or second-place finisher in each of the place pick (N) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single-price pool to those who select the first-place or second-place finisher in the greatest number of place pick (N) contests, and the remainder shall be added to the carryover pool.

(2) For a place pick (N) with a minor pool and a carryover pool, the major share of the net place pick (N) pool and the carryover pool, if any, shall be distributed to those who select the first-place or second-place finisher in each of the place pick (N) contests, based upon the official order of finish. The minor share of the net place pick (N) pool shall be distributed to those who select the first-place or second-place finisher in the second greatest number of place pick (N) contests, based upon the official order of finish. If there are no wagers selecting the first-place or second-place finisher of all place pick (N) contests, the minor share of the net place pick (N) pool shall be distributed as a single-price pool to those who select the first-place or second-place finisher in the greatest number of place pick (N) contests, and the major share shall be added to the carryover pool.

(3) For the place pick (N) with no minor pool and no carryover pool, each net place pick (N) pool shall be distributed as a single-price pool to those who select the first-place or second-place finisher in the greatest number of place pick (N) contests, based upon the official order of finish. If there are no winning wagers, the pool shall be refunded.

(4) For a place pick (N) with a minor pool and no carryover pool, the major share of the net place pick (N) pool shall be distributed to those who select the first-place or second-place finisher in the greatest number of place pick (N) contests, based upon the official order of finish. The minor share of the net place pick (N) pool shall be distributed to those who select the first-place or second-place finisher in the second greatest number of place pick (N) contests, based upon the official order of finish. If there are no wagers selecting the first-place or second-place finisher in a second greatest number of place pick (N) contests, the minor share of the net place pick (N) pool shall be combined with the major share for distribution as a single-price pool to those who select the first-place or second-place finisher in the greatest number of place pick (N) contests. If the greatest number of first-place or second-place finishers selected is one, the major and minor shares shall be combined for distribution as a single-price pool. If there are no winning wagers, the pool shall be refunded.

(5) For a place pick (N) with a minor pool and no carryover pool, the major share of the net place pick (N) pool shall be distributed to those who select the first-place or second-place finisher in each of the place pick (N) contests, based upon the official order of finish. The minor share of the net place pick (N) pool shall be distributed to those who select the first-place or second-place finisher in the second greatest number of place pick (N) contests, based upon the official order of finish. If there are no wagers selecting the first-place or second-place finisher in all place pick (N) contests, the entire net place pick (N) pool shall be distributed as a single-price pool to those who select the first-place or second-place finisher in the greatest number of place pick (N) contests. If there are no wagers selecting the first-place or second-place finisher in a second greatest number of place pick (N) contests, the minor share of the net place pick (N) pool shall be combined with the major share for distribution as a single-price pool to those who select the first-place or second-place finisher in each of the place pick (N) contests. If there are no winning wagers, the pool shall be refunded.

(c)(1) If there is a dead heat for first place in any of the place pick (N) contests involving contestants representing the same betting interest, the place pick (N) pool shall be distributed as if no dead heat had occurred.

(2) If there is a dead heat for first place in any of the place pick (N) contests involving contestants representing two or more betting interests, the place pick (N) pool shall be distributed as a single-price pool with a winning wager, including each betting interest participating in the dead heat.

(d)(1) If there is a dead heat for second place in any of the place pick (N) contests involving contestants representing the same betting interest, the place pick (N) pool shall be distributed as if no dead heat had occurred.

(2) If there is a dead heat for second place in any of the place pick (N) contests involving contestants representing two or more betting interests, the place pick (N) pool shall be distributed as a single-price pool with a winning wager, including the betting interest that finished first or any betting interest involved in the dead heat for second.

(e) If a betting interest in any of the place pick (N) contests is scratched, the actual favorite, as determined by total amounts wagered in the win pool at the host track for the contest at the close of wagering on the contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. If the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests that become winners as a result of the substitution, in addition to the normal winning combination.

(f) The place pick (N) pool shall be canceled and all place pick (N) wagers for the individual performance shall be refunded if any of the following occurs:

(1) At least two contests included as part of a place pick 3 are canceled or declared "no contest."

(2) At least three contests included as part of a place pick 4, place pick 5, or place pick 6 are canceled or declared "no contest."

(3) At least four contests included as part of a place pick 7, place pick 8, or place pick 9 are canceled or declared "no contest."

(4) At least five contests included as part of a place pick 10 are canceled or declared "no contest."

(g) If at least one contest included as part of a place pick (N) is canceled or declared "no contest," but not more than the number specified in subsection (f) of this regulation, the net pool shall be distributed as a single-price pool to those whose selections finish first or second in the greatest number of place pick (N) contests for the

performance. Each distribution shall include the portion ordinarily retained for the place pick (N) carryover pool but not the carryover pool from previous performances.

(h) The place pick (N) carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the place pick (N) carryover pool equals or exceeds the designated cap, the place pick (N) carryover shall be frozen until it is won or distributed in accordance with this regulation. After the place pick (N) carryover pool is frozen, 100 percent of the net pool, part of which ordinarily would be added to the place pick (N) carryover pool, shall be distributed to those whose selection finishes first or second in the greatest number of place pick (N) contests for the performance.

(i) A written request for permission to distribute the place pick (N) carryover pool on a specific performance may be submitted to the commission. Each request shall contain a statement of justification for the distribution, the benefit to be derived, and the intended date and performance for the distribution.

(j) If the place pick (N) carryover pool is designated for distribution on a specified date and performance in which there are no wagers selecting the first-place or second-place finisher in each of the place pick (N) contests, the entire pool shall be distributed as a single-price pool to those whose selection finishes first or second in the greatest number of place pick (N) contests. The place pick (N) carryover pool shall be designated for distribution on a specified date and performance in the event of any of the following:

(1) Upon written approval from the commission as provided in subsection (i) of this regulation;

(2) upon written approval from the commission if there is a change in the carryover pool cap or a change from one type of place pick (N) wagering to another, or if the place pick (N) is discontinued;

(3) on the closing performance of the race meeting or split meeting; or

(4) upon the written approval of the commission that, if the organization licensee fails to pay out the carryover pool according to paragraph (j) (3) and the commission determines that it would not be feasible for the track to run another race, the total carryover pool remaining will be distributed to charitable organizations that have met the requirements of K.S.A. 74-8813(d), and amendments thereto, and meet the organization's approved charitable distribution guidelines.

(k) If the place pick (N) carryover pool is carried over to the corresponding place pick (N) pool of a subsequent race meeting, the carryover pool shall be deposited in an interest-bearing account approved by the commission. Each place pick (N) carryover pool plus accrued interest then shall be added to the net place pick (N) pool on the date and performance designated by the commission.

(l) With the written approval of the commission, the licensee may contribute to the place pick (N) carryover a sum of money up to the amount of any designated cap.

(m) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining shall be strictly prohibited. This subsection shall not prohibit any necessary communication for the processing of pool data between totalisator and parimutuel department employees.

(n) Any organization licensee may suspend previously approved place pick (N) wagering with the prior approval of the commission. Any carryover pool shall be maintained until the suspended place pick (N) wagering is reinstated. Any organization licensee may request approval of a place pick (N) wager or separate wagering pool for specific performances. (Authorized by K.S.A. 2001 Supp. 74-8804; implementing K.S.A. 74-8819; effective, T-112-11-9-92, Nov. 9, 1992; effective, T-112-3-1-93, March 1, 1993; effective May 3, 1993; amended March 14, 2003.)

Article 10.—ANIMAL HEALTH

112-10-2. Assistant animal health officers.

(a) Each assistant animal health officer employed by the commission shall be licensed to practice veterinary medicine in the state of Kansas.

(b) No assistant animal health officer shall treat or prescribe medication for any horse located at a racetrack facility or registered to race at a racetrack facility except in an emergency. Each assistant animal health officer who treats or prescribes medication for a horse in an emergency shall immediately file a complete report of the circumstances and veterinary procedure with the stewards and the animal health officer.

(c) No owner or trainer shall employ or pay any compensation to an assistant animal health officer, directly or indirectly, while the assistant animal health officer is employed by the commission.

(d) The duties of each assistant animal health officer shall consist of the following:

(1) Supervising practicing veterinarians at the racetrack facility and recommending to the stewards or the commission the discipline to be imposed upon each practicing veterinarian who violates commission regulations;

(2) determining whether each horse is sound to race and, if the horse is unsound, placing any horse on the veterinarian's list and removing any horse from the veterinarian's list when, at the assistant animal health officer's discretion, the placement or removal is proper. Each horse shall remain on the veterinarian's list a minimum of four days. No horse shall be allowed to race before its name is removed from the veterinarian's list;

(3) establishing a procedure for and supervising the collection of urine, blood, or other specimens from horses, as designated by the assistant animal health officer, the stewards, or commission and maintain identification records for the specimens as required by the commission;

(4) supervising the procedure for witnessing, sealing, and delivering each test specimen to the official test laboratory;

(5) reporting immediately to the animal health officer the name and tattoo number of each horse at a racetrack facility that dies or is humanely destroyed and the reason for the death;

(6) being at the racing secretary's or stewards' office to report to the racing secretary or stewards on the assistant animal health officer's inspection of horses and each horse's condition before scratch time on each race day at the time designated by the stewards;

(7) with the permission of the stewards, scratching a horse at any time before the horse enters the starting gate;

(8) directing a horse to be isolated or declaring the horse ineligible to race if it has symptoms of chronic unsoundness. If a horse is declared ineligible to race, the assistant animal health officer shall report this fact to the stewards, who shall write a formal ruling against the horse and write the reason for the ruling on the horse's registration papers;

(9) accompanying and observing each field of horses from the time the horses enter the paddock to be saddled for the race until they are dispatched from the starting gate;

(10) inspecting horses in the paddock after the finish of each race;

(11) in an emergency, treating or humanely destroying any horse that is so seriously injured

that the assistant animal health officer believes the action is necessary. Each horse owner, if present, and trainer at the racetrack facility shall consent to the assistant animal health officer's humane destruction of a seriously injured horse; and

(12) performing other duties prescribed by the animal health officer, the stewards or the commission. (Authorized by K.S.A. 2001 Supp. 74-8804; implementing K.S.A. 2001 Supp. 74-8806, 74-8810; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended Jan. 31, 2003.)

112-10-3. Practicing veterinarians. (a)(1)

Each practicing veterinarian at a racetrack facility shall possess a current unrestricted license to practice veterinary medicine in the state of Kansas and shall secure an occupation license in accordance with the racing act and commission regulations. One condition of possessing an occupation license shall be the practicing veterinarian's compliance with the regulations of the Kansas board of veterinary medical examiners.

(2) Before an occupation license is issued, each practicing veterinarian shall meet with the animal health officer to verify that the practicing veterinarian has reviewed these racing regulations and is informed about existing medication practice. Each practicing veterinarian, the animal health officer, and each assistant animal health officer shall be the only individuals who may administer veterinary treatment, medicine, or medication to any horse at the racetrack facility or to any horse registered to race at the racetrack facility. Recognized feed supplements, oral tonics, and substances approved by the animal health officer shall not be subject to this regulation.

(b) Each practicing veterinarian at a racetrack facility who treats a horse for any contagious or communicable disease shall report the fact immediately in writing to the animal health officer or assistant animal health officers on a form approved by the animal health officer.

(c) Each practicing veterinarian who treats a horse at a racetrack facility shall record the treatment in a log that has been approved by the animal health officer. Each practicing veterinarian shall deliver the log by 10:00 a.m. of the day after the treatment to the assistant animal health officers' office at the racetrack facility. Each log shall be the practicing veterinarian's commission report.

(d) Each practicing veterinarian at a racetrack facility also shall maintain a treatment record on each horse that the practicing veterinarian treats during a race meeting. The records shall be compiled in a form similar to the treatment record ordinarily maintained by the practicing veterinarian in private practice. Each practicing veterinarian shall promptly surrender the treatment records to the commission upon its request. Information to be recorded in the treatment record shall include the following:

- (1) Name and location of the horse treated;
- (2) name of the trainer;
- (3) nature of the condition treated or probable diagnosis;
- (4) nature of the treatment and medication administered; and
- (5) date and hour of treatment.

(e) No veterinarian shall deliver to another individual at a racetrack facility a syringe or injectable medication except upon written authorization of the animal health officer or assistant animal health officer.

(f) No practicing veterinarian who treats a horse at a racetrack facility shall wager on the outcome of any race in which the treated horse starts.

(g) Each drug and medication at a racetrack facility shall be in a container bearing a veterinarian's prescription or in the original container bearing the manufacturer's label with the serial or lot number. Each practicing veterinarian shall use only disposable syringes and needles to medicate horses. No veterinarian shall leave unattended a drug or medication or any equipment for administering the drug or medication. All equipment for administering the drug or medication shall be destroyed before it is discarded. All drugs, medication, and equipment shall be disposed of in a manner that is environmentally safe.

(h) The use of extracorporeal shock wave therapy (ESWT) shall be limited to practicing veterinarians and shall be subject to the following additional restrictions:

(1) Only practicing veterinarians may possess ESWT instruments and machines at the racetrack facility.

(2) Each ESWT treatment shall be recorded by the practicing veterinarian on a treatment log form approved by the animal health officer and in the format described in subsections (c) and (d) above.

(3) No horse receiving ESWT shall be allowed to race unless both of the following conditions are met:

(A) At least 10 calendar days have passed since the horse last received ESWT.

(B) The animal health officer or assistant animal health officer has examined the horse and approves it to race. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8810 and 74-8816; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended Nov. 16, 2001; amended Feb. 6, 2004.)

112-10-4. Drugs or medication. (a) No individual shall administer any drug or medication to any horse entered in a race before the race in which the horse is to run and continuing until after the race is run except as authorized in these racing regulations.

(b) If the official test laboratory reports a positive test for any drug, its metabolites or any substance foreign to the natural horse, the animal health officer shall classify the test in accordance with the following classifications:

(1) class one: drugs which have the highest potential for affecting performance and which have no generally accepted use in the racing horse. These include, but are not limited to:

(A) opiates, opium derivatives, synthetic opiates and psychoactive drugs which are classified by Pub. L. No. 91-513 as in effect August 1, 1992, as schedule I or schedule II drugs only;

(B) amphetamines and amphetamine-like drugs which are classified by Pub. L. No. 91-513 as in effect August 1, 1992, as schedule I and schedule II drugs only. They do not include drugs which are listed in schedule II and some additional lower schedule III, IV and V;

(C) miscellaneous agents including but not limited to apomorphine, nikethamide, mazindol, pemoline and pentylenetetrazol; and

(D) substances which are not naturally occurring and have no recognized therapeutic value and which impede testing procedures.

(2) class two: drugs which have less potential to affect performance and which are not generally accepted as therapeutic agents in racing horses, except that therapeutic agents that have a high abuse potential are included. Drugs in this class include, but are not limited to: opiates which are classified by Pub. L. No. 91-513 as in effect August 1, 1992, from schedules III, IV and V, catecholamines, psychotropic drugs, central nervous system and cardiovascular stimulants and depres-

sants and muscle blocking agents. Local anesthetics, because of high potential for use as nerve blocking agents, are included in this class.

(3) class three: drugs which are classified by Pub. L. No. 91-513 as in effect August 1, 1992, found in schedules III, IV and V, and non-scheduled drugs which may or may not have generally accepted use in the racing horse, but the pharmacology or use patterns of which include lower scheduled or non-scheduled opioids, bronchodilators and other drugs with primary effects on the autonomic nervous system, procaine from procaine penicillin, antihistamines with mild sedative properties, the high ceiling diuretics and anabolic steroids are included in this group.

(4) class four: therapeutic medications which would be expected to have less chance of affecting performance than drugs in class three. These include, but are not limited to, corticosteroids, mineralcorticoids, non-steroidal anti-inflammatory drugs, including phenylbutazone and oxyphenbutazone at plasma concentrations exceeding 5 micrograms per milliliter or less if detected in a horse that is not permitted such medication or is not identified as having been treated with such medication, less potent diuretics, antihistamines without prominent central nervous system depressant effects, skeletal muscle relaxants, expectorants and mucolytics, hemostatics, cardiac glycosides and antiarrhythmics, topical anesthetics, antidiarrheals, hemorrhologics, anticonvulsants, non-opioid drugs with a mild analgesic effect and drugs affecting the autonomic nervous system which do not have prominent central nervous system, cardiovascular or respiratory effects and naturally occurring substances that appear in unusual levels or that may interfere with or impede testing procedures.

(5) class five: category of therapeutic medications for which levels have been established by regulation. Also included in this class are miscellaneous agents such as dimethylsulfoxide and other medications as determined by the commission and any recurring substance that may have an undetermined effect or that cannot be identified by recognized analytical methods.

(c) The animal health officer's classification of the positive test shall be reported to the stewards and executive director.

(d) The finding of a class one positive shall result in a penalty of:

(1) a disqualification of the animal and a redistribution of the purse;

(2) a return of any trophy or other award delivered to the owner or owners;

(3) a fine of up to \$5,000;

(4) a revocation or a suspension of a license for a period of up to five years; or

(5) a combination of the above.

(e) The finding of a class two positive shall result in a penalty of:

(1) A disqualification of the animal and redistribution of the purse;

(2) a return of any trophy or other award delivered to the owner or owners;

(3) a fine of up to \$2500;

(4) a suspension of up to one year; or

(5) a combination of the above.

(f) The finding of a class three positive shall result in a penalty of:

(1) a disqualification of the animal and redistribution of the purse;

(2) a return of any trophy or other award delivered to the owner or owners;

(3) a fine of up to \$1500;

(4) a suspension of up to six months; or

(5) any combination of the above.

(g) The finding of a class four positive shall result in a penalty of:

(1) a disqualification of the animal and redistribution of the purse;

(2) a return of any trophy or other award delivered to the owner or owners;

(3) a fine of up to \$1000;

(4) a suspension of up to 60 days; or

(5) any combination of the above.

(h) The finding of a class five positive may result in a penalty of:

(1) a disqualification of the animal and redistribution of the purse;

(2) a return of any trophy or other award delivered to the owner or owners;

(3) a suspension of up to 15 days;

(4) a fine of up to \$500;

(5) a warning; or

(6) any combination of the above. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; implementing K.S.A. 1991 Supp. 74-8811; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended March 19, 1990; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-10-5. Authorized medications. (a) Furosemide may be administered to any horse

that is entered in a race meeting, subject to the requirements of these racing regulations. Except upon the instructions of the animal health officer or an assistant animal health officer to remove the horse from the veterinarian's list or to facilitate the collection of a post-race urine sample, the administration of furosemide shall be permitted only if all of the following requirements are met.

(1) The animal health officer or an assistant animal health officer shall place the horse's name on the bleeder list or the furosemide list, or on both lists.

(2) The furosemide shall be administered at a location approved by the animal health officer or an assistant animal health officer and at least four hours before post time for the race in which each horse is entered, unless otherwise authorized in advance by the animal health officer or assistant animal health officer.

(3) Furosemide shall be administered only by a practicing veterinarian designated by the trainer to administer the furosemide to each horse under the supervision of the animal health officer or an assistant animal health officer.

(4) No dose of furosemide administered shall exceed 250 milligrams, unless otherwise authorized in advance by the animal health officer or an assistant animal health officer. In addition to the dosage restriction specified in this paragraph, furosemide shall be administered only intravenously and only in a single injection.

(5) Each horse to which furosemide is administered shall remain under the care, custody, and control of the trainer or the designated representative from the time the furosemide is administered until the time for the horse to be removed to the saddling paddock.

(6) Each owner shall pay all expenses resulting from the administration of furosemide. These costs shall include the following:

- (A) Administration;
- (B) injection;
- (C) laryngoscopic examination;
- (D) custody; and
- (E) security.

(7) The use of furosemide shall be required to be approved in advance and shall be subject to the following requirements:

(A) The specific gravity of post-race urine samples shall be measured to ensure that the specific gravity (sg) of the urine is 1.010 or higher. If the sg of the post-race urine sample is below 1.010, quantitation of furosemide in serum or plasma shall then be performed.

(B) When a serum or plasma sample is quantitated, the concentration of furosemide in the sample shall not exceed 100 nanograms per milliliter of serum or plasma. Each concentration above 100 ng/ml shall be deemed a violation of this regulation.

(b) No person shall administer a medication to any horse entered to race except upon authorization of the animal health officer or assistant animal health officer in compliance with these regulations.

(c) No medication other than authorized bleeder medication shall be administered to any horse entered to race within 24 hours of the race in which the horse is entered.

(d)(1) No more than one approved nonsteroidal anti-inflammatory drug (NSAID) substance may be administered to a horse that is entered to race. The NSAID administered shall be one of the following authorized drug substances:

(A) Phenylbutazone in a dosage amount so that the test sample taken after the race contains no more than 5.0 micrograms of drug substance per milliliter of blood plasma or serum;

(B) flunixin in a dosage amount so that the test sample taken after the race contains no more than 20 nanograms of drug substance per milliliter of blood plasma or serum; or

(C) ketoprofen in a dosage amount so that the test sample taken after the race contains no more than 10 nanograms per milliliter of blood plasma or serum.

(2) Each trainer shall file a request for the use of any authorized NSAID with the animal health officer or an assistant animal health officer on an official request form approved by the animal health officer before the horse is entered in a race. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8811; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended Oct. 24, 1997; amended July 30, 2004; amended Aug. 26, 2005.)

112-10-6. Bleeder list. (a)(1) "Bleeder" means any equine exhibiting exercise-induced pulmonary hemorrhage (EIPH) manifested by the presence of frank blood appearing from either nostril or the presence of frank blood in the trachea.

(2) "Exercise-induced pulmonary hemorrhage" and "EIPH" mean a commonly recognized condition in race horses that is manifested by bleeding into the lung tissue during or after strenuous ex-

ercise. The presence of frank blood can be seen in the trachea by means of endoscopic exam, or by the appearance of blood emanating from the nostrils.

(3) "Furosemide" means a diuretic that is recognized for its benefit in the medical management of the EIPH syndrome in horses.

(b) Subject to the requirements of these racing regulations, furosemide may be administered to any horse that is entered in a race if its name is on the bleeder list or the furosemide list. A horse's name shall be placed on the bleeder list if any one of the following conditions is met:

(1) The animal health officer or an assistant animal health officer observes the horse shedding blood from one or both nostrils during or following exercise or a race.

(2) A practicing veterinarian who is employed by the owner or trainer of the horse, and the animal health officer or an assistant animal health officer determine that the horse should be certified as a bleeder after an endoscopic examination of the respiratory tract conducted by the practicing veterinarian under the supervision of the animal health officer or an assistant animal health officer.

(3) A bleeder certificate for the horse is attached to the horse's papers on file in the racing secretary's office, and the certificate is from a jurisdiction that uses bleeder qualification criteria satisfactory to the animal health officer or an assistant animal health officer. Each certificate shall bear the signature of the racing commission official in the state of origin.

(c) For each horse that does not have a bleeder certificate and that is observed bleeding for the first time ever, both of these requirements shall be met:

(1) The horse's name shall be placed on the bleeder list for a minimum of 10 days or until the animal health officer or assistant animal health officer removes the horse's name from the list.

(2) The horse's owner shall receive an official Kansas bleeder certificate signed by the animal health officer or assistant animal health officer and attached to the registration certificate of this horse.

(d) Each horse that has a bleeder certificate and is racing after the administration of furosemide shall be subject to the following restrictions:

(1) The first time a horse is observed bleeding, its name shall be placed on the bleeder list, and the name shall remain there for a minimum of 20 days or until the animal health officer or assistant animal health officer removes the horse's name from the list.

(2) The second time a horse is observed bleeding within a 12-month period, its name shall be placed on the bleeder list, and the name shall remain there for a minimum of 30 days or until the animal health officer or assistant animal health officer removes the horse's name from the list.

(3) The third time a horse is observed bleeding within a 12-month period, the horse shall be barred from parimutuel racing in Kansas for a minimum of one year or any additional time as determined by the animal health officer or designee after an endoscopic examination of the horse's respiratory tract. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8806 and 74-8811; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended March 21, 1997; amended July 16, 1999; amended Nov. 16, 2001; amended July 30, 2004.)

112-10-6a. Furosemide list. (a) A horse may be allowed to race after the administration of furosemide if any of the following conditions is met:

(1) After consultation with the horse's trainer or practicing veterinarian, or both, the animal health officer or an assistant animal health officer determines that it would be in the best interest of the horse's health to allow the horse to race with furosemide.

(2) The horse's name appears on the bleeder list from any racing jurisdiction.

(3) The horse has an official bleeder stamp or certificate attached to the registration papers.

(4) The horse is observed to bleed as described in K.A.R. 112-10-6(a).

(5) The past performance lines indicate that the horse has been racing with furosemide.

(b) A list of all horses racing after the administration of furosemide shall be maintained by the animal health officer or an assistant animal health officer.

(c) An "application to administer furosemide" form approved by the animal health officer shall be submitted by the trainer with the names of all horses racing with furosemide. This form shall be on file with the animal health officer or an assistant animal health officer before the first race in which each listed horse competes. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8806 and 74-8811; effective July 30, 2004.)

112-10-7. Test barn. (a) Each organization licensee shall provide a test barn suitable for taking test samples from horses. Each test barn shall include:

(1) An office area with at least 100 square feet of floor area that can be locked;

(2) a wash rack that measures at least 12 feet by 12 feet;

(3) a minimum of two stalls that measure at least 10 feet by 10 feet, equipped with dutch doors and observation portholes adjacent to the office;

(4) a freezer that measures at least 10 cubic feet;

(5) hot and cold running water; and

(6) a walking ring measuring at least 40 feet by 60 feet adjacent to the office.

(b) Each organization licensee shall furnish security personnel and procedures approved by the director of security to secure the test barn during races and until the last test sample is taken for the day.

(c) At the written request of an organization licensee, the commission may approve alternative facilities for the test barn. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-10-8. Testing. (a) The stewards may require any horse entered in a race to submit to a blood test or other pre-race test. No horse shall be eligible to start in a race until the owner or trainer complies with the required test procedure.

(b) A blood, urine, or other sample shall be taken from the winner of each race and from each other horse designated by the stewards.

(c) Each blood, urine, or other sample specimen shall be taken under the supervision of the animal health officer or assistant animal health officer. Each sample shall be taken in the test barn unless approved otherwise by the animal health officer or assistant animal health officer.

(d) After each horse enters the test barn, it shall be cooled out for a minimum of 30 minutes before the sample is taken unless otherwise authorized by the animal health officer or assistant animal health officer.

(e) Each trainer, or authorized representative of the trainer, shall witness and confirm the taking of test samples and shall sign the confirmation card.

(f) A trainer or owner may waive the right to witness the collection of a test sample from a racing animal if the trainer's authorized representative witnessing the collection of the test sample is less than 18 years of age. The trainer shall execute

a voluntary and knowing waiver of the right to witness the collection of the test sample before the time of collection. Each trainer waiving the right to witness the collection of a test sample from a racing animal shall be estopped from later claiming any defect in the process of collecting and identifying the test sample.

(g) When any horse has been in the test barn for more than one hour, the assistant animal health officer may take a blood sample in lieu of a urine sample and submit the blood plasma from the sample to the test laboratory for testing.

(h) Each test sample shall remain in the custody of the animal health officer or assistant animal health officer from the time it is secured until it is delivered for shipment to the test laboratory.

(i) No person shall tamper with, adulterate, add to, break the seal of, remove or otherwise attempt to alter or violate any test sample taken, but preservatives or additives necessary for analysis of the sample may be added by the commission-approved test laboratory.

(j) The test laboratory or the animal health officer and assistant animal health officer may be directed by the commission to retain and preserve test samples for future analysis.

(k) The fact that purse money has been paid before the issuance of a laboratory report shall not be deemed a finding that no prohibited substance has been administered to the horse earning the purse money in violation of these racing regulations. (Authorized by K.S.A. 1997 Supp. 74-8804; implementing K.S.A. 1997 Supp. 74-8806 and 74-8810, as amended by L. 1998, Ch. 178, Sec. 3, and K.S.A. 74-8811, as amended by L. 1998, Ch. 178, Sec. 4; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended Jan. 15, 1999.)

112-10-9. (Authorized by and implementing K.S.A. 1988 Supp. 74-8811; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; revoked, T-112-8-13-92, Aug. 13, 1992; revoked, T-112-12-10-92, Dec. 10, 1992; revoked Feb. 15, 1993.)

112-10-9a. Split samples. (a) The animal health officer or assistant animal health officer shall determine, based upon the written standards of the official test laboratory, in their sole discretion whether there is sufficient quantity of each test sample to divide it into two portions for test-

ing. If sufficient quantity of urine is not available for a split sample, the assistant animal health officer shall collect a blood sample for the purpose of providing a sample for the trainer pursuant to this rule.

(b) If a test sample is divided into two portions for testing, no provision of these racing regulations shall prevent the commission or the executive director from ordering both test sample portions to be delivered to the official test laboratory for initial testing.

(c) When the quantity of the test sample permits the splitting of the sample, each first portion shall be submitted by the commission to the official test laboratory for initial testing for prohibited substances.

(d) When the quantity of the test sample permits and when the trainer or owner files a written request with the racing judges for the testing of a split sample, the commission shall submit the second portion of the test sample to a test laboratory approved by the commission. Each written request for the testing of a split sample shall be filed in the commission office at the racetrack facility within 48 hours after the trainer or owner receives notice of a positive report on a test sample taken from the horse.

(e) Each person who requests testing of the second portion of a sample shall pay all costs for the transportation and testing of the sample.

(f) The freezing, storage and safeguarding of each portion of a test sample shall remain the responsibility of the animal health officer and the assistant animal health officer.

(g) The test results on the second portion of a sample shall not prevent disqualification of the horse. The results of the first test are prima facie evidence that the horse competed with the drug or medication in its system.

(h) No provision of these racing regulations shall create vested procedural rights that may be relied upon by any licensee for the purpose of excluding testing evidence that is competent and probative. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; implementing K.S.A. 1991 Supp. 74-8811; effective, T-112-8-13-92, Aug. 13, 1992; effective, T-112-12-10-92, Dec. 10, 1992; effective Feb. 15, 1993.)

112-10-10. Bandages. Only bandages approved by an assistant animal health officer shall be used on a horse during a race. Each other leg

covering shall be removed before the horse enters the saddling paddock. (Authorized by K.S.A. 1988 Supp. 74-8804; implementing K.S.A. 1988 Supp. 74-8806, 74-8810; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-10-11. Posterior digital neurectomy.

(a) Each person shall not deliver to a race track facility, enter or cause to be entered in any race, sell or offer for sale or act as a bloodstock agent in the sale of a horse that has been “nerved” or has had any nerve removed from its leg except as provided in article 112 of the Kansas administrative regulations.

(b) Any horse that has had a posterior digital neurectomy may be eligible to race if:

(1) An assistant animal health officer finds that the loss of sensation resulting from the posterior digital neurectomy will not endanger the horse or rider;

(2) an assistant animal health officer has approved the presence of the horse at the race track facility;

(3) the horse is registered or eligible and the racing secretary has been notified that the horse has been nerved at the time the horse is admitted to the race track facility or while it is at the race track facility; and

(4) the fact the horse has been nerved is recorded on the horse’s eligibility certificate.

(c) Each posterior digital neurectomy that is performed at a race track facility shall be reported immediately to the racing secretary.

(d) Each horse shall not be eligible to race if it has had a neurectomy above the fetlock. (Authorized by K.S.A. 1988 Supp. 74-8804; implementing K.S.A. 1988 Supp. 74-8806; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-10-12. Postmortem examination.

(a) Each racing horse that dies or suffers a breakdown while training or racing at a racetrack facility and is destroyed shall undergo a postmortem examination. Each postmortem examination shall be sufficiently comprehensive to identify the injury or medical condition causing the death and shall be conducted at a time and place approved by the assistant animal health officer.

(b) The assistant animal health officer may require any other horse that dies at a racetrack facility to undergo a postmortem examination.

(c) Each postmortem examination shall be conducted by a licensed veterinarian approved by the animal health officer.

(d) The assistant animal health officer may attend the postmortem examination.

(e) The assistant animal health officer may secure test samples, including tissue and other specimens during the postmortem examination, and, if secured, shall send them to the official test laboratory or a diagnostic laboratory for testing and consultation. When practical, the assistant animal health officer shall secure the test samples for the detection of prohibited substances before the horse is destroyed.

(f) Each owner shall pay the expenses of the practicing veterinarian approved by the animal health officer to conduct the postmortem examination.

(g) Each practicing veterinarian shall file a report detailing each postmortem examination on a form approved by the animal health officer with the assistant animal health officer within 72 hours of the horse's death. Each owner of a horse upon which a postmortem examination is conducted shall receive a copy of the report upon request.

(h) Each owner and trainer shall comply with each provision for postmortem examination contained in these racing regulations as a condition of the owner's and trainer's occupation license. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8806 and 74-8825; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended Jan. 18, 2008.)

112-10-13. Prohibition on possession of drugs, medications, syringes, and needles.

(a) While within any restricted area of a licensed horse racetrack facility, no licensee, except a commission-licensed veterinarian or animal health officer, shall have in that licensee's possession any of the following:

- (1) Hypodermic syringes;
- (2) hypodermic needles;
- (3) any drug, medication, or other substance that can be administered parenterally;
- (4) rubber stopper bottles or any similar instruments that can be used for injection; and
- (5) any other equipment used for hypodermic injection.

(b) Each violation of this regulation shall result in a penalty of one of the following:

- (1) A fine of up to \$5,000;
- (2) license revocation or suspension for up to five years; or

(3) a combination of the penalties specified in paragraphs (b)(1) and (2). (Authorized by and implementing K.S.A. 74-8804 and 74-8816; effective May 7, 2004.)

112-10-32. Assistant animal health officer, greyhound. (a) Each assistant animal health officer employed by the commission shall be licensed to practice veterinary medicine in the state of Kansas.

(b) No assistant animal health officer shall treat or prescribe medication for any greyhound located at a racetrack facility or registered to race at a racetrack facility except in an emergency. Each assistant animal health officer who treats or prescribes medication for a greyhound in an emergency shall promptly file a complete report of the circumstances and veterinary procedure with the racing judges and the animal health officer.

(c) No kennel owner or trainer shall employ or pay any compensation to an assistant animal health officer, directly or indirectly, while the assistant animal health officer is functioning in that capacity at the racetrack as an employee of the commission.

(d) An assistant animal health officer shall meet the following requirements:

(1) Supervise practicing veterinarians at the racetrack facility and recommend to the racing judges or the commission the discipline to be imposed upon each practicing veterinarian who violates commission regulations;

(2) place any greyhound on the veterinarian's list where it shall remain a minimum of three calendar days when in an assistant animal health officer's discretion the placement is proper;

(3) remove any greyhound from the veterinarian's list when in an assistant animal health officer's discretion the removal is proper. No greyhound shall be entered in a race before its name is removed from the veterinarian's list unless otherwise approved by the animal health officer or assistant animal health officer;

(4) establish a procedure for, supervise the collection of and maintain identification records for urine, blood or other specimens from greyhounds, as designated by an assistant animal health officer, the racing judges or the commission;

(5) supervise the procedure for witnessing, sealing, and delivering each test specimen to the official test laboratory;

(6) report immediately to the animal health officer the name, tattoo number, and reason for death

of each greyhound that dies or is euthanized at a racetrack facility;

(7) with the permission of the racing judge, scratch each greyhound determined not sound to race at any time before the greyhound enters the starting box;

(8) treat or euthanize any greyhound that is so seriously injured that an assistant animal health officer believes the action is necessary. Each kennel owner or trainer at a racetrack facility shall execute and deliver a written waiver and consent to an assistant animal health officer before the greyhound is treated or euthanized; and

(9) perform other duties prescribed by the animal health officer, the racing judges or the commission. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8806, 74-8810, 74-8825; effective, T-112-8-22-89, Aug. 22, 1989; effective Oct. 9, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended Jan. 18, 2008.)

112-10-33. Practicing veterinarians, greyhound. (a) Each practicing veterinarian at a racetrack facility shall be licensed to practice veterinary medicine in the state of Kansas and shall secure an occupation license in accordance with the Kansas parimutuel racing act and commission regulations. Before an occupation license issues, each practicing veterinarian shall meet with the animal health officer to verify that the practicing veterinarian has reviewed these racing regulations and is informed about existing medication practice.

(b) Each practicing veterinarian at a racetrack facility who treats a greyhound for any contagious or communicable disease shall report the fact immediately in writing to the animal health officer or assistant animal health officers on a form approved by the animal health officer.

(c) No practicing veterinarian who treats a greyhound at a racetrack facility shall wager on the outcome of any race in which the treated greyhound starts.

(d) Each practicing veterinarian shall comply with the rules and standards of the Kansas board of veterinary examiners.

(e) Each drug or medication at a racetrack facility shall be in a container bearing a veterinarian's prescription or in the original container bearing the manufacturer's label with the serial or lot number. Each practicing veterinarian shall use only disposable syringes and needles to medicate

greyhounds. No veterinarian shall abandon a drug or medication or equipment for administering the drug or medication. All equipment for administering the drug or medication shall be destroyed before it is discarded. All drugs, medications or equipment shall be disposed of in a manner which is environmentally safe.

(f) Only a veterinarian employed by or licensed by the commission may possess procaine on a racetrack facility. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; implementing K.S.A. 1991 Supp. 74-8810, as amended by L. 1992, Ch. 27, Sec. 4, and L. 1992, Ch. 286, Sec. 3, and 74-8816, as amended by L. 1992, Ch. 286, Sec. 8; effective, T-112-8-22-89, Aug. 22, 1989; effective Oct. 9, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-10-34. Drugs or medication, greyhound. (a) No individual shall administer any drug or medication to any greyhound entered in a race for 24 hours before the race in which the greyhound is to run and continuing until after the race is run.

(b) If the official test laboratory reports a positive test for any drug, its metabolites, or any foreign substance, the animal health officer shall classify the test in accordance with the following classifications:

(1) Class one: drugs and medications that are stimulants, depressants, narcotics, local anesthetics having no recognized therapeutic value or substances that impede testing procedures;

(2) class two: drugs and medications that are therapeutic medications that may affect the outcome of the race, naturally occurring substances that appear in unusual levels or that may interfere with or impede testing procedures; and

(3) class three: drugs and medications that are incidental residues of substances of recognized therapeutic value or recurring substances that have an undetermined effect or that cannot be identified by recognized analytical methods.

(c) The animal health officer's classification of the positive test shall be reported to the commission. The final decision regarding classification of the positive test shall be made by the commission.

(d) The finding of a class one positive may result in penalties of:

(1) A disqualification of the animal and a redistribution of the purse;

(2) a return of any trophy or other award delivered to the owner or trainer;

(3) a fine of up to \$5,000;

(4) a suspension or a revocation of license; or

(5) a combination of the above.

(e) The finding of a class two positive may result in a penalty of:

(1) A disqualification of the animal and a redistribution of the purse;

(2) a return of any trophy or other award delivered to the owner or trainer;

(3) a fine of up to \$500;

(4) a suspension of up to 60 days;

(5) a warning; or

(6) a combination of the above.

(f) The finding of a class three positive may result in a penalty of:

(1) An investigation into the possible source;

(2) a search of the individual and any assigned area;

(3) a warning; or

(4) any combination of the above.

(g) Each laboratory analysis of saliva, urine, blood or other sample taken from a greyhound that indicates the presence of a drug or medication shall be evidence that the drug or medication was present in the greyhound's system during the running of the race.

(h) Despite each provision to the contrary in this regulation, liniments, including Dimethylsulfoxide, may be administered to a greyhound as an external topical application. If the assistant animal health officer determines there has been excessive use of liniment on the racing greyhound, the assistant animal health officer may scratch the greyhound.

(i) Despite each provision to the contrary in this regulation, procaine, trimethoprim and sulfa shall be permitted medications subject to the following condition. Procaine, trimethoprim and sulfa shall not be permitted medications if the racing chemist in consultation with the animal health officer determines that a test sample contains procaine, trimethoprim or sulfa in a quantity considered:

(1) Significant; or

(2) capable of altering the performance of a greyhound. Procaine shall not be transported or possessed on the racetrack facility by any individual who is not licensed to practice veterinary medicine by the state of Kansas.

(j) No individual shall possess, transport or use any drug or medication or equipment for administering a drug or medication at the racetrack facility or within the confines of the kennel compound except:

(1) when licensed as a veterinarian by the state of Kansas and the commission; or

(2) when licensed as a kennel owner or trainer by the commission, subject to the following conditions:

(A) Each kennel owner or trainer who possesses a drug or medication or equipment for administering a drug or medication shall place the drug or medication in the designated area, including the refrigerator, in the kennel building.

(B) Each drug or medication in the kennel owner's or trainer's possession shall be listed on a form approved by the animal health officer and filed with the assistant animal health officer.

(C) Each kennel owner or trainer shall update the form on a daily basis so that at all times a current and correct list of drugs or medications and the equipment for administering them is on file with the assistant animal health officer.

(k) Each drug or medication at a racetrack facility shall be in a container bearing a veterinarian's prescription or in the original container bearing the manufacturer's label with the serial or lot number. No veterinarian or kennel owner or trainer shall abandon a drug or medication or equipment for administering the drug or medication. All equipment for administering the drug or medication shall be destroyed before it is discarded. (Authorized by K.S.A. 1989 Supp. 74-8804; 74-8811; implementing K.S.A. 1989 Supp. 74-8804, 74-8811 and 74-8816; effective, T-112-8-22-89, Aug. 22, 1989; effective Oct. 9, 1989; amended March 25, 1991.)

112-10-35. Greyhound testing for prohibited substances; methods; procedures; payment of purse money.

(a) Each racing greyhound entered in a race may be submitted to a urine or other pre-race test. No greyhound shall be eligible to start in a race until the owner or trainer complies with any required test procedure.

(b) The assistant animal health officer or veterinary assistant may take a urine or other test sample under the supervision of the animal health officer or assistant animal health officer from the winner of every race and from any other greyhound designated by the assistant animal health officer in consultation with the racing judges.

(c) The assistant animal health officer or veterinary assistant shall take each test sample in a collection area or in the paddock area unless otherwise approved by the animal health officer or assistant animal health officer.

(d) Each trainer, kennel owner or authorized representative of the trainer or kennel owner may witness and confirm the taking of each test sample. Each trainer, kennel owner and authorized representative witnessing the collection shall sign the confirmation card.

(e) A trainer or kennel owner may waive the right to witness the collection of a test sample from a racing animal if the trainer's authorized representative witnessing the collection of the test sample is less than 18 years of age. The trainer shall execute a voluntary and knowing waiver of the right to witness the collection of the test sample before collection. Each trainer waiving the right to witness the collection of a test sample from a racing animal shall be estopped from later claiming any defect in the process of collecting and identifying the test sample.

(f) If a urine sample is not obtained within a reasonable time following a race, the assistant animal health officer may take a blood sample from the brachiocephalic vein in lieu of a urine sample and submit the blood plasma from the blood sample to the official test laboratory for testing.

(g) Each test sample shall remain in the custody of the animal health officer or assistant animal health officer from the time it is taken until it is delivered for shipment to the official test laboratory.

(h) No person shall tamper with, adulterate, add to, break the seal of, remove or otherwise attempt to alter or violate any test sample taken.

(i) The commission may direct the official test laboratory or the animal health officer and assistant animal health officer to retain and preserve test samples for future analysis.

(j) The payment of purse money before the issuance of an official test laboratory report shall not constitute a finding that no prohibited substance has been administered in violation of these racing regulations to the greyhound earning the purse money. (Authorized by K.S.A. 1995 Supp. 74-8804; implementing K.S.A. 1995 Supp. 74-8806, K.S.A. 1995 Supp. 74-8810, and 74-8811; effective, T-112-8-22-89, Aug. 22, 1989; effective Oct. 9, 1989; amended March 25, 1991; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993; amended, T-112-4-24-96, April 24, 1996; amended Aug. 9, 1996.)

112-10-36. (Authorized by and implementing K.S.A. 1988 Supp. 74-8811; effective, T-112-8-22-89, Aug. 22, 1989; effective Oct. 9, 1989;

revoked, T-112-1-14-92, Jan. 14, 1992; revoked March 23, 1992.)

112-10-36a. Split samples. (a) The animal health officer or assistant animal health officer shall determine, based upon the written standards of the official test laboratory, in their sole discretion whether there is sufficient quantity of each test sample to divide it into two portions for testing.

(b) If a test sample is divided into two portions for testing, no provision of these racing regulations shall prevent the commission or the executive director from ordering both test sample portions to be delivered to the official test laboratory for initial testing.

(c) When the quantity of the test sample permits the splitting of the sample, each first portion shall be submitted by the commission to the official test laboratory for initial testing for prohibited substances.

(d) When the quantity of the test sample permits and when the trainer or owner files a written request with the racing judges for the testing of a split sample, the commission shall submit the second portion of the test sample to a test laboratory approved by the commission. Each written request for the testing of a split sample shall be filed in the commission office at the racetrack facility within 48 hours after the trainer or owner receives notice of a positive report on a test sample taken from the greyhound.

(e) Each person who requests testing of the second portion of a sample shall pay all costs for the transportation and testing of the sample.

(f) The freezing, storage and safeguarding of each portion of a test sample shall remain the responsibility of the animal health officer and the assistant animal health officer.

(g) The test results on the second portion of a sample shall not prevent disqualification of the greyhound. The results of the first test are prima facie evidence that the greyhound competed with the drug or medication in its system.

(h) No provision of these racing regulations shall create vested procedural rights that may be relied upon by any licensee for the purpose of excluding testing evidence that is competent and probative. (Authorized by K.S.A. 1990 Supp. 74-8811; implementing K.S.A. 1990 Supp. 74-8811; effective, T-112-1-14-92, Jan. 14, 1992; effective Feb. 24, 1992.)

112-10-37. Postmortem examination. (a) An assistant animal health officer may order a postmortem examination for each greyhound that dies at a racetrack facility.

(b) The postmortem examination shall be conducted by a practicing veterinarian employed by the kennel owner or by the School for Veterinary Medicine at Kansas State University.

(c) The assistant animal health officer may attend the postmortem examination.

(d) The assistant animal health officer may secure test samples, including tissue and other specimens during the postmortem examination. If secured, the assistant animal health officer shall send the samples to the official test laboratory or a diagnostic laboratory for testing and consultation. When practical, the assistant animal health officer shall secure the test samples for the detection of prohibited substances before the greyhound is euthanized.

(e) Each kennel owner shall pay the expenses of the practicing veterinarian employed by the kennel owner to conduct the postmortem examination.

(f) Each kennel owner and trainer shall comply with each provision for postmortem examination contained in these racing regulations as a condition of the kennel owner's and trainer's license. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; implementing K.S.A. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2, and 74-8806; effective, T-112-8-22-89, Aug. 22, 1989; effective Oct. 9, 1989; amended, T-112-8-13-92, Aug. 13, 1992; amended, T-112-12-10-92, Dec. 10, 1992; amended Feb. 15, 1993.)

112-10-38. Vaccinations. (a) Every greyhound at each racing facility shall be periodically vaccinated against each disease that the animal health officer has determined is communicable to other greyhounds at the facility.

(1) The racing secretary shall maintain records of vaccinations of each greyhound housed at the racing facility and shall make these records available to the animal health officer or the animal health officer's designee upon request.

(2) All greyhounds entering the racetrack facility shall be accompanied by proof of current vaccination for canine distemper, adenovirus type 2, parainfluenza, parvovirus (DA₂PP), bordetella bronchiseptica, and rabies. A certificate of vaccination shall be presented to the assistant animal health officer's office by the next race day following arrival of each greyhound.

(3) The record of each vaccination series shall be signed by the licensed veterinarian administering the vaccine and shall include the vaccine's trade name and expiration date.

(b) Every greyhound kenneled at a racing facility shall be vaccinated for canine distemper, adenovirus type 2, parainfluenza, parvovirus (DA₂PP), bordetella bronchiseptica, and rabies by a licensed veterinarian and shall receive booster vaccinations on an annual basis.

(c) Every trainer or kennel owner bringing a greyhound into a racing facility shall file with the racing secretary, for each greyhound, a copy of its registration certificate and an individual certificate of vaccination, which shall include the following:

- (1) The name of the greyhound;
- (2) the sex of the greyhound;
- (3) the whelping date of the greyhound;
- (4) a complete history of all vaccinations; and
- (5) a description of all identification, including

the following:

- (A) Tattoos; and
- (B) color.

(d) The certificate required by subsection (c) above shall be filed with the racing secretary before any start made by the greyhound and shall remain on permanent file with the secretary.

(e) Each greyhound entering Kansas, regardless of the state or country in which it was whelped, shall be accompanied by a small animal health certificate issued by the division of animal health of the state or country of departure. This certificate shall list the following:

(1) The names of both the consignor and the consignee;

(2) both addresses;

(3) the name and age of the greyhound; and

(4) the greyhound's DA₂PP, bordetella bronchiseptica, and rabies vaccination status, which shall be signed by a veterinarian and shall include the vaccine's trade names and expiration dates.

The certificate shall be dated within 30 days before arrival in Kansas. (Authorized by K.S.A. 1998 Supp. 74-8804; implementing K.S.A. 1998 Supp. 74-8806; effective Dec. 22, 1995; amended June 21, 1996; amended Feb. 11, 2000.)

Article 11.—SECURITY AND SAFETY

112-11-1. Definitions. As used in regulations concerning security and safety, unless the context otherwise requires: (a) "Ambulance" means any aircraft or motor vehicle, whether

privately or publicly owned, that is specially constructed, equipped and intended to be used for the purpose of transporting sick, injured, disabled or otherwise incapacitated human beings.

(b) "Basic course" means a training course for security guards given before they assume their official duties.

(c) "Continuing education" means refresher training given to security guards annually.

(d) "Firearms course" means a training course that includes instruction on the use of deadly force and that is conducted by a person who has completed a firearms instructor's course recognized by the Kansas law enforcement training commission.

(e) "First aid course" means any of the following officially recognized courses: red cross advanced first aid course, emergency medical technician course or emergency medical services first responder course.

(f) "Security guard" means a person whose principal duty is to protect persons or property at a racetrack facility licensed by the commission. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-11-2. Minimum requirements for security guard. (a) Each person who is licensed by the commission as a security guard shall have met the following requirements before licensure:

(1) Be a citizen of the United States or otherwise legally reside in the United States;

(2) complete a comprehensive written application approved by the commission;

(3) submit to a background investigation conducted by the director of security, director of the Kansas bureau of investigation or other person designated by the commission. Each applicant shall execute and verify a personal background disclosure form provided by the commission and fully cooperate in any investigation it may undertake;

(4) undergo a thorough medical assessment conducted by a person licensed to practice medicine and surgery;

(5) demonstrate by the medical assessment that the individual is free from any physical defect that might adversely affect the applicant's performance as a security guard;

(6) undergo a personality stability evaluation conducted by a professional psychologist approved by the commission if the security guard will carry a firearm while on duty;

(7) demonstrate by the evaluation that the individual is free from any emotional or mental condition that might affect the applicant's performance as a security guard;

(8) pass an oral examination approved by the commission's director of security and conducted by the organization licensee's director of security; and

(9) demonstrate by the oral examination that the applicant possesses adequate communication skills to clearly convey information and instructions to the public at a racetrack in regular and emergency situations.

(b) Each organization licensee's director of security shall submit a proposed text of the oral examination to the commission's director of security for approval each year not later than 90 days before the first day of the race meet that the organization licensee proposes to conduct. (Authorized by K.S.A. 1988 Supp. 74-8804; implementing K.S.A. 1988 Supp. 74-8804, K.S.A. 1988 Supp. 74-8816; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended March 19, 1990.)

112-11-3. Security guard license. Each security guard shall be licensed as an occupation licensee and shall pay the fee approved by the commission. (Authorized by K.S.A. 1988 Supp. 74-8804; implementing K.S.A. 1988 Supp. 74-8804, 74-8816; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended March 19, 1990.)

112-11-4. Basic course for security guard. (a) Each security guard applicant shall submit to the commission satisfactory proof, upon a form approved by the commission, that the applicant has successfully completed a basic course that includes at least 40 hours of instruction in the following areas:

(1) Kansas criminal statutes;

(2) Kansas parimutuel racing act, K.S.A. 1987 Supp. 74-8801 *et seq.*, and amendments to it;

(3) criminal procedure;

(4) constitutional rights;

(5) human behavior;

(6) security operations and procedures;

(7) first aid;

(8) firearms;

(9) defense tactics;

(10) report writing;

(11) court and administrative procedures; and

(12) emergency procedures.

(b) Any security guard applicant's instruction in a subject area listed in subsection (a) may be waived by the commission if the applicant has been certified by the Kansas law enforcement training commission or if the Kansas law enforcement training commission notifies the commission that the individual is eligible for certification by the Kansas law enforcement training commission.

(c) Each organization licensee's director of security shall be responsible for the instruction of each security guard applicant in the subject areas listed in subsection (a) using resources, training personnel and standards approved by the commission. (Authorized by K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3; implementing K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3, K.S.A. 1987 Supp. 74-8816, as amended by L. 1988, Ch. 316, Sec. 4; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-11-5. Continuing education for security guard. (a) Each security guard's license shall not be renewed unless the licensee furnishes the commission proof that the licensee has successfully completed at least 20 hours of continuing education within the 12 months before the renewal date in the following areas:

- (1) Physical protection;
- (2) laws of arrest;
- (3) constitutional law;
- (4) handling of citizen complaints;
- (5) firearms training;
- (6) fire safety;
- (7) evacuation plans; and
- (8) first aid.

(b) Each organization licensee's director of security shall submit to the commission's director of security a detailed outline of the continuing education courses and a description of the instructors' credentials before any security guard may receive credits for participating in continuing education. Continuing education credits shall be granted at the rate of one hour for each 50 minutes of instruction.

(c) Continuing education courses shall be approved by the commission's director of security based on their relevance to the knowledge, skills and abilities needed for security guards. Each Kansas law enforcement training commission course shall qualify for continuing education credits. (Authorized by K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3; implementing K.S.A. 1987 Supp. 74-8804, as

amended by L. 1988, Ch. 315, Sec. 3; K.S.A. 1987 Supp. 74-8816, as amended by L. 1988, Ch. 316, Sec. 4; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-11-6. Standards of conduct for security guard. (a) Each security guard who carries a firearm shall comply with the provisions of K.S.A. 1988 Supp. 74-5607a and amendments to it or commission security guard training requirements. Each security guard who carries a firearm shall comply with any local ordinances that may apply.

(b) Each security guard shall not:

- (1) Use unreasonable force;
- (2) obstruct, hinder, interfere or prevent an investigation by the commission or any law enforcement agency; or
- (3) be on the backside unless engaged in official duties during an assigned tour of duty or unless authorized by track security to enter. (Authorized K.S.A. 1988 Supp. 74-8804; implementing K.S.A. 1988 Supp. 74-8804, 74-8816, 74-8810 (e) (2); effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended March 19, 1990.)

112-11-7. Security guard and other law enforcement cooperation. Each security guard shall cooperate fully with federal, state and local law enforcement agencies that have jurisdiction to enforce the criminal laws and regulations at racetrack facilities. Each security guard shall submit a racetrack incident report for each crime or violation of commission regulations suspected, investigated or prevented at a racetrack facility to the organization licensee's director of security. The organization licensee's director of security shall file two copies of the report with the commission, and a copy of incident reports relating to crimes with the designated local law enforcement agency within 24 hours of the incident's occurrence or discovery of its occurrence. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended March 19, 1990.)

112-11-8. Written security and safety procedures manual. (a) Each organization licensee shall file a written security and safety procedures manual with the commission for approval not later than 120 days before the first day of the race meet that the organization licensee proposes to conduct. Each security and safety procedures manual shall include all information required in K.A.R. 112-3-14 and any additional information

required by the commission in article 112 of the Kansas administrative regulations.

(b) Each organization licensee shall maintain a comprehensive security and safety plan for its premises. Each security and safety plan shall be detailed in the written security and safety procedures manual.

(c) Each organization licensee's security and safety procedures manual shall be subject to periodic review and approval as determined by the commission or the commission's director of security.

(d) Each licensee's security and safety procedures manual shall be filed with the commission as confidential security information. (Authorized by K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3 and implementing K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3, K.S.A. 1987 Supp. 74-8813, as amended by L. 1988, Ch. 319, Sec. 1; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-11-9. Physical requirements for premises security. (a) Each organization licensee shall include in its security and safety procedures manual a detailed description of the physical elements of its security plan, including a schematic floor plan.

(b) Each description shall include the location and type of:

- (1) Fencing and barbed wire;
- (2) security office;
- (3) buildings, gates, doors, locks, hinges, ceilings, skylights, walls, windows, and furnishings;
- (4) parking lots, including size;
- (5) loading docks or loading zones;
- (6) access roads;
- (7) landscaping;
- (8) exterior lighting;
- (9) interior lighting;
- (10) main electrical switches, fuses, or circuit breakers;
- (11) emergency power system and its service area;
- (12) safe or vault, or both, including rating and anchor system;
- (13) parimutuel wagering equipment;
- (14) utility control points;
- (15) attics, basements, crawl spaces, air conditioning and heating ducts, including sizes;
- (16) elevators and stairs;
- (17) fire protection devices;
- (18) alarm systems;
- (19) surveillance systems;
- (20) roof access; and

(21) trash storage. (Authorized by K.S.A. 1988 Supp. 74-8804; implementing K.S.A. 1988 Supp. 74-8804, 74-8813; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended March 19, 1990.)

112-11-10. Identification and credentials. (a) A person shall not be admitted to a restricted area without a license issued by the commission or a visitor's pass. Visitors' passes may be issued by the organization licensee in accordance with procedures outlined in the written security and safety procedures manual. Each license or visitor's pass shall be prominently attached to an outer garment. A jockey shall not be required to display a license when riding in a race.

(b) Each license or visitor's pass shall be used only by the individual to whom the license or pass was issued. Licenses and visitors' passes shall not be loaned to any other person.

(c) This regulation shall not prevent a law enforcement officer or other public safety official when on duty or an individual authorized by the commission from entering a restricted area.

(d) The restricted areas at a racetrack facility shall be as follows:

- (1) Administrative offices, if labeled a restricted area;
- (2) the backside, if the racetrack facility is being used for racing or anytime during a race meet;
- (3) behind the mutuels line;
- (4) commission offices;
- (5) the concessions work area, if the racetrack facility is being used for racing or anytime during a race meet;
- (6) the delivery areas, if the racetrack facility is being used for racing or anytime during a race meet;
- (7) the detention barn, if the racetrack facility is being used for racing or anytime during a race meet;
- (8) the infield, if the racetrack facility is being used for racing or anytime during a race meet;
- (9) the jockeys' room, if the racetrack facility is being used for racing or anytime during a race meet;
- (10) the judges' stand and photo finish;
- (11) the kennel compound, if the racetrack facility is being used for racing or anytime during a race meet;
- (12) the lockout kennel, if the racetrack facility is being used for racing or anytime during a race meet;

(13) the owners' and trainers' lounge, if the racetrack facility is being used for racing or anytime during a race meet;

(14) the lure operator's office;

(15) the money room;

(16) the mutuels room;

(17) the paddock, if the racetrack facility is being used for racing or anytime during a race meet;

(18) the press box, if the racetrack facility is being used for racing or anytime during a race meet;

(19) the printing office, if the racetrack facility is being used for racing or anytime during a race meet;

(20) the security office and detention room;

(21) stables, if the racetrack facility is being used for racing or anytime during a race meet;

(22) the starting gate and boxes, if the racetrack facility is being used for racing or anytime during a race meet;

(23) the stewards' stand;

(24) the test areas;

(25) the totalisator;

(26) the track, if the racetrack facility is being used for racing or anytime during a race meet;

(27) the vault;

(28) veterinarian offices; and

(29) the video patrol.

(e) Each security and safety procedures manual shall describe the procedure for issuing a license or visitor's pass. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8825; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended March 19, 1990; amended Jan. 18, 2008.)

112-11-11. Access to restricted areas.

Each organization licensee shall prevent access to and shall remove or cause to be removed from its restricted areas any person who is unlicensed or who has not been issued a temporary visitor's pass or whose presence in the restricted area is unauthorized. The provisions of this regulation shall not prevent a public safety official when on duty or an individual authorized by the commission from entering a restricted area. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-11-12. Search and seizure. (a) Each applicant who secures an occupation license shall be deemed to consent, as a condition of the li-

cense, to a search without warrant, by the commission's security personnel or by the agents of the Kansas bureau of investigation, of:

(1) The licensee's person while the licensee is within the race track facility; and

(2) the licensee's personal property or work area that is within the race track facility.

(b) Each applicant who secures a concessionaire license shall be deemed to consent, as a condition of the license, to the conduct of a search without warrant of the licensee's work area and personal property and the persons of its owners, officers and employees by the commission's security personnel or by the agents of the Kansas bureau of investigation while the licensee is engaged in business within the race track facility.

(c) Each occupation licensee's or concessionaire licensee's consent to a search shall apply only to the commission's security personnel or agents of the Kansas bureau of investigation investigating possible criminal violations of the Kansas racing act or these racing regulations.

(d) Each agency conducting a search without warrant in compliance with this regulation shall provide the licensee searched with a post-search written notice and receipt of:

(1) Date and time of search;

(2) places and items searched; and

(3) items seized.

(e) When an agency, in compliance with this regulation, is to search an area containing racing animals, the agency shall, to the extent permitted by the circumstances, provide notice to the person responsible for the area so that this person can observe the search. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804, 74-8816, 74-8817; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended March 19, 1990.)

112-11-13. (Authorized by K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3, and implementing K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3; K.S.A. 1987 Supp. 74-8816, as amended by L. 1988, Ch. 316, Sec. 4; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; revoked, T-112-8-13-92, Aug. 13, 1992; revoked, T-112-12-10-92, Dec. 10, 1992; revoked Feb. 15, 1993.)

112-11-13a. Human controlled substance and alcohol testing; procedure; prohibited levels; penalties; confidentiality. (a) If directed by a steward, racing judge, the execu-

tive director, or a commission employee with law enforcement powers under K.S.A. 1995 Supp. 74-8807, and upon reasonable suspicion of intoxication or impairment while actively engaged in employment, an occupation licensee shall submit to a breath or a urine test, or both. No occupation licensee shall have a blood alcohol content of .05 percent or more. No occupation licensee's urine test shall indicate the presence of any controlled substance as defined by K.S.A. 1995 Supp. 65-4101.

(b) The stewards or racing judges shall suspend a licensee whose breath test indicates a blood alcohol content of .05 percent or more in accordance with the provisions of K.S.A. 74-8816(h).

(c) The stewards or racing judges shall suspend a licensee whose urine test indicates the presence of a controlled substance in accordance with the provisions of K.S.A. 74-8816(h).

(d) The stewards or racing judges shall suspend a licensee who refuses to submit to a breath or urine test, or both, in accordance with the provisions of K.S.A. 74-8816(h).

(e) Suspensions authorized by this regulation shall not be subject to the stay provisions of K.A.R. 112-16-11.

(f) Information elicited in the process of breath or urine testing shall be treated as confidential, except as necessary for any administrative or judicial proceeding. (Authorized by and implementing K.S.A. 1995 Supp. 74-8804 and K.S.A. 74-8816; effective, T-112-8-13-92, Aug. 13, 1992; effective, T-112-12-10-92, Dec. 10, 1992; effective Feb. 15, 1993; amended Aug. 9, 1996.)

112-11-14. Ambulances and first aid station. (a) Each organization licensee shall provide at least one ambulance on the premises of the horse racetrack facility. Each ambulance shall be staffed and on duty during horse training periods and the scheduled horse races. Each ambulance shall have a Kansas board of emergency medical services Type I or Type II ambulance permit.

(b) Each organizational licensee shall close the track to horses unless the required ambulance service is present at the racetrack facility.

(c) Each ambulance shall have ready access to all parts of the track in each horse race run.

(d) For horse race meetings, each organization licensee shall provide a staffed horse ambulance each day horses are on the racetrack with the capability of:

(1) Being lowered to the ground and having an adequate means of loading a horse that is down,

which may include a large piece of matting or belting that the horse can be rolled onto and a power winch capable of pulling the mat and horse into the ambulance;

(2) having large portable screens adequate to shield a horse from public view; and

(3) transporting an injured horse to a designated area for emergency treatment or euthanasia, or to a necropsy stall.

(e) When necessary, each organization licensee shall dispose of dead horses expediently.

(f) Each organization licensee shall provide a first aid station on the premises of the racetrack facility. Each first aid station shall be staffed and operational during each scheduled horse or greyhound race.

(g) Each first aid station shall be staffed by at least one emergency medical technician and be equipped with the medical equipment and supplies required in a type II ambulance. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804, 74-8813; effective, T-112-2-23-89, Feb. 23, 1989; effective June 16, 1989; amended March 19, 1990.)

112-11-15. Fire prevention. Each organization licensee shall submit plans and specifications for fire prevention to the Kansas state fire marshal and any required local authorities for approval before commencement of construction, remodeling or alteration of any location at a racetrack facility. Each organization licensee shall submit to the commission's director of security documentation of fire inspection compliance. Each organization licensee shall post in a conspicuous place the fire regulations applicable to the stable area or kennel area, or both, the fire regulations applicable to all other locations and any other notice required by the Kansas state fire marshal and any local authorities. (Authorized by K.S.A. 1988 Supp. 74-8804; implementing K.S.A. 1987 Supp. 74-8804, 74-8813; effective, T-112-2-23-89, Feb. 23, 1989; effective June 16, 1989; amended March 19, 1990.)

112-11-16. Smoking in the shedrow and the kennels. (a) Smoking shall be prohibited in each shedrow, stall or feed storage area inside a barn.

(b) Smoking shall be prohibited in each kennel building. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-11-17. Emergency procedures. (a) Each organization licensee shall submit a com-

prehensive emergency procedures and evacuation plan as part of the security and safety procedures manual.

(b) Each emergency procedure and evacuation plan shall describe potential emergencies and the planned response to the emergency situation.

(c) Each organization licensee shall plan and execute a rehearsal of all emergency procedures and responses before the first performance of each race meet each year and at any other time required by the commission's director of security. Each rehearsal shall be approved and observed by the commission's director of security or the director of security's designee. (Authorized by K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3; implementing K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3, K.S.A. 1987 Supp. 74-8813, as amended by L. 1988, Ch. 319, Sec. 1; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-11-18. Obedience to security guards and commission representatives. Each licensee and individual at a racetrack facility shall not willfully ignore or refuse to obey or interfere with any order issued by the commission, the commission's representatives, the stewards or racing judges, any security guard of the facility or any law enforcement officer or other public safety official when the order is given in the performance of duty. (Authorized by and implementing K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-11-19. Race track safety standards, horse race meets. (a) Unless excused by the commission for good cause, each organization licensee shall meet the following racetrack standards at horse race meets.

(1) Each racing surface shall have inner and outer rails.

(2) Each rail shall:

(A) Be constructed of a material that will bear the impact of a horse without breaking away;

(B) be maintained at a height that measures 40" from the top of the cushion to the top of the rail;

(C) be bolted or welded to the rail posts; and

(D) have a smooth surface.

(3) Each rail post upon which inner and outer rails are mounted shall:

(A) Be set in concrete at least 6" below the race track surface and at least 24" deep; and

(B) have a continuous smooth cover over the posts.

(4) Each gate opening in a rail, including the gap, shall:

(A) Have the same appearance as the rest of the rail;

(B) be less than 10 feet in length unless it has a center support;

(C) have a top gate rail that is secured to the top of the rail for which the gate provides an opening;

(D) except for "on" and "off" gates during training, be closed during racing and training; and

(E) if an "on" or "off" gate, be placed at 50-foot intervals.

(5) Each starting gate used for morning schooling shall be placed far enough from the "on" and "off" gates so that horses entering and leaving the track will not interfere with or distract horses in schooling or breaking from the gate.

(b) Each distance pole marker, electrical box, timer, starters' stand, patrol judges' stand or other obstacle or device shall be placed more than 15 feet from the back of the bottom of the rail post.

(c) Each drainage ditch or hole within 15 feet of the back of the bottom of the inside rail shall be covered with a soft material installed level with the ground surface that will not allow a horse or jockey to fall below the level of the ground surface.

(d) Each racetrack lighting system for nighttime racing shall have an operational emergency generator back-up system that is serviced and tested at least once each month during the race meet. The results of each test shall be documented in a written report that shall be submitted to the commission within 24 hours.

(e) Each organization licensee that has 21 or more race days per year shall have a safety committee.

(1) Each safety committee shall be made up of two representatives from the management of the organization licensee, two representatives from the jockeys riding at the track, two representatives from the "horsemen" registered in the racetrack office and at least one of the stewards.

(2) Each safety committee shall identify unsafe conditions at the racetrack facility and recommend remedies in writing to the organization licensee, the executive director and the commission.

(f) For each scheduled race, the starting gate shall be placed at an approximately equal distance from the outside rail and the inside rail. (Authorized by K.S.A. 1987 Supp. 74-8804, as amended

by L. 1988, Ch. 315, Sec. 3; implementing K.S.A. 1987 Supp. 74-8804, as amended by L. 1988, Ch. 315, Sec. 3, K.S.A. 74-8813, as amended by L. 1988, Ch. 319, Sec. 1; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989.)

112-11-20. Greyhound racetrack facility safety standards; specifications; prohibition of chemical use on track surface. (a) Each greyhound racetrack shall have the following:

(1) A minimum width of 20 feet with inside and outside fixed curbs at a specified slope in the outside curb;

(2) a first turn radius of 128 feet, with a second turn radius of 118 feet, and straightaways of 279.6 feet;

(3) a graduated minimum bank of 1½ inches to each 12 inches on each turn;

(4) the 5/16 mile starting box set back in a chute;

(5) a water pumping system providing adequate volume and pressure to uniformly hand water the entire racing surface, as needed. Automatic sprinkling systems may be used to complement, but shall not replace, the hand watering system;

(6) automatic openers with a manual backup for each starting box;

(7) one curtain placed at least 50 feet before the escape and one curtain placed 25 feet beyond the escape and placed so as not to distract greyhounds while they are racing;

(8) an inside lure with an extendible arm;

(9) a commission-approved track base that is nonabrasive to a greyhound's feet and that has adequate track drainage and proper resiliency;

(10) unless otherwise approved by the commission in open meeting and upon the commission's determination that this approval would be in the best interest of racing, a closed-fluid winterization system extending from the starting boxes to the entire width and length of the track; and

(11) a video monitoring system with a monitor in the judges' room and trainers' lounge that permits the racing judges and trainers to view the activities in the lockout kennel, the movement of the lead outs and greyhounds from the lockout kennel to the starting boxes, and the activities at the starting boxes.

(b) Unless otherwise approved in advance by the commission in open meeting and upon the commission's determination that this approval would be in the best interest of racing, chemicals shall not be applied to the racing surface of a greyhound racetrack.

(c) Each lockout kennel shall have the following:

(1) Soundproofing, including masonry construction, that prevents the greyhounds from being disturbed by outside noises;

(2) crates located at floor level, unless otherwise approved by the commission;

(3) crates of molded fiberglass or metal with the following:

(A) Removable wooden floors;

(B) minimum inside dimensions of 36 inches wide, 42 inches deep, and 36 inches high;

(C) closed crate doors that leave one inch of clearance at top, bottom, and latching sides that protect the greyhound's tail and feet from injury; and

(D) drop latches or comparable latches that prevent hazard to the greyhounds;

(4) a sufficient number of crates to house the greyhounds required to schedule 13 races. A second weigh-in shall be held as soon as crates are available during performances with more than 13 races;

(5) a climate control system that can maintain a temperature between 68 and 75 degrees Fahrenheit; and

(6) an area equipped with heating and air-conditioning where greyhounds and trainers may wait to weigh in.

(d) Each organization licensee shall provide a cool-out area that shall have a minimum of four water faucets with hoses and a dipping vat through which greyhounds may be walked to quickly cool them after racing. Each organization licensee shall change the water in the vat at least daily and prevent muddy residue from accumulating around the vat.

(e) Each organization licensee shall provide the following:

(1) A covered walkway from the parking area to the lockout kennel; and

(2) a covered walkway from the cool-out area to the parking area.

(f) Each kennel compound area shall have the following:

(1) Separate kennel buildings of masonry construction for each contract kennel;

(2) a location far enough away from the grandstand and racing areas that kenneled dogs are not disturbed by racetrack noises; and

(3) 24-hour security for the compound enclosure provided by the organization licensee during the official racing season.

(g) Each kennel building shall have the following:

(1) A partitioned kitchen area and crate area;

- (2) minimum dimensions of 20 feet by 62 feet;
 - (3) at least two adjoining turnout pens meeting the following specifications for each kennel building:
 - (A) Is free of obstructions;
 - (B) measures at least 30 feet by 30 feet each;
 - (C) is equipped with interconnecting gates;
 - (D) is equipped with drainage and a water faucet in each;
 - (E) is lighted by at least two halogen lights of at least 300 watts each in each turnout pen, one at each end; and
 - (F) is surrounded by a chain-link fence that is at least six feet high;
 - (4) a 20-foot overhang that extends the length of the building;
 - (5) at least 12 inches of sand in turnout pens, which shall be removed and replaced by the organization licensee with new sand at least once every 12 months of racing;
 - (6) a gate in each turnout pen through which a vehicle may be driven to remove the sand and deposit new sand;
 - (7) a fenced safety pen eight feet wide, located between the parking area and turnout pens and equipped with gates, to facilitate the moving of greyhounds directly between the parking area and the turnout pens;
 - (8) a maximum of 60 crates or, with the prior approval of the animal health officer, a maximum of 72 crates;
 - (9) metal crates with compartments that are at least 36 inches wide, 42 inches deep, and 36 inches high and equipped with drop latches and casters;
 - (10) not more than 72 greyhounds housed in each kennel building with not more than one greyhound in each crate, unless the racing judges have approved a specific request otherwise;
 - (11) a kitchen area equipped with a hot water heater with a minimum capacity of 20 gallons, a deep sink of durable construction with a drain board, adequate shelving and cabinet space, and a shower and commode in an enclosed area;
 - (12) one floor drain in each crate area and one floor drain in each kitchen area;
 - (13) a climate control system that is capable of maintaining a temperature between 68 and 75 degrees Fahrenheit;
 - (14) smoke and temperature alarms in each kennel area connected to the compound security office and capable of alerting security of emergency conditions;
 - (15) emergency backup power adequate to provide continuous ventilation that will protect the greyhounds if a power failure occurs at any time during a racing season scheduled in the months of May through September;
 - (16) a fresh air ventilation system or at least four windows of approximately four square feet each that are equipped with screens and can be opened;
 - (17) lighting to adequately illuminate all areas inside the kennel;
 - (18) adequate space within the kennel building for each contract kennel to place a dog-walking machine and adequate floor space within the crate area for a hydrotherapy vat; and
 - (19) an on-line hookup for a telephone and a video monitoring system that permits the trainers to watch the races.
 - (h) Unless otherwise approved by the commission in open meeting and upon the commission's determination that this approval would be in the best interest of racing, each organization licensee shall provide sprint paths as follows:
 - (1) One sprint path measuring at least 16 feet by 350 feet, equipped with a common center fence, and heated by a closed-fluid winterization system extending the length and width of the sprint path;
 - (2) two open sprint paths measuring at least 20 feet by 500 feet;
 - (3) one all-weather surface road sufficient to operate a vehicle adjacent to each sprint path; and
 - (4) a sprint path surface, to which chemicals shall not be applied.
 - (i) Each sprint path shall be located so that sprint activity does not disturb the greyhounds in the kennel compound area. Each sprint path shall be available for use at all times, except during racing hours, and shall be equipped with side gates through which greyhounds can enter the path and a gate through which a kennel vehicle can be driven. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8825; effective July 23, 1989; amended March 19, 1990; amended Aug. 9, 1996; amended June 22, 2001; amended March 14, 2003; amended Jan. 6, 2006; amended Jan. 18, 2008.)
- 112-11-21. Prohibited acts.** (a) When on the grounds of a racetrack facility, a person shall not:
- (1) violate a federal, state or local criminal or civil law;
 - (2) unless authorized by the commission, possess a firearm or other dangerous weapon;

(3) damage or destroy property of the racetrack facility or adjoining facilities;

(4) smoke in nonsmoking areas designated by the commission;

(5) unless authorized by the stewards or racing judges, communicate or attempt to communicate with a jockey or driver during racing hours, or attempt to gain entrance to the jockeys' and drivers' quarters at any time;

(6) fail to secure an occupation license if required for performance of duties at the racetrack facility;

(7) employ unlicensed personnel;

(8) alter or forge a prescription for medication for a racing animal;

(9) mar or alter any identification mark on any racing animal;

(10) unless authorized by the stewards or racing judges, use any radio transmitter or other transmitting device at a racetrack facility during a race meet;

(11) unless authorized by the commission, transmit or receive or attempt to transmit or receive wagering information through the use of a communication device; or

(12) participate in a race meet while suspended by the official racing body of any racing jurisdiction.

(b) When on the grounds of any racetrack facility where the licensee is employed, the following occupation licensees shall not wager or cause anyone to wager on their behalf at any time:

(1) general manager;

(2) executive director;

(3) director of mutuels;

(4) director of racing;

(5) racing secretary;

(6) lead out;

(7) starter;

(8) paddock judge;

(9) clerk of scales;

(10) clocker;

(11) photo finish operator;

(12) identifier;

(13) lure operator;

(14) brakeman;

(15) horsemen's bookkeeper;

(16) chartwriter;

(17) placing judge;

(18) kennel master;

(19) patrol judge; and

(20) assistants to any of these positions.

(c) When on the grounds of any racetrack facility where the licensee is employed, the following

occupation licensees shall not wager or cause anyone to wager on their behalf while on duty:

(1) jockey;

(2) jockey room attendant;

(3) mutuel employee;

(4) outrider;

(5) pony person;

(6) track superintendent;

(7) testing technician; and

(8) assistants to any of these positions.

(d) An occupation licensee shall not display the occupation license while wagering at any racetrack facility. (Authorized by K.S.A. 1993 Supp. 74-8804; implementing K.S.A. 1993 Supp. 74-8804 and 74-8810; effective, T-112-2-23-89, Feb. 23, 1989; effective June 19, 1989; amended, T-112-2-15-91, Feb. 15, 1991; amended June 10, 1991; amended Sept. 6, 1994.)

Article 12.— KANSAS HORSE BREEDING DEVELOPMENT FUND

112-12-1. Definitions. (a) "Kansas-bred horse" means a horse that meets either of these requirements:

(1) is foaled in Kansas and registered with the official registering agency to participate in the Kansas-bred racing or breeding program; or

(2) was domiciled in Kansas before December 31, 1989 and registered with the official registering agency to participate in the Kansas-bred racing or breeding program.

(b) "Kansas-certified horse" means a mare or stallion that is Kansas-bred or Kansas-domiciled and that is certified by the official registering agency to participate in the Kansas-bred breeding program.

(c) "Kansas-domiciled horse" means a horse that is foaled out-of-state and brought into the state of Kansas and that is registered and certified with the official registering agency to participate in the Kansas-bred breeding program.

(d) "Official registering agency" means the organization with which the commission has contracted for the registration of horses and the distribution of the Kansas horse breeding development fund in accordance with K.S.A. 74-8830(b) and (c).

(e) This regulation shall take effect on and after January 1, 1998. (Authorized by K.S.A. 1996 Supp. 74-8804; implementing K.S.A. 74-8830; effective March 1, 1993; amended Jan. 1, 1998.)

112-12-2. Kansas horse breeding development fund, stallion eligibility certificate.

(a) Each person who intends to stand a stallion for service in Kansas shall file a written application for certification before the stallion is to stand for service if the stallion's foals are to be registered as Kansas-bred horses.

(b) The official registering agency may issue a certificate of eligibility if either of these conditions is met.

(1) The stallion is registered as a Kansas-bred horse.

(2) The stallion is registered as a Kansas-domiciled horse.

(c) Each application shall be completed on a form approved by the commission that shall include the following information:

(1) the name of the stallion;

(2) the name, address, zip code, and tax identification number or social security number of each owner of the stallion;

(3) the location where the stallion will stand for service during the calendar year for which the application is made; and

(4) a statement that the stallion will stand for service within the state of Kansas and will not stand for service anywhere outside the state of Kansas during the calendar year in which the stallion's offspring are conceived.

(d) Each application for an initial certificate of eligibility shall include the following information:

(1) evidence of the right of ownership, including bills of sale, contracts, or other documents that demonstrate proof of ownership and reflect each agreement about breeding rights, repurchase agreements, and any other concession;

(2) an application for Kansas-bred or Kansas-domiciled registration pursuant to K.A.R. 112-12-6 or K.A.R. 112-12-7; and

(3) the official breed certificate issued by the national breed association pursuant to K.A.R. 112-7-6.

(e) Each stallion certified as required by the provisions of this regulation shall be available for inspection at all times by representatives of the official registering agency.

(f) The owner, agent, or lessee shall notify the official registering agency if a stallion certified as required by the provisions of this regulation leaves the state of Kansas during the year for which the stallion is certified in the Kansas-bred program.

(g) Any foal from a mare bred to a certified stallion before revocation of an eligibility certificate

may be registered as a Kansas-bred horse under the provisions of K.A.R. 112-12-5.

(h) If the majority ownership changes and the new owner desires to certify the stallion for eligibility in the Kansas-bred program, the new owner shall, within 30 days of the date of the sale, submit an application for a stallion eligibility certificate accompanied by a copy of the proof of sale or other document and observe the requirements of these regulations. Certification under this subsection (h) shall be effective from the date of sale after complying with subsection (h).

(i) This regulation shall take effect on and after January 1, 1998. (Authorized by K.S.A. 1996 Supp. 74-8804; implementing K.S.A. 1996 Supp. 74-8829 and K.S.A. 74-8830; effective, T-112-2-23-89, Feb. 23, 1989; effective, T-112-6-22-89, June 22, 1989; effective Sept. 4, 1989; amended March 19, 1990; amended March 1, 1993; amended Feb. 13, 1995; amended Jan. 1, 1998.)

112-12-3. (Authorized by K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3; implementing K.S.A. 74-8830; effective, T-112-2-23-89, Feb. 23, 1989; effective, T-112-6-22-89, June 22, 1989; effective Sept. 4, 1989; amended March 1, 1993; revoked Feb. 13, 1995.)

112-12-4. Kansas horse breeding development fund, mare eligibility certificate.

(a) Each person who intends to breed, or foal, or both, a mare certified in the Kansas-bred program shall file a written application for certification before foaling.

(b) The official registering agency may issue a certificate of eligibility if these conditions are met:

(1) the mare is determined to be a Kansas-bred mare as required by K.A.R. 112-12-12; and

(2)(A) the mare is registered as a Kansas-bred horse; or

(B) the mare is registered as a Kansas-domiciled horse.

(c) Each application shall be completed on a form approved by the commission and shall include the following information:

(1) the name of the mare; and

(2) the name, address, zip code, and tax identification number or social security number of each owner of the mare.

(d) Each application for an initial breeding certification shall be accompanied by the following applicable documentation:

(1) evidence of the right of ownership, including bills of sale, contracts, or other documents that demonstrate proof of ownership and reflect each agreement about breeding rights, repurchase agreements, and each other concession;

(2) the application for Kansas-bred or Kansas-domiciled registration as provided in K.A.R. 112-12-6 or K.A.R. 112-12-7; and

(3) the official breed registration certificate as defined by K.A.R. 112-7-6.

(e) Each mare certified as required by this regulation shall be available for inspection at all times by representatives of the official registering agency.

(f) If the majority ownership of a mare certified with the official registering agency changes, the official registering agency shall revoke the eligibility certificate.

(g) The new owner shall recertify such mare in order for that mare certification and breed award status to be uninterrupted, and once a mare is certified, the mare shall remain certified until the mare dies or its certification is revoked for ownership changes.

(h) A mare's offspring shall be eligible for registration in the Kansas-bred program if the mare is in the state of Kansas at the time of foaling and all rules and regulations have been met.

(i) This regulation shall take effect on and after January 1, 1998. (Authorized by K.S.A. 1996 Supp. 74-8804; implementing K.S.A. 1996 Supp. 74-8829 and K.S.A. 74-8830; effective, T-112-2-23-89, Feb. 23, 1989; effective, T-112-6-22-89, June 22, 1989; effective Sept. 4, 1989; amended March 19, 1990; amended March 1, 1993; amended Feb. 13, 1995; amended Jan. 1, 1998.)

112-12-5. Classes of Kansas-bred horses.

In order to be eligible to be registered as Kansas-bred, a foal shall be foaled in Kansas.

This regulation shall take effect on and after January 1, 1998. (Authorized by K.S.A. 1996 Supp. 74-8804; implementing K.S.A. 74-8830; effective, T-112-2-23-89, Feb. 23, 1989; effective, T-112-6-22-89, June 22, 1989; effective Sept. 4, 1989; amended March 1, 1993; amended Feb. 13, 1995; amended Jan. 1, 1998.)

112-12-6. Kansas horse breeding development fund, registration of Kansas-bred horses. (a) Each owner, agent, or lessee who intends to register a foal as a Kansas-bred foal shall file a verified application for registration with the official registering agency by December 31 of the

year of foaling to avoid monetary penalty to be set by the commission.

(b) Each applicant shall completely answer all inquiries on the application form approved by the commission, including the following:

(1) the name of the dam and her Kansas registration status;

(2) the name of the sire and his Kansas registration status;

(3) the date and location where the foal was dropped;

(4) the color, sex, and markings of the foal; and

(5) the name, address, zip code, and tax identification number or social security number of each owner of the foal.

(c) Each official breed registration certificate as defined in K.A.R. 112-7-6 shall be delivered to the official registering agency before the foal will be registered as Kansas-bred.

(d) If the foal meets all of the requirements for registration, the official registering agency shall affix its official seal, including the registration number for the foal, on the face of the official breed registration certificate as defined in K.A.R. 112-7-6 and return the certificate to the owner by certified mail within 30 days of the date of official registration.

(e) Each foal registered as required by this regulation shall be available at any time for inspection by representatives of the official registering agency.

(f) This regulation shall take effect on and after January 1, 1998. (Authorized by K.S.A. 1996 Supp. 74-8804; implementing K.S.A. 74-8830; effective, T-112-2-23-89, Feb. 23, 1989; effective, T-112-6-22-89, June 22, 1989; effective Sept. 4, 1989; amended March 1, 1993; amended Feb. 13, 1995; amended Jan. 1, 1998.)

112-12-7. Registration of Kansas-domiciled horses.

(a) Any owner, agent, or lessee of a horse that does not qualify as Kansas-bred as outlined by these regulations may obtain a Kansas-domiciled registration if the official registering agency determines, under guidelines approved by the Kansas racing commission, that the horse may enhance the quality of Kansas-bred breeding stock.

(b) Each Kansas-domiciled horse shall be domiciled within Kansas before application for registration.

(c) Each owner, agent, or lessee who intends to register a Kansas-domiciled horse shall meet these requirements:

(1) provide verified answers to inquiries on an application approved by the commission; and

(2) except as stated in this regulation, comply with these racing regulations.

(d) This regulation shall take effect on and after January 1, 1998. (Authorized by K.S.A. 1996 Supp. 74-8804; implementing K.S.A. 74-8830; effective, T-112-2-23-89, Feb. 23, 1989; effective, T-112-6-22-89, June 22, 1989; effective Sept. 4, 1989; amended March 1, 1993; amended Feb. 13, 1995; amended Jan. 1, 1998.)

112-12-8. Kansas-certified stallion awards. (a) Any owner, agent, or lessee of a certified Kansas-bred or certified Kansas-domiciled stallion may be eligible to participate in the Kansas-certified stallion awards if both of these criteria are met.

(1) Any foal of the Kansas-certified stallion is registered as a Kansas-bred horse with the official registering agency.

(2) The foal of the Kansas-certified stallion wins, places, or shows in a race that has been designated for the award.

(b) Each Kansas-certified stallion award shall be paid as follows.

(1) For registered foals conceived before December 31, 1992, the award shall be paid to the stallion's owner, agent, or lessee of record at the time the foal was conceived.

(2) For registered foals conceived after December 31, 1992, the award shall be paid to the stallion's owner, agent, or lessee of record at the time the foal was conceived only if the Kansas-certified stallion was certified as eligible in accordance with K.A.R. 112-12-2 before the foal was conceived.

(3) A change of ownership of a stallion, by itself, shall not preclude the stallion from receiving breed awards.

(c) The official registering agency shall solicit information from the various breed owners to aid it in recommending races, qualifications for races, and amounts and types of awards to the commission.

(d) Races, qualifications for races, and amounts and types of awards shall be designated by the commission.

(e) This regulation shall take effect on and after January 1, 1998. (Authorized by K.S.A. 1996 Supp. 74-8804; implementing K.S.A. 1996 Supp. 74-8829 and K.S.A. 74-8830; effective, T-112-2-23-89, Feb. 23, 1989; effective, T-112-6-22-89, June 22, 1989; effective Sept. 4, 1989; amended March 1, 1993; amended Feb. 13, 1995; amended Jan. 1, 1998.)

112-12-9. Kansas-certified mare awards.

(a) Any owner, agent, or lessee of a certified Kansas-bred or certified Kansas-domiciled mare may be eligible to participate in the Kansas-certified mare awards if both of these criteria are met.

(1) The foal of the Kansas-certified mare is registered as a Kansas-bred horse with the official registering agency as set forth in K.A.R. 112-12-1(b).

(2) The Kansas-bred foal of the Kansas-certified mare wins, places, or shows in a race in Kansas that has been designated for the award.

(b) Kansas-certified mare awards shall be paid as follows.

(1) Each Kansas-certified thoroughbred mare award shall be paid only to the mare's owner, agent, or lessee of record at the time of foaling if the mare was certified in the breeding program before foaling. Each Kansas-certified quarter-horse mare award shall be paid only to the mare's breeder of record or the first owner putting the mare in the Kansas-bred program if the mare was certified in the breeding program before foaling.

(2) A change of ownership of mare, by itself, shall not preclude the mare from breed awards.

(c) The official registering agency shall solicit information from the various breed owners to aid it in recommending races, qualifications for races, and amounts and types of awards to the commission.

(d) Races, qualifications for races, and amounts and types of awards shall be designated by the commission.

(e) This regulation shall take effect on and after January 1, 1998. (Authorized by K.S.A. 1996 Supp. 74-8804; implementing K.S.A. 1996 Supp. 74-8829 and K.S.A. 74-8830; effective, T-112-2-23-89, Feb. 23, 1989; effective, T-112-6-22-89, June 22, 1989; effective Sept. 4, 1989; amended March 1, 1993; amended Feb. 13, 1995; amended March 6, 1998.)

112-12-10. Kansas-bred or Kansas-foaled races.

(a) Each organization licensee shall in good faith offer at least one race limited to Kansas-bred or Kansas-foaled horses per day. Kansas-bred horses shall be preferred entries. Awards and monies shall be paid only to the owners of Kansas-bred horses. If there are five Kansas-bred entries, a race for only Kansas-bred horses shall be run. If there are fewer than five Kansas-bred entries and there are Kansas-foaled entries, a Kansas-bred and Kansas-foaled race shall be run.

(b) The organization licensee shall file with the commission and the official registering agency two official programs, an affidavit verifying that the registry regulations have been followed, and other requested information, including the following:

(1) The value of the purses offered by the organization licensee;

(2) the name and address of each owner who is to share in the total purses and awards and the amount in which each owner is to share; and

(3) any other information that may be required by the commission or registry.

(c) Each program and affidavit shall be filed with the commission and the official registering agency within seven days after the date of the Kansas-bred or Kansas-foaled race conducted by the organization licensee. (Authorized by K.S.A. 2001 Supp. 74-8804; implementing K.S.A. 74-8812 and 74-8830; effective, T-112-2-23-89, Feb. 23, 1989; amended, T-112-6-22-89, June 22, 1989; effective Sept. 4, 1989; amended March 1, 1993; amended Jan. 18, 1994; amended Aug. 25, 1995; amended Jan. 1, 1998; amended Jan. 31, 2003.)

112-12-11. Kansas horse breeding development fund, registration and certificate of eligibility fees. (a) Each owner or agent who registers a horse to participate in the Kansas horse breeding development fund or requests the issuance of an eligibility certificate shall pay a one-time registration and certificate-of-eligibility fee to the official registering agency upon initial application to the official registering agency.

(b) The official registering agency shall submit a schedule of fees for registrations, certificates of eligibility and transfers to the commission office no later than October 1 of each calendar year.

(c) Each fee schedule shall be approved by the commission before it is implemented. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; implementing K.S.A. 1991 Supp. 74-8830; effective, T-112-2-23-89, Feb. 23, 1989; effective, T-112-6-22-89, June 22, 1989; effective Sept. 4, 1989; amended March 1, 1993.)

112-12-12. Registration of horses dropped before January 1, 1990. (a) Any horse dropped before January 1, 1990 may be registered as a Kansas-bred horse if the horse:

(1) was domiciled in Kansas before January 1, 1990; and

(2) is registered with a national breed association.

(b) Each application shall be completed on a form approved by the commission that shall include the following information:

(1) the name of the horse;

(2) the date the horse was dropped;

(3) the color, sex and marking of the horse; and

(4) the name, address, zip code and tax identification number or social security number of each owner of the horse.

(c) Each application for registration shall be accompanied by the following documentation:

(1) evidence of the rights of ownership, including bills of sale, contracts or other documents that demonstrate proof of ownership and reflect all agreements about breeding rights, repurchase and all other concession; and

(2) the official breed registration certificate issued by the national breed association.

(d) Each horse registered under the requirements of this regulation shall be available at any time for inspection by representatives of the official registering agency. (Authorized by K.S.A. 1993 Supp. 74-8804 as amended by L. 1994, Ch. 146, Sec. 3; implementing K.S.A. 74-8830; effective, T-112-2-23-89, Feb. 23, 1989; effective, T-112-6-22-89, June 22, 1989; effective Sept. 4, 1989; amended March 25, 1991; amended Feb. 13, 1995.)

112-12-13. Administration of the Kansas horse breeding development fund by the official registering agency. (a) The official registering agency may deny the application for registration of a Kansas-bred or Kansas-domiciled horse or certificate of eligibility of a stallion or a mare if either of these conditions is met.

(1) Information has been omitted, altered, or falsified within the application.

(2) Documentation required by these regulations is not provided or is altered or falsified.

(b) The official registering agency may immediately revoke the eligibility certificate of any stallion if the stallion stands for service outside the state of Kansas during the calendar year when the stallion is certified to stand for service in the state of Kansas.

(c) The official registering agency may deny or revoke the registration of any foal if the owner of the foal's sire or dam fails to comply with any of the provisions of K.A.R. 112-12-2, 112-12-4, or 112-12-5.

(d) This regulation shall take effect on and after January 1, 1998. (Authorized by K.S.A. 1996 Supp. 74-8804; implementing K.S.A. 1996 Supp.

74-8829 and K.S.A. 74-8830; effective, T-112-2-23-89, Feb. 23, 1989; effective, T-112-6-22-89, June 22, 1989; effective Sept. 4, 1989; amended Feb. 13, 1995; amended Jan. 1, 1998.)

112-12-14. Registration of Arabian, Appaloosa, Paint, and Standardbred horses. (a) Any Arabian, Appaloosa, Paint, or Standardbred horse may be registered into the Kansas-bred program if the horse is registered with the national breed association.

(b) Each person who intends to register a horse under this regulation shall meet these requirements:

(1) file an application for registration with the official registering agency on forms approved by the commission;

(2) file with the official registering agency evidence of ownership, including the following:

(A) bills of sale;

(B) the official breed registration certificate issued by the national breed association; and

(C) contracts or other documents that demonstrate proof of ownership and reflect all agreements concerning breeding rights, repurchase, and any other terms and conditions;

(3) pay the \$50.00 fee for registering each horse under this regulation; and

(4) make each horse registered under this regulation available at any reasonable time for inspection by representatives of the official registering agency.

(c) This regulation shall take effect on and after January 1, 1998. (Authorized by K.S.A. 1996 Supp. 74-8804 and implementing K.S.A. 74-8830; effective, T-112-6-16-94, June 16, 1994; effective Sept. 6, 1994; amended Dec. 22, 1995; amended Jan. 1, 1998.)

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

112-13-2. Kansas-whelped program, certification. (a) Each person who intends to register a greyhound as a Kansas-whelped greyhound shall meet the following requirements:

(1) Within 45 days of the date each female greyhound is bred, submit a copy of the national greyhound association breeding acknowledgment and the following information to the official registering agency on a form approved by the commission:

(A) The present location of the female bred;

(B) the name and address, including the zip code, of each owner or lessee of the female and of each person who will be responsible for the pregnant female or the puppies during the first six months of their lives, or both; and

(C) each location of the pregnant female or the puppies during the first six months of their lives, or both;

(2) if the identity of the person or persons responsible for the pregnant female or the puppies, or both, changes, submit the new name and address, including the zip code, of the person or persons responsible to the official registering agency within 10 days of the change. The present location of the pregnant female or the puppies shall be reported at the same time; and

(3) notify the official registering agency within 80 days of the breeding whether the female greyhound has whelped or missed.

(b) In an emergency, the executive committee of the official registering agency may grant one extension of the deadline for submission of the Kansas greyhound registry breeding acknowledgment and one extension of the deadline for submission of the Kansas greyhound registry whelping report.

(c) Each female greyhound specified in subsection (a) shall be owned or leased by a Kansas-qualified breeder within 45 days of the breeding date. To be a Kansas-qualified breeder, the person owning or leasing the female greyhound shall have been a resident of the state of Kansas for a minimum of two years before breeding. Each pup shall be whelped and raised for the first six months of life in the state of Kansas. Kansas-whelped status shall remain with the greyhound and shall transfer to all subsequent owners of the greyhound.

(d) Each person who intends to register a greyhound as a Kansas-whelped greyhound shall submit the original individual registration application from the national greyhound association to the official registering agency after the greyhound is six months old. If the official registering agency certifies that the greyhound is a Kansas-whelped greyhound, the agency shall meet the following requirements:

(1) Collect the certification fee and affix the agency's official seal to the face of the original individual registration application; and

(2) return the registration application to the applicant.

(e) When the applicant registers each individual greyhound, the applicant shall submit the certified original individual registration application to the national greyhound association.

(f) Upon receiving the certified original individual registration application, the national greyhound association shall issue a certificate of registration to the official registering agency.

(g) The official registering agency shall process the certificate in accordance with procedures approved by the commission and shall issue the certificate of registration to the applicant within 30 days of its receipt.

(h) If the original individual registration application is lost or destroyed, each duplicate shall be recertified by the official registering agency.

(i) If information is altered or falsified on any registration or certification document, the official registering agency shall cancel the Kansas-whelped greyhound certification.

(j) Each schedule of fees for certification, membership, and penalties shall be established by the

official registering agency and approved by the commission at least annually.

(k) The official registering agency shall file an annual report with the commission on or before July 1 each calendar year and any periodic reports that the commission may request. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8832; effective, T-112-1-19-89, Jan. 19, 1989; effective April 10, 1989; amended March 25, 1991; amended Feb. 6, 2004.)

112-13-3. Kansas whelped program, resident racing program. (a) Each kennel owner who contracts to provide greyhounds for racing at a Kansas racetrack facility shall maintain a 20 percent population of Kansas-whelped greyhounds in the contract kennel.

(b) Any racetrack facility may provide a public kennel to accommodate owners or lessees of Kansas-whelped greyhounds that are not otherwise the subject of a kennel contract with the race track under the following conditions:

(1) Each greyhound kenneled in a public kennel shall be a Kansas-whelped greyhound;

(2) each owner or lessee of each greyhound kenneled in a public kennel shall be a Kansas resident as defined by K.A.R. 112-13-1;

(3) each salary, fee or compensation of any nature to be paid each public kennel trainer shall be approved by the commission at least 30 days before the first race in which a public kennel greyhound is entered; and

(4) each public kennel facility, each public kennel operation and each individual and greyhound at a public kennel shall be governed by article 112 of the Kansas administrative regulations. (Authorized by K.S.A. 1988 Supp. 74-8804, 74-8833; implementing K.S.A. 1988 Supp. 74-8833; effective, T-112-3-31-89, March 31, 1989; effective June 26, 1989.)

112-13-4. Greyhound breakage distribution for open stakes. (a) Each organization licensee conducting greyhound races shall establish a distinct and separate accounting titled "(organization licensee's name) breakage open stakes accounting."

(b) Each organization licensee shall submit a breakage-open-stakes-accounting report to the commission on the first day of each month. Each monthly report shall contain the following:

(1) the beginning balance;

(2) the funds added by each performance during the month;

- (3) each payout during the month; and
- (4) the ending balance for the month.

(c) Each organization licensee shall use the funds identified in the breakage open stakes accounting for specific stakes races. Each stakes race shall be approved by the commission prior to the date the race is opened. (Authorized by K.S.A. 1989 Supp. 74-8804; implementing K.S.A. 1989 Supp. 74-8821; effective March 25, 1991.)

112-13-5. Greyhound breakage distribution for purses. (a) Each organization licensee conducting greyhound races shall create a distinct and separate accounting titled “(organization licensee’s name) breakage purse supplement accounting.”

(b) Each organization licensee shall submit a breakage-purse-supplement-accounting report to the commission on the first day of each month. Each monthly report shall contain the following:

- (1) the beginning balance;
- (2) the funds added by each performance during the month;
- (3) each payout during the month;
- (4) the ending balance for the month; and
- (5) a detail of the ending balance.

(c) Each organization licensee shall distribute funds identified in the breakage purse supplement accounting based on the number of points each Kansas-whelped greyhound has accumulated during the previous calendar month. Points shall be awarded to Kansas-whelped greyhounds recording a win in each race as follows:

- (1) Feature race—10 points;
- (2) Grade A race—8 points;
- (3) Grade B race—6 points;
- (4) Grade C race—4 points;
- (5) Grade D race—3 points;
- (6) Maiden race—2 points; and
- (7) Grade E race—1 point.

(d) Each organization licensee shall total the points won by each Kansas-whelped greyhound during each calendar month. All points won by all Kansas-whelped greyhounds shall be added together and 50 percent of the calendar month’s breakage divided by this sum of points to determine the dollar value per point.

(e) Each organization licensee shall pay an amount equal to the number of points accumulated by each Kansas-whelped greyhound for the calendar month multiplied by the dollar value per point for the calendar month. (Authorized by K.S.A. 1989 Supp. 74-8821; implementing K.S.A. 1989 Supp. 74-8821; effective March 25, 1991.)

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 14.—HARNESS RACING RULES

112-14-2. Duties of a harness race starter. (a) The licensed starter shall be in the starting car 15 minutes before the first race.

(b) After one or two preliminary warming up scores, the licensed starter shall notify each driver to come to the starting gate. During or before the parade, the licensed starter shall inform each driver of the number of scores permitted.

(c) The licensed starter shall have control over the horses from the parade until the word “go” is given.

(d) The licensed starter shall notify the stewards of any violations of these racing regulations by any driver. Any driver violating these rules of racing may be set down, fined or suspended.

(e) The horses shall be brought to the starting gate no nearer than one-eighth of a mile before the start, unless otherwise required by track construction or design.

(f) The licensed starter shall allow sufficient time to increase the speed of the gate gradually; the following minimum speeds shall be maintained:

(1) For the first $\frac{1}{8}$ mile, not less than 11 miles per hour; and

(2) for the next $\frac{1}{16}$ of a mile not less than 18 miles per hour

(3) for the first $\frac{3}{16}$ mile or to the starting point, whichever is less, the speed shall be gradually increased until the mobile starting gate pulls away from the field of horses.

(g) On one-mile tracks, each horse shall be brought to the starting gate at the head of the stretch and the relative speeds in subsection (f) shall be maintained.

(h) The starting point shall be point-marked on the inside rail not less than 150 feet from the first turn. The licensed starter shall give the word “go” at the starting point.

(i) There shall be no decrease in speed of the mobile gate, except in the case of a recall.

(j) In the case of a recall, the licensed starter shall leave the wings of the gate extended, and wherever possible, gradually slow the speed of the mobile gate to assist in stopping the field of horses. In an emergency, the licensed starter shall determine whether to close the wings of the gate.

(k) The licensed starter shall have control of the horses from the formation of the parade until the licensed starter gives the word “go.” Each horse, regardless of its position or an accident, shall be a starter when the licensed starter gives the word “go.” Each horse shall complete the course except in case of an accident, broken equipment, or any other reason which, in the opinion of the stewards or the licensed starter makes it impossible to complete the course.

(l) There shall be no recall for a horse that breaks from its gait.

(m) Each licensed starter shall sound a recall when:

(1) A horse scores ahead of the gate;

(2) there is interference;

(3) there is broken equipment;

(4) there is a malfunction of the starting gate; or

(5) a horse falls before the word “go” is given.

(n) A mechanical loudspeaker shall be used only for giving instructions to drivers. The volume shall be no higher than necessary to carry the voice of the licensed starter to the drivers.

(o) Any horse may be held on the backstretch not more than two minutes awaiting post time, except when delayed by an emergency.

(p) If in the opinion of the stewards or the starter, a horse is unmanageable or liable to cause accidents or injury to any other horse or to any driver, the horse may be sent to the barn.

(q) The arms of each starting gate shall be provided with a screen or a shield in front of the position for each horse, and each arm shall be perpendicular to the rail.

(r) The licensed starter shall check the starting gate for malfunctions before commencing any meeting, and shall practice the procedure to be followed in the event of a malfunction. Both the licensed starter and the driver of the car shall know and practice emergency procedures, and the starter shall be responsible for training drivers in emergency procedures.

(s) Each horse winning a heat shall take the pole or inside position in the succeeding heat, unless otherwise specified in the published conditions, and all others shall take their positions in the order they were placed in the last heat. If two or more horses run a dead heat, their positions shall be determined by lot.

(t) Only the licensed starter, the starter’s driver, and a patrol judge shall be allowed to ride in the starting gate, unless otherwise directed by the commission.

(u) If there are two tiers of horses, the withdrawing of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier. If a horse is withdrawn from any tier, the horses on the outside shall move toward the pole position. If a horse has drawn a post position in the second tier, the driver of the horse may score out behind any horse in the first tier so long as the driver does not interfere with another trailing horse or deprive another trailing horse of a drawn position.

(v) If horses are started without a gate, the licensed starter shall have control of the horses from the formation of the parade until the starter

gives the word “go.” The word “go” shall be given at the wire or other point of the start of the race. The licensed starter shall be located at the wire or other point of the start of the race.

(1) No driver shall cause unnecessary delay after the horses are called to parade.

(2) After two preliminary warming up scores, the licensed starter shall notify the drivers to form in order of post positions. The driver of any horse refusing or failing to follow the instructions of the licensed starter as to the order of post positions, or scoring ahead of the pole horse may be set down for the heat in which the offense occurs.

(3) If a driver is set down, the substitute shall be permitted to score the horse once.

(4) A horse delaying the race may be started regardless of its position or gait and there shall be no recall on account of a fractious horse.

(5) If the word is not given, each horse in the race shall immediately turn at the tap of a bell or other signal, and jog back to their parade positions for a fresh start. No recall shall be made after the starting word has been given.

(w) Each driver shall obey the starter’s instructions as to:

(1) Rushing ahead of the inside or outside wing of the gate;

(2) coming to the starting gate out of position;

(3) crossing over before reaching the starting point;

(4) interference with another driver during the start;

(5) laying back or failing to come up into position;

(6) actions causing a delay in the start; and

(7) every other matter relating to a fair start. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804(p); effective, T-112-7-27-89, July 27, 1989; effective Sept. 18, 1989.)

112-14-3. Drivers’ meeting. (a) Before the first race at any harness meet is run, each official and each driver shall meet at a time and place designated by the chief steward to discuss the rules. Each driver shall be notified of the time and place of this meeting in writing. The notice shall be delivered to the stable of the driver at least one day before the meeting. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804(p); effective, T-112-7-27-89, July 27, 1989; effective Sept. 18, 1989.)

112-14-4. Harness track traffic procedure. Each horse meeting another horse on the

track shall pass to the left. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804(p); effective, T-112-7-27-89, July 27, 1989; effective Sept. 18, 1989.)

112-14-5. Harness racing conduct. (a) A leading horse shall be entitled to any part of the track until a position is selected in the home stretch.

(b) No driver in a race shall:

(1) Change to the right or left during any part of the race when another horse is so near that, in altering the position, the driver compels the horse following to shorten that horse’s stride, or causes the driver of the other horse to pull the horse out of stride;

(2) jostle, strike, hook wheels, or interfere with another horse or driver;

(3) cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner so as to endanger other drivers;

(4) swerve in and out or pull up quickly;

(5) crowd a horse or driver by “putting a wheel under him”;

(6) “carry a horse out” or “sit down in front of a horse,” take up abruptly in front of other horses so as to cause confusion or interference among the trailing horses;

(7) let a horse pass inside needlessly, or otherwise help another horse to improve its position in the race;

(8) lay off a normal pace and leave a hole when it is well within the horse’s capacity to keep the hole closed;

(9) commit any act that impedes the progress of another horse or causes that horse to break from its gait;

(10) change course after selecting a position in the home stretch and swerve in or out, or bear in or out, in a manner that interferes with another horse or causes that horse to change course or take back;

(11) drive in a careless or reckless manner;

(12) whip under the arch of the sulky;

(13) fail to set and maintain a proper pace while driving; or

(14) kick a horse. (Authorized by and implementing K.S.A. 1988 Supp. 74-8804(p); effective, T-112-7-27-89, July 27, 1989; effective Sept. 18, 1989.)

112-14-6. Harness race complaints. (a) Each complaint by a driver of foul driving or oth-

er misconduct during a heat or dash shall be made by the driver at its termination, unless the driver is prevented from making the complaint by an accident or injury. At the conclusion of each heat or dash, each driver shall return in the sulky to the starting gate to be dismissed by the stewards or the stewards' designee. Each driver desiring to enter a claim of a foul or other complaint of a violation of the rules shall:

(1) Before dismounting, indicate to the starter the driver's desire to enter the claim or complaint;

(2) upon dismounting, proceed to the telephone or stewards stand to make an objection; and

(3) inform the stewards of the name of the driver and the number of horses involved, if possible, and the location in the race where the foul occurred.

The stewards shall not cause the official sign to be displayed until the claim, objection or complaint has been entered and considered.

(b) After being dismissed by the stewards or starter, each driver shall return to the paddock and remain there until the race is made official. (Authorized by and implementing K.S.A. Supp. 1988 74-8804(p); effective, T-112-7-27-89, July 27, 1989; effective Sept. 18, 1989.)

112-14-7. Unsatisfactory harness race driving. Each heat in a race shall be run by every horse in the race and each horse shall be driven to the finish. If the stewards believe a horse has not been driven in the best interests of racing, the stewards may consider it a violation. In such cases, the driver and anyone who acted in concert with the driver to affect the outcome of the race or races may be fined or suspended by the commission. The stewards may substitute a competent and reliable driver at any time. Each substituted driver shall be paid at the direction of the stewards. If necessary, the fee shall be retained from the purse money earned by the horse, if any. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8816(f); effective, T-112-7-27-89, July 27, 1989; effective Sept. 18, 1989.)

112-14-8. Failure to finish a harness race. Each horse that fails to finish after starting in a heat shall be ruled out, unless the failure to finish is caused by interference or broken equipment. (Authorized by and implementing K.S.A. Supp. 1988 74-8804(p); effective, T-112-7-27-89, July 27, 1989; effective Sept. 18, 1989.)

112-14-9. Prohibited acts. (a) Loud shouting or similar conduct is forbidden in a race. After the word "go" is given, both feet of the driver shall be kept in the stirrups until after the finish of the race. Each driver shall have both feet in the stirrups when horses are parading to the post and during qualifying races.

(b) Whips shall not exceed four feet eight inches. Snappers shall not exceed eight inches. Brutal use of the whip shall be a violation punishable at the discretion of the commission by a fine or suspension, or both. Use of the butt-end of the whip shall be prohibited.

(c) Any person found guilty of removing or altering a horse's hobbles for the purpose of fraud may be fined or suspended by the commission. Each horse habitually wearing hobbles shall not be permitted to start in a race without them, except by the permission of the stewards. No horse shall wear a headpole protruding beyond its nose.

(d) If a horse breaks from its gait in trotting or pacing, the driver shall immediately take the horse to the outside where clearance exists and pull it to its gait.

(1) Any of the following may be considered a violation of these racing regulations:

(A) Failure to properly attempt to pull the horse to its gait;

(B) failure to take to the outside where clearance exists; or

(C) failure to lose ground by the break from the horse's gait.

(2) If there is no failure on the part of the driver in complying with subparagraphs (A), (B) or (C) above, the horse shall not be set back unless a contending horse on gait is lapped, or partly alongside, on the hind quarter of the breaking horse at the finish.

(3) The stewards may set any horse back one or more places if, in their judgment, any of the above violations has been committed, and the driver may be fined or suspended by the commission.

(4) If any horse breaks from its gait during any part of the race, and, in the opinion of the stewards, interferes with any horse or horses, the interference shall be a violation of these racing regulations. The interfering horse shall be placed behind all horses subject to the interference unless the driver of the horse or horses subject to the interference failed to exercise reasonable care to avoid the incident.

(e) If a driver allows a horse to break from its gait for the purpose of losing a heat or dash, the

driver may be set down by the stewards or suspended or fined by the commission or any combination of the three.

(f) It shall be the duty of one of the stewards to call out every break made from a horse's gait. The clerk shall at once note the break in writing.

(g) Horses called for a race shall have the exclusive right of the course, and all other horses shall vacate the track at once, unless permitted to remain by the stewards. (Authorized by K.S.A. 1988 Supp. 74-8804(p); implementing K.S.A. 1988 Supp. 74-8816(f); effective, T-112-7-27-89, July 27, 1989; effective Sept. 18, 1989.)

112-14-10. Driver safety standards. (a) Each driver shall wear a properly fastened safety helmet while driving a horse within the enclosure or while driving a horse in a race. All safety helmets shall be of a type and design approved by the commission.

(b) Each driver shall have on file at the commission racetrack office a record of an eye examination indicating at least 20/40 corrected vision in both eyes, or if one eye is blind, at least 20/30 corrected vision in the other eye.

(c) Each driver shall submit evidence, on request, of a physical examination conducted by a duly licensed physician approved by the commission within the immediately preceding year. (Authorized by and implementing K.S.A. Supp. 1988 74-8804(p); effective, T-112-7-27-89, July 27, 1989; effective Sept. 18, 1989.)

Article 15.—AWARD OF RESEARCH GRANTS

112-15-1. Definitions. (a) "Animal health officer" means the individual employed by the commission pursuant to K.S.A. 1989 Supp. 74-8806.

(b) "Commission" means the Kansas racing commission appointed by the governor pursuant to K.S.A. 1989 Supp. 74-8803.

(c) "Executive director" means the individual appointed by the governor pursuant to K.S.A. 1989 Supp. 74-8805.

(d) "Kansas greyhound breeding development fund" means the fund created by K.S.A. 1989 Supp. 74-8831.

(e) "Kansas horse breeding development fund" means the fund created by K.S.A. 1989 Supp. 74-8829.

(f) "Official registering agency" means:

(1) for horses, the agency designated by the commission pursuant to K.S.A. 1989 Supp. 74-8830 (b) and (c);

(2) for greyhounds, the agency designated by the commission pursuant to K.S.A. 1989 Supp. 74-8832 (b) and (c).

(g) "Program period" means the period for which each program is funded with monies from the Kansas horse breeding development fund or the Kansas greyhound breeding development fund, normally 12 months (one fiscal year) unless special consideration is requested and approved. (Authorized by K.S.A. 1989 Supp. 74-8804; implementing K.S.A. 1989 Supp. 74-8829 and 74-8831; effective Oct. 22, 1990.)

112-15-2. Application deadlines. (a) Grant proposals from interested applicants shall be solicited by the commission during the end of the preceding calendar year by publishing notice of the application deadlines and procedures in the Kansas register 60 days prior to receipt of the funds.

(b) Applications for grants shall be submitted to the executive director on or before January 15 following the end of each calendar year. Applicants demonstrating need to the satisfaction of the grant committee may be granted emergency funding at any time during the year provided funds are available.

(c) After the auditors determine the amount of the funds generated for the breed development funds allocated for research, the grant committee shall meet as necessary between January 15 and March 15 of the year following the year in which the funds were generated.

(1) The committee shall select the most worthy research projects for submission to the commission.

(2) The commission shall choose the projects to be funded on or before April 15 of the same year. (Authorized by K.S.A. 1993 Supp. 74-8804; implementing K.S.A. 74-8829, as amended by 1994 HB 3097, Sec. 3, and 74-8831; effective Oct. 22, 1990; amended Sept. 6, 1994.)

112-15-3. Application requirements. (a) Each grant application shall include:

- (1) a summary cover page;
- (2) a program narrative;
- (3) a budget narrative;
- (4) certified assurances;
- (5) an audit schedule; and
- (6) a designation of the applicant's EEO contact.

(b) Each summary cover page shall provide quick reference to important elements of the grant application.

(c) Each program narrative shall address:

- (1) needs assessment and documentation;
- (2) program expectations;
- (3) program methodology;
- (4) program monitoring and evaluations;
- (5) audit concerns; and
- (6) staffing patterns.

(d) Each grant application shall relate to research conducted within the state of Kansas:

- (1) for horses, through institutions of higher education under the state board of regents; and
- (2) for greyhounds, preferably through institutions of higher education under the state board of regents or in association with those institutions. (Authorized by K.S.A. 1993 Supp. 74-8804; implementing K.S.A. 74-8829, as amended by 1994 HB 3097, Sec. 3, and 74-8831; effective Oct. 22, 1990; amended Sept. 6, 1994.)

112-15-4. Application review. (a) Each grant application shall be evaluated using the following criteria:

- (1) the proposal's compliance with K.S.A. 1989 Supp. 74-8829(b)(5) or K.S.A. 1989 Supp. 74-8831(b)(2);
- (2) the quality of the needs assessment and documentation in terms of proposed benefits to the horse and greyhound racing industries in Kansas;
- (3) the record of successful implementation of research results in the breed industries by this or similar programs;
- (4) the degree of breed industry support for the program;
- (5) the adequacy of budget information;
- (6) the efficacy of evaluative components, both programmatic and fiscal;
- (7) any receipt of other financial assistance; and
- (8) any other criteria stated by the commission in the notice published pursuant to K.A.R. 112-15-2(d).

(b) The executive director may require an applicant to be present during the application review process to provide necessary clarification of the application. (Authorized by K.S.A. 1989 Supp. 74-8804; implementing K.S.A. 1989 Supp. 74-8829 and 74-8831; effective Oct. 22, 1990.)

112-15-5. Notification of decision. Each applicant applying for grant funds shall be notified in writing of the grant decision not later than 60

days after the date on which the application is reviewed, except that applicants applying for grant funds pursuant to subsection (b) of K.A.R. 112-15-2 shall be notified not later than 15 days after the date on which the application is reviewed. (Authorized by K.S.A. 1993 Supp. 74-8804; implementing K.S.A. 74-8829, as amended by 1994 HB 3097, Sec. 3, and 74-8831; effective Oct. 22, 1990; amended Sept. 6, 1994.)

112-15-6. Reporting requirements. (a) Each grant recipient shall submit to the executive director:

(1) bi-annual expenditure reports providing information on expenditures during the previous six-month period; and

(2) a program narrative report providing a narrative description of program activities during the program period.

(b) Each grant recipient shall submit a bi-annual expenditure report within 30 days after the close of each six month period, on June 30 and December 31.

(c) Each grant recipient shall submit a program narrative report within 30 days after the close of the calendar year.

(d) Each grant recipient shall submit to the executive director a sound research paper summarizing the research program and the results within 90 days after the close of the program period. Each research paper shall be prepared in a form suitable for publication.

(e) Each grant recipient shall submit to the executive director, at least 30 days before actual need, cash draw down reports to request advancement of approved grant funds.

(f) Each grant recipient shall maintain program receipts for a period of three years after the close of the program period. (Authorized by K.S.A. 1993 Supp. 74-8804; implementing K.S.A. 74-8829, as amended by 1994 HB 3097, Sec. 3, and 74-8831; effective Oct. 22, 1990; amended Sept. 6, 1994.)

112-15-7. Grant committees. (a) One committee of five persons, designated by the executive director, may assist the commission in determining research awards from the Kansas horse breeding development fund. The grant committee shall have a membership as follows:

- (1) One representative of the horse industry;
- (2) one representative of the official registering agency;

(3) one representative identified by the commission;

(4) the animal health officer; and

(5) the executive director, who shall chair the committee.

(b) One committee of five persons, designated by the executive director, may assist the commission in determining research awards from the Kansas greyhound breeding development fund. The grant committee shall have a membership as follows:

(1) One representative of the greyhound industry;

(2) one representative of the official registering agency;

(3) one representative identified by the commission;

(4) the animal health officer; and

(5) the executive director, who shall chair the committee. (Authorized by K.S.A. 1989 Supp. 74-8804; implementing K.S.A. 1989 Supp. 74-8829 and 74-8831; effective Oct. 22, 1990.)

Article 16.—SIMPLIFIED HEARING PROCEDURES

112-16-1. Definitions. (a) “Commission” means the Kansas racing commission.

(b) “Executive director” means the executive director of the commission.

(c) “Hearing body” means the commission when it conducts hearings that are not governed by the Kansas administrative procedure act and the board of stewards and the board of racing judges when they conduct hearings pursuant to K.S.A. 74-8816. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8804 and 74-8816 as amended by 1991 SB 375, Sec. 3; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991.)

112-16-2. Report of alleged violation. (a) Any person may file a report of alleged violation in any commission office.

(b) Any person reporting an alleged violation shall fully execute the report form available in commission offices. Incomplete forms shall not be accepted by commission personnel. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8804 and 74-8816 as amended by 1991 SB 375, Sec. 3; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991.)

112-16-3. Notice of alleged violation and hearing. (a) If disposition of the allegation raised

in the report may result in a fine, suspension, exclusion or expulsion from a racetrack facility, the hearing body shall provide the respondent 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 and an address and telephone number where the respondent may contact 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 in person or 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 K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8804 and 74-8816 as amended by 1991 SB 375, Sec. 3; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991.)

112-16-4. Waiver. Except to the extent precluded by another provision of law, a person may waive any right conferred upon that person by these racing regulations. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8804 and 74-8816 as amended by 1991 SB 375, Sec. 3; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991.)

112-16-5. Informal settlements. Nothing in these racing regulations shall preclude informal settlement of matters that may make a hearing unnecessary. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8804 and 74-8816 as amended by 1991 SB 375, Sec. 3; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991.)

112-16-6. 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 attor-

ney licensed to practice law in the state of Kansas in any evidentiary hearing conducted before the Kansas racing and gaming commission or its designated presiding officer or officers in accordance with the Kansas administrative procedure act, K.S.A. 77-501, et seq., or rules and regulations adopted by the commission pursuant to K.S.A. 1996 Supp. 74-8816(g) or K.S.A. 1996 Supp. 74-8836(k). 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 Kansas racing and gaming commission or its designated presiding officer or officers in accordance with the Kansas administrative procedure act, K.S.A. 77-501, et seq., or rules and regulations adopted by the commission pursuant to K.S.A. 1996 Supp. 74-8816(g) or K.S.A. 1996 Supp. 74-8836(k). The attorney shall represent the respondent at the respondent's own expense. (Authorized by K.S.A. 1996 Supp. 74-8804 and K.S.A. 77-515(c); implementing K.S.A. 1996 Supp. 74-8804, 74-8813, 74-8815, 74-8816, 74-8817, 74-8818 and 74-8837; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991; amended Sept. 19, 1997.)

112-16-7. Subpoenas, stewards' and racing judges' hearings. (a) Any party to a stewards' or racing judges' hearing may request that the executive director issue a commission subpoena in accordance with K.S.A. 1990 Supp. 74-8804(d).

(b) Subpoenas shall be served by a person designated by the executive director. Service shall be in person and at the expense of the requesting party. Proof of service shall be shown by affidavit.

(c) Subpoenas issued by the executive director may be enforced pursuant to the provisions of the Kansas parimutuel racing act. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8804 and 74-8816 as amended by 1991 SB 375, Sec. 3; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991.)

112-16-8. Presiding officer. (a) The chief steward or racing judge or chairman of the commission or another person designated by the hearing body may be the presiding officer.

(b) For stewards' and racing judges' hearings, if a substitute is required for a presiding officer or other member of the hearing body who is un-

available for any reason, the executive director may appoint a substitute. Any action taken by the duly appointed substitute is as effective as if taken by the unavailable member. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8804 and 74-8816 as amended by 1991 SB 375, Sec. 3; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991.)

112-16-9. Hearing procedure. (a) The presiding officer 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 is not required to prepare a transcript at its expense. Subject to such reasonable conditions as the presiding officer may establish, any party may cause a person other than the commission to prepare a transcript of the proceedings.

(e) The hearing is open to public observation, except for the parts that the presiding officer states to be closed pursuant to a provision of law expressly authorizing closure. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8804 and 74-8816 as amended by 1991 SB 375, Sec. 3; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991.)

112-16-10. Evidence. (a) A presiding officer need not be bound by technical rules of evidence, but shall give the parties reasonable opportunity to be heard and to present evidence, and the presiding officer shall act reasonably and without partiality. The presiding officer shall give effect to the rules of privilege recognized by law. Evidence need not be excluded solely because it 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. Upon request, parties shall be given an opportunity to compare the copy with the original if available.

(d) Official notice may be taken of:

(1) any matter that could be judicially noticed in the courts of this state; and

(2) the record of other proceedings before the stewards and racing judges or the commission. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8804 and 74-8816 as amended by 1991 SB 375, Sec. 3; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991.)

112-16-11. Orders. (a) Within a reasonable time after the hearing, the hearing body shall enter a written order.

(b) An 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 stewards' and racing judges' 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 stewards' and racing judges' 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) An 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 K.S.A. 1997 Supp. 74-8804; implementing K.S.A. 1997 Supp. 74-8816; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991; amended May 15, 1998.)

112-16-12. Service of order. (a) Service of an order shall be made upon the party and the party's attorney of record, if any, by delivering a copy of the order to the person to be served or by mailing a copy of the order or notice to the person at the person's last known address.

(b) Delivery means handing the order to the person or leaving the order at the person's principal

place of business or residence with a person of suitable age and discretion who works or resides therein.

(c) 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.

(d) Service by mail is complete upon mailing.

(e) 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 served by mail, three days shall be added to the prescribed period. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8804 and 74-8816 as amended by 1991 SB 375, Sec. 3; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991.)

112-16-13. Fines. Each fine ordered by the stewards and racing judges shall be due and payable in the commission office at the racetrack facility within 72 hours after service of the order imposing the fine, unless otherwise ordered by the stewards and racing judges. (Authorized by K.S.A. 1990 Supp. 74-8804; implementing K.S.A. 1990 Supp. 74-8804 and 74-8816 as amended by 1991 SB 375, Sec. 3; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991.)

112-16-14. Appeal, stewards' and racing judges' hearing. (a) Any order entered by the stewards or racing judges that imposes a fine or suspension shall be subject to appeal to the commission. Such an order shall be deemed to be an initial order under the Kansas administrative procedure act and any such appeal shall be treated as a petition for administrative review under the Kansas administrative procedure act.

(b) A party who wishes to appeal a stewards' or racing judges' order shall file a notice of appeal and brief form in the stewards' or racing judges' office during regular office hours within 72 hours after personal service of the order from which the party is appealing. If an order is served by mail, the party shall have an additional 72 hours in which to file a notice of appeal and brief form. For purposes of computing the timeliness of any service or filing made by mail, the service or filing shall be deemed complete as of 12:01 a.m. on the date mailed.

(c) Each notice of appeal and brief form shall be fully executed by the appealing party upon the form available in the stewards' or racing judges' office. Each notice of appeal and brief form 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 form shall constitute the appealing party's written brief under K.S.A. 1997 Supp. 77-527(e). An opposing party shall be afforded an opportunity to file a brief in response to the appealing party's brief within 72 hours following the filing of the appealing party's brief.

(e) Each notice of appeal form shall include a statement that, in reviewing any stewards' or racing judges' order:

(1) board decision-making powers may be exercised by the commission, one or more commissioners designated by the commission or a presiding officer designated by the commission; and

(2) in doing so, the order may be affirmed, reversed, remanded for further hearing, modified or any penalty may be increased 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, or one or more commissioners designated by the commission or a presiding officer designated by the commission, and an occupation license may be suspended or revoked or a fine of \$5000 may be imposed for each violation of the racing act or regulations, or both.

(f) Any order entered by the commission, one or more commissioners designated by the commission or a presiding officer designated by the commission, on an appeal from an order entered by the stewards or racing judges, shall constitute a final order pursuant to K.S.A. 1995 Supp. 77-527(f) for purposes of reconsideration under K.S.A. 77-529 or judicial review pursuant to the Kansas act for judicial review and civil enforcement of agency action, K.S.A. 77-601, *et seq.*

(g) A respondent may be deemed to have timely filed a notice of appeal pursuant to subsection (b) if, after service of the stewards' or racing judges' order, the respondent:

(1) within the appeal time described in subsection (b) of this racing 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 stewards' or racing judges' office; and

(2) within a period of time authorized by the chief steward or racing judge, fully executes and

files in the stewards' or racing judges' office the appeal form available in that office. (Authorized by K.S.A. 1995 Supp. 74-8804, as amended by L. 1996, Ch. 262, Sec. 2; implementing K.S.A. 1995 Supp. 74-8804, as amended by L. 1996, Ch. 262, Sec. 2, and 74-8816, as amended by L. 1996, Ch. 262, Sec. 6; effective, T-112-7-1-91, July 1, 1991; effective Oct. 21, 1991; amended Dec. 22, 1995; amended March 21, 1997.)

Article 17.—FAIR ASSOCIATION OR HORSEMEN'S NONPROFIT ORGANIZATION

112-17-1. Application procedure, fair association and horsemen's nonprofit organization applicant. (a) Any fair association, as defined in K.S.A. 74-8802(h), and horsemen's nonprofit organization, as provided in K.S.A. 74-8814, as amended, may apply to the commission for an organization license to conduct races on which parimutuel wagering is permitted.

(b) Each application shall be completed upon a form provided by the commission. If the applicant proposes to contract with a facility owner or facility manager, or both, to own or operate the racetrack facility, the completed organization applicant form shall accompany the facility owner and facility manager applications.

(c) Each application and any attached documents required by these regulations shall be submitted as a single package. An original and 10 copies of the application and documents shall be filed with the executive director at the commission offices. Each application shall be verified under oath by the authorized officer or officers of the applicant, and all copies shall be manually signed in ink.

(d) Unless otherwise directed by the commission, applications shall be filed with the commission not later than 120 calendar days prior to the first performance of the race meeting the applicant proposes to conduct.

(e) If the applicant proposes to construct a racetrack facility, a deposit as required by K.S.A. 74-8813(b), as amended by L. 1994, Ch. 146, Sec. 5, shall be paid in addition to the application fee and submitted with the application. The fee and deposit shall be paid in the form of a certified check or bank draft. Each applicant that is granted an organization license shall pay an application fee in the form of a certified check or bank draft as follows:

(1) for a license to conduct races with parimutuel wagering on not more than 11 days, \$50;

(2) for a license to conduct races with parimutuel wagering on at least 12 but not more than 21 days, \$100; and

(3) if the applicant is the Greenwood County fair association, a horsemen's nonprofit organization or the Anthony fair association, for a license to conduct races at Eureka Downs, Anthony Downs, or a racetrack facility on or adjacent to premises used by a fair association to conduct fair activities on more than 21 days as specified by the commission, \$500.

(f) Unless otherwise directed by the commission, the license fee required by K.S.A. 74-8814(a) for the initial race meeting shall be paid to the commission within 60 days after the granting of the applicant's organization license. Thereafter, the license fee shall be paid to the commission on or before a date that is 60 days before the first race conducted at the race meeting to which the license fee applies. (Authorized by K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; implementing K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8813, as amended by L. 1994, Ch. 146, Sec. 5, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; effective Nov. 30, 1992; amended July 10, 1995.)

112-17-2. Application form, fair association and horsemen's nonprofit organization applicant. (a) Each application for a fair association organization license or a horsemen's nonprofit organization license, as provided in K.S.A. 74-8814, as amended, shall contain the following:

(1) a description of the applicant's organizational structure, including:

(A) the applicant's full name;

(B) the applicant's business address and telephone number;

(C) if applicable, the date the applicant commenced operating a fair;

(D) current copies of the applicant's articles of incorporation, bylaws, rules and regulations or any other agreements or documents that create or govern the applicant's organization;

(E) a statement of good standing from the secretary of state;

(F) the full names, including any aliases or previous names, dates of birth and addresses of the applicant's officers. As to each officer, the appli-

cant shall disclose the nature and extent of any voting interest in the applicant; and

(G) the full names, including any aliases or previous names, dates of birth and addresses of any principal shareholder or principal member of the applicant. As to each member or shareholder, the applicant shall disclose the nature and extent of voting interest in the applicant.

(2) a statement whether the applicant is directly or indirectly controlled to any extent or in any manner by another individual or entity. If so, the applicant shall disclose the identity of the controlling entity and a description of the nature and extent of control;

(3) copies of any contracts, agreements or understandings that the applicant or any individual or entity identified pursuant to this regulation has entered into or proposes to enter into regarding applicant's race meeting. If the contract, agreement or understanding is an oral one, a written statement explaining the substance of the oral agreement shall be included;

(4) copies of any contracts, agreements or understandings that the applicant has entered into or proposes to enter into for the payment of fees, rents, salaries or other compensation by the applicant. If the contract, agreement or understanding is an oral one, a written statement explaining the substance of the oral agreement shall be included;

(5) a statement whether the applicant, or any director, officer, policy-making manager, principal shareholder or principal member owns or has owned any interest in any racing-associated or gambling-associated firm, partnership, association or corporation licensed by a governmental authority. If so, a description of the circumstances surrounding the interest or participation shall be provided, including the identity of the license or permit holder, the nature of the license or permit, the identity of the issuing authority and the dates of the issuance and any termination of the license or permit; and

(6) a statement whether the applicant, any officer, any director, any principal shareholder or any principal member has complied with and is in compliance with K.S.A. 1993 Supp. 74-8810.

(b) For purposes of this regulation a principal member or principal shareholder is one who owns an interest in the applicant of three percent or more.

(c) Each exhibit, statement, report, paper or other document submitted in support of the application shall be current, accurate and complete.

Any change shall be reported immediately to the commission during the period of application or licensure. At all times, a current copy of the documents supporting the application shall be recorded in the commission office. (Authorized by K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; implementing K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8813, as amended by L. 1994, Ch. 146, Sec. 5, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; effective Nov. 30, 1992; amended July 10, 1995.)

112-17-3. Site and physical plant, fair association and horsemen's nonprofit organization applicant. Each application for a fair association and horsemen's nonprofit organization license in which the applicant proposes to own or to construct a racetrack facility shall contain the following information: (a) the address, including the county and municipality, of the racetrack facility at which the applicant proposes to conduct racing;

(b) a site map that reflects existing and proposed highways and streets adjacent to the racetrack facility;

(c) a description of the grandstand, including the indoor and outdoor seating capacities, the location of food, drink and other concessions, the number and location of restrooms and the number and location of drinking fountains;

(d) the types of racing for which the facility is designed, whether greyhound or horse and, if horse, the breed of horse;

(e) racetrack dimensions by circumference, width, banking, location of starting gates or boxes, length of stretch, and type of surface, as well as a description of equipment that will be used to maintain the track surface. If the applicant proposes more than one racetrack, the applicant shall provide the details for each;

(f) for horse racetracks, a description of horse stalls which includes the dimensions, separation, location and total number of stalls;

(g) for greyhound racetracks, a description of facilities to accommodate greyhounds which includes the location, number, method of construction and size of crates, as well as the location, size and number of any turnout pens;

(h) as directed by the commission, a description of testing facilities;

(i) for horse racetracks, a description of the jockeys' and drivers' quarters which includes changing

areas and a listing of any equipment to be located in the quarters;

(j) a description of the totalisator system, including the approximate location of bettors' windows, the money room, totalisator equipment and, if known, the identity of the totalisator provider;

(k) a description of the parking, including the road surface on the parking areas, the distance between parking and the grandstand, the access to parking from surrounding streets and highways and the number of public and other parking spaces available;

(l) a description of any improvements and equipment to be used for security, fire and safety purposes, including the identity of the provider of the equipment, if known;

(m) a description of the starting, timing video replay and photo finish equipment, including the provider of the equipment, if known; and

(n) a description of the work areas to be used by the commission, its employees and agents. (Authorized by K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; implementing K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8813, as amended by L. 1994, Ch. 146, Sec. 5, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; effective Nov. 30, 1992; amended July 10, 1995.)

112-17-4. Financial resources, fair association, and horsemen's nonprofit organization applicant. Each application for a fair association or horsemen's nonprofit organization license in which the applicant proposes to own or to construct a racetrack facility shall contain the following information concerning the applicant's financial resources: (a) A financial statement that reflects the applicant's current assets, including investments, loans, and advances receivable; and

(b) fixed assets and current liabilities, including loans and advances payable, long-term debt, and equity. (Authorized by K.S.A. 2000 Supp. 74-8804 and 74-8814; implementing K.S.A. 2000 Supp. 74-8804, 74-8813, as amended by L. 2001, Ch. 5, Sec. 342, and 74-8814; effective Nov. 30, 1992; amended July 10, 1995; amended Nov. 16, 2001.)

112-17-5. Financial plan, fair association and horsemen's nonprofit organization applicant. Each application for a fair association or horsemen's nonprofit organization license in

which the applicant proposes to own or to construct a racetrack facility shall contain the following information concerning the applicant's financial plan: (a) financial projections for each of the first and the next three racing years, with separate schedules based upon the number of racing days and types of parimutuel wagers the applicant requires to break even and the optimum number of racing days and types of wagers applicant requests for each year;

(b) statements disclosing the following assumptions:

- (1) average daily attendance;
- (2) average daily per capita handle and average wager;
- (3) retainage;
- (4) admissions to the racetrack, including paid and free admissions;
- (5) parking volume, fees and other revenues;
- (6) concessions and program sales;
- (7) purses;
- (8) parimutuel expense;
- (9) breed funds;
- (10) payroll including reimbursement to the commission as authorized by the act;
- (11) operating supplies and services;
- (12) utilities;
- (13) repairs and maintenance;
- (14) insurance;
- (15) membership expense;
- (16) security expense;
- (17) legal and audit expense; and
- (18) debt service.

(c) statements disclosing the following projected profit and loss elements:

- (1) total revenue, including projected revenues from retainage and breakage, admissions, parking, concessions and program operations;
- (2) total operating expenses, including projected anticipated expenses for the following:
 - (A) purses;
 - (B) parimutuel;
 - (C) state and local taxes;
 - (D) breed funds;
 - (E) cost of concession goods and programs;
 - (F) advertising and promotion;
 - (G) payroll;
 - (H) operating supplies and service;
 - (I) maintenance and repairs;
 - (J) security; and
 - (K) legal and audit; and
- (3) nonoperating expenses, including anticipated expenses for debt service, facility depreciation and

identification of the method used, and equipment depreciation and identification of the method used;

(d) statements disclosing the projected cash flow, including an assessment of:

(1) income, including equity contributions, debt contributions, interest income and operating revenue; and

(2) disbursements, including land, improvements, equipment, debt service, operating expense and organizational expense; and

(e) a disclosure of the projected balance sheets as of the end of any development period and the first and the next three racing years setting forth current, fixed and other noncurrent assets, current and long-term liabilities, and capital accounts. (Authorized by K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; implementing K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8813, as amended by L. 1994, Ch. 146, Sec. 5, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; effective Nov. 30, 1992; amended July 10, 1995.)

112-17-6. Governmental actions, fair association and horsemen's nonprofit organization applicant. Each application for a fair association or horsemen's nonprofit organization license in which the applicant proposes to own or to construct a racetrack facility shall contain the following information concerning governmental actions: (a) a statement that the applicant is not required to secure any governmental approval for the ownership, operation or development of the racetrack facility; or

(b) a statement disclosing any required governmental approvals for the ownership, operation or development of the racetrack facility, including:

(1) a description of the approval, the unit of government involved, the date of the approval and documentation of it;

(2) a statement whether public hearings were held. If they were, the applicant shall disclose when and where the hearings were conducted. If they were not held, the applicant shall disclose why they were not held; and

(3) a statement whether the unit of government involved attached any conditions to the approval. If so, the applicant shall disclose the conditions, including documentation; and

(4) a statement whether any required governmental approvals remain to be obtained, as well as a description of the approval, the unit of government

involved, the status of the approval, the likelihood of the approval and the expected date of approval;

(c) a statement whether the racetrack facility complies with all statutes, charter provisions, ordinances and regulations pertaining to the ownership, operation and development of a racetrack facility. If not in compliance, the applicant shall disclose the reasons why it is not; and

(d) a statement whether a majority of qualified electors in the named county approved either:

(1) the constitutional amendment permitting the conduct of horse and greyhound races and parimutuel wagering; or

(2) a proposition permitting horse and greyhound races and parimutuel wagering within the county boundaries. The form of racing approved shall be stated. (Authorized by K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; implementing K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8813, as amended by L. 1994, Ch. 146, Sec. 5, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; effective Nov. 30, 1992; amended July 10, 1995.)

112-17-7. Development process, fair association and horsemen's nonprofit organization applicant. Each application for a fair association or horsemen's nonprofit organization license in which the applicant proposes to construct or to improve an existing racetrack facility shall contain the following information concerning the applicant's development process: (a) the total costs of construction of the facility, distinguishing between fixed costs and projections;

(b) a separate identification of the following costs, distinguishing between fixed costs and projections:

- (1) facility design;
- (2) land acquisition;
- (3) site preparation;
- (4) improvements and equipment, separately identifying the costs of the items listed in subparagraphs (e) through (n) of K.A.R. 112-17-3 and other categories of improvements and equipment;
- (5) interim financing;
- (6) permanent financing; and
- (7) organization, administrative, accounting and legal services.

(c) documentation of fixed costs;

(d) the schedule for construction of the facility including the estimated completion date;

(e) schematic drawings;

(f) copies of any contracts with and performance bonds from the:

(1) architect or other design professional;

(2) project engineer;

(3) construction engineer;

(4) contractor and subcontractor; and

(5) equipment procurement personnel; and

(g) a statement whether the site is owned or leased. If so, the applicant shall provide the documentation for the acquisition. If not, the applicant shall disclose what actions it must take to secure use of the site;

(h) a description of equity and debt sources of financing, including:

(1) with respect to each source of equity contribution, an identification of the source, amount, form, method of payment, nature and amount of present commitment, documentation and actions which the applicant will take to obtain more certain commitments and commitments for additional amounts; and

(2) with respect to each source of debt contribution, an identification of the source, amount, form, method of payment, nature and amount of present commitment, documentation and actions which the applicant will take to obtain more certain commitments and commitments for additional amounts; and

(i) an identification and description of the sources of additional funds, if needed, due to cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or any other cause. (Authorized by K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; implementing K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8813, as amended by L. 1994, Ch. 146, Sec. 5, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; effective Nov. 30, 1992; amended July 10, 1995.)

112-17-8. Management of racetrack facility, fair association and horsemen's nonprofit organization applicant. Each application for a fair association and horsemen's nonprofit organization license shall contain the following information concerning management of the facility: (a) a description of the applicant's management plan, including a budget and the identification of each management position by function, job description and qualification. The applicant shall include a

copy of an organization chart that depicts the chain of command for each management position;

(b) an identification of management personnel or volunteers and, to the extent known, for each:

(1) a legal name, any alias and any previous name;

(2) a current residence and business address and a telephone number for each;

(3) any qualification and experience in the following areas:

(A) general business;

(B) marketing, promotion and advertising;

(C) finance and accounting;

(D) horse or greyhound racing;

(E) parimutuel wagering;

(F) security; and

(G) human and animal health and safety; and

(4) a description of the terms and conditions of employment and a copy of any written agreement;

(c) an identification of consultants and other contractors, to the extent known, who have provided or will provide management-related services to the applicant, and, for each:

(1) a full name;

(2) a current address and telephone number;

(3) the nature of service provided;

(4) any qualification and experience; and

(5) a description of the terms and conditions of any agreement and a copy of any written agreement;

(d) a description of memberships in racing organizations held by the applicant, its management personnel and its consultants;

(e) a description of the applicant's security plan, including:

(1) the number and deployment of security personnel serving the applicant during a race meeting;

(2) the specific security plans for the stable or kennel area, detention area, parimutuel areas, money room and other restricted areas;

(3) the specific security plans for detecting persons at the racetrack facility who are subject to the provisions of K.S.A. 1993 Supp. 74-8804 (f) (1) through (3), as amended by L. 1994, Ch. 146, Sec. 3, or who have violated commission regulations or the racing act; and

(4) a description of the coordination of the security plan with other law enforcement agencies;

(f) a description of the applicant's plans for human health and safety, including emergencies;

(g) a description of the applicant's plans for animal health and safety, including provisions for maintenance of the racing surface and removal of injured racing animals from the track;

(h) a description of the applicant's marketing, promotion and advertising plans;

(i) a description of the applicant's plan for the conduct of racing, including types of racing, specific dates, number of races per day, post times and special events;

(j) a description of the applicant's plan for purses, including total purses, formula, stakes races and purse-handling procedures;

(k) a statement of the applicant's plan for furnishing the surety bond or other financial security required by K.S.A. 74-8813 (e), as amended by L. 1994, Ch. 146, Sec. 5;

(l) if wagering is to be conducted, a description of the applicant's plan for parimutuel wagering, including the number of line divisions, windows, selling machines and tellers, stating the uses and duties of each, and accounting procedures, stating any internal audit and supervisory controls;

(m) a description of the applicant's plan for concessions, including whether the licensee will operate the concessions and, if not, who will, to the extent known;

(n) a description of the applicant's plan for training its personnel; and

(o) a description of the applicant's plans for compliance with employment laws. (Authorized by K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; implementing K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8813, as amended by L. 1994, Ch. 146, Sec. 5, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; effective Nov. 30, 1992; amended July 10, 1995.)

112-17-9. Background investigations, fair association and horsemen's nonprofit organization applicants or licensees.

Any entity or individual identified for investigation in these regulations or found to be material to the operation of the race meeting shall submit to a background investigation conducted by the director of security, the director of the Kansas bureau of investigation or any other person designated by the commission. Each individual or entity identified in this regulation shall execute and verify a personal background disclosure form provided by the commission. The level of any background investigation may be designated by the commission. (Authorized by K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L.

1994, Ch. 146, Sec. 6; implementing K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; effective Nov. 30, 1992; amended July 10, 1995.)

112-17-10. Additional information, fair association and horsemen's nonprofit organization applicant or licensee. Any fair association and horsemen's nonprofit organization applicant or licensee may be required by the commission to submit additional information to facilitate the review of the initial license application and any subsequent review of a license by the commission. (Authorized by K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; implementing K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8813, as amended by L. 1994, Ch. 146, Sec. 5, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; effective Nov. 30, 1992; amended July 10, 1995.)

112-17-11. Financial audit, fair association and horsemen's nonprofit organization licensee. Any fair association or horsemen's nonprofit organization licensee may be required to file a financial audit in accordance with commission direction. If an audit is required by the commission, the licensee shall file the audit on or before 90 days after the end of the licensee's fiscal year. The licensee's audit shall be filed with the executive director at the commission office. (Authorized by K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; implementing K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8813, as amended by L. 1994, Ch. 146, Sec. 5, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; effective Nov. 30, 1992; amended July 10, 1995.)

112-17-12. Licensee file, fair association and horsemen's nonprofit organization licensee. (a) If the commission grants an organization license to a fair association or horsemen's nonprofit organization, each exhibit, statement, report, paper or other document submitted in support of the application shall be maintained in the licensee's file in the commission office.

(b) Any change in or supplement to the written or oral information reported to the commission

during the period of application or the period of licensure shall be reduced to writing and submitted to the commission office for filing in the licensee file. Each submission shall be made in a timely manner.

(c) At all times, a current copy of the documents supporting the original application and licensee file shall be recorded in the commission office. (Authorized by K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; implementing K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; effective Nov. 30, 1992; amended July 10, 1995.)

112-17-13. Testing for controlled substances, fair association and horsemen's nonprofit organization licensees. Any fair association and horsemen's nonprofit organization licensee and any officer, director and employee of the licensee may be required by the commission to submit to tests to determine whether they are users of any controlled substances. (Authorized by K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; implementing K.S.A. 1993 Supp. 74-8804, as amended by L. 1994, Ch. 146, Sec. 3, and K.S.A. 74-8814, as amended by L. 1994, Ch. 146, Sec. 6; effective Nov. 30, 1992; amended July 10, 1995.)

112-17-14. General regulation, county fair association and horsemen's nonprofit organization license order. (a) Unless otherwise provided by the commission in its organization license order, each county fair association and horsemen's nonprofit organization licensee shall conduct its race meeting in accordance with commission regulations governing:

- (1) occupation licenses;
- (2) racetrack officials;
- (3) rules of racing;
- (4) parimutuel wagering;
- (5) animal health;
- (6) security and safety;
- (7) breed programs;
- (8) harness racing; and
- (9) simplified hearings.

(b) Any county fair association or horsemen's nonprofit organization licensee may request exceptions from commission regulations. Each re-

quest shall be made in writing and addressed to the attention of the executive director at the commission office. Each request shall include a statement identifying each exception requested and, for each exception, the following:

(1) a citation to the specific regulation for which the exception is requested; and

(2) a statement of justification for the request, which details how the exception will facilitate less costly and simplified procedures and requirements for the race meeting as provided in K.S.A. 1991 Supp. 74-8814(c). (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2, and 74-8814, as amended by L. 1992, Ch. 286, Sec. 6; implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2, and 74-8814, as amended by L. 1992, Ch. 286, Sec. 6; effective Nov. 30, 1992.)

112-17-15. Distribution of monies from horse fair racing benefit fund. The procedure for distributing monies from the horse fair racing benefit fund shall be as follows: (a) Each applicant shall submit an application for funds to the commission which shall include:

(1) the name, address and telephone number of the applicant;

(2) the total amount of funds requested by the applicant, as well as a statement of justification for the request;

(3) the applicant's tax identification number;

(4) the applicant's proposed budget for the race meeting covered by the application;

(5) a detailed narrative, including invoices and receipts, specifically identifying the amount of funds requested by the applicant; and

(6) additional information as requested by the commission.

(b) Monies from the horse fair racing benefit fund shall be expended as follows:

(1) For administrative expenses reimbursable to the commission, which may include:

(A) the cost of stewards, racing judges, and assistant animal health officers performing services at the race meetings conducted by applicant;

(B) travel and lodging expenses of commissioners, commission employees or agents of the commission performing services at race meetings conducted by the applicant;

(C) lab fees; and

(D) such other administrative expenses as may be determined by the commission;

(2) for the cost of totalisator expenses incurred by the applicant;

(3) for the cost of background investigations of members of the applicant as required under the Kansas parimutuel racing act;

(4) for purse supplements at race meetings conducted by the applicant;

(5) for basic operating assistance grants to the applicant as determined by the commission; and

(6) for costs to the applicant for employment of key racing officials, as determined by the commission.

(c) Applications shall be submitted to the commission yearly, no later than December 31st of the calendar year preceding the race meeting for which funds are requested.

(d) Each application shall be reviewed and evaluated by commission staff for the purpose of making a recommendation to the commission.

(e) Each application shall be evaluated using the following criteria:

(1) The applicant's compliance with K.S.A. 74-8838;

(2) the adequacy of the detail in the application; and

(3) the quality of the justification stated in the application;

(f) Each applicant to whom funds are distributed shall provide audited financial statements within 60 days of the end of its fiscal year, including a statement of revenue and expenditures and a balance sheet. Within 45 days after the close of each race meeting, each applicant receiving funds shall provide payment documentation of the precise expenditures covered by the funds. (Authorized by K.S.A. 1995 Supp. 74-8838; implementing K.S.A. 1995 Supp. 74-8838; effective, T-112-6-29-93, June 29, 1993; effective Sept. 27, 1993; amended July 10, 1995; amended June 21, 1996.)

Article 18.—SIMULCASTING LICENSES

112-18-2. Application procedure for simulcasting applicant. (a) Any qualified organization licensee, as defined by 1992 SB 383, Sec. 2 may apply to the commission for a simulcasting license to display horse races or greyhound races, or both, on which parimutuel wagering is permitted.

(b) If the organization licensee is conducting races at a racetrack facility that is owned by a facility owner licensee, both licensees shall join in the application. Each application shall be verified

under oath by the authorized officer or officers of the applicants, and each original shall be manually signed in ink.

(c) Each application shall be completed in a form approved by the commission.

(d) Each application and any attached documents required by these regulations shall be submitted as a single package. An original and six copies of the application and documents shall be filed with the executive director at the commission offices.

(e) For the 1992 calendar year, each application for a simulcasting license shall be filed at a time established by the commission to facilitate the development of a simulcasting schedule for the initial year of implementation. Beginning with the 1993 calendar year, each application for a simulcast license shall be filed at least 45 days before the beginning of the calendar year.

(f) Each simulcasting license shall be granted only upon the condition that the holder and each of its officers, directors, employees and agents shall accept, observe and enforce the regulations of the commission.

(g) Each simulcasting license shall expire at midnight on December 31 of the calendar year for which it was granted.

(h) The receipt of a simulcasting license does not vest in the simulcasting licensee any right to a subsequent simulcasting license. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing L. 1992, Ch. 27, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-3. Application form for simulcasting applicant. (a) Each application for a simulcasting license shall contain the following:

(1) the name of the applicant or applicants, their business address or addresses, and their telephone number or numbers;

(2) the name, address, and telephone number of any individual who assisted the applicant or applicants in preparing their application;

(3) the written approval for the proposed simulcasting schedule from the recognized horsemen's group or the recognized greyhound owners' group, or both, as appropriate;

(4) for the calendar year, the proposed schedule of simulcast races or programs that the applicant or applicants plan to simulcast into the facility for as much of the calendar year as the respective

horsemen's group and greyhound owners' group have approved. The application shall state the proposed simulcasting schedule as approved by the respective horsemen's group and greyhound owners' group for the entire calendar year when it is filed with the commission;

(5) for the calendar year, the proposed schedule of races or programs that the applicant or applicants plan to simulcast from the racetrack facility to any other racetrack facility, intertrack wagering facility, or off-track wagering facility, and a list of such facilities for as much of the calendar year as the respective horsemen's group and greyhound owners' group have approved. The application shall state the proposed simulcasting schedule as approved by the respective horsemen's group and greyhound owners' group for the entire calendar year when it is filed with the commission;

(6) certification that the applicant or applicants will comply with any provision of the interstate horse racing act of 1978 (15 U.S.C. 3001, *et seq.*) as in effect December 31, 1991, and submit documentation of the compliance;

(7) certification that the applicant or applicants will comply with the 80% threshold requirement of K.S.A. 74-8836 for a live racing program if the applicant conducts fewer than 10 live horse races during any day or 13 live greyhound races during any performance;

(8) one copy of each contract or agreement that the applicant has executed or proposes to execute and any modification or proposed modification of each contract or agreement with regard to the simulcasting license or races or wagering on the simulcast races. If the contract or agreement is an oral one, a written statement explaining the substance of the oral agreement shall be included;

(9) the names and addresses of the parties to each contract or agreement identified in paragraph (8) and any relationship of the parties to the applicant, the partners, associates, officers, directors, and principal owners either through family, business association, or other control;

(10) any plan to participate in a combined wagering pool, including the following information:

(A) the time and date of the races or programs for which combined pooling is planned;

(B) a description of the totalisator services to be used by the guest facility and host facility;

(C) a description of the backup communication device or procedure that would be used to communicate wagering information between the

guest facility and host facility if the totalisator system or data line telephone system fails;

(D) a description of the data line or telephone line communication system to be used by the guest facility and the host facility;

(E) a description of the wagers that the applicant or applicants intend to offer on the races; and

(F) a description of the takeout rates requested for the combined wagering pool;

(11) a description of each special racing event that the applicant or applicants plan to simulcast;

(12) a statement describing how the granting of a simulcasting license to the applicant or applicants will enhance the breeding, owning, and training industries for horses or greyhounds; and

(13) a description of the impact that the proposed simulcasting will have on live racing and purses at the applicant's or applicants' racetrack facility.

(b) Each application shall describe the following factors, which may be considered by the commission in determining whether to grant or deny the application:

(1) the financial stability of the applicant or applicants and the effect that simulcasting will have on the economic viability of the applicant or applicants;

(2) the operating experience of the applicant or applicants;

(3) the regulatory compliance and conduct of the applicant or applicants; and

(4) the impact of the applicant's or applicants' proposed simulcasting on live racing and on purses at the racetrack facility.

(c) Upon receipt of a written request from an organization licensee, any facility owner, a recognized horsemen's group, or recognized greyhound group to submit a simulcasting dispute to the commission for determination pursuant to K.S.A. 74-8836(k), such proceedings shall be conducted by the commission in accordance with the Kansas administrative procedure act. (Authorized by and implementing K.S.A. 1996 Supp. 74-8804; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992; amended July 25, 1997.)

112-18-4. Special racing events. As used in these racing regulations, unless the context otherwise requires, special racing events are: (a) the breeders cup races;

(b) the breeders crown races;

(c) the breeders classic races;

(d) any event of the triple crown;

(e) the greyhound race of champions;

(f) any horse race with a purse of \$100,000 or more;

(g) any greyhound race with a purse of \$35,000 or more; or

(h) any grade I or II horse race. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing L. 1992, Ch. 27, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-5. Report of expenses and allocation of purse monies between horses and greyhounds. Within five days of the completion of any simulcast race or program, each simulcasting licensee shall report in writing the simulcast expenses and revenues or an estimate of the simulcast expenses and revenues to the inspector of parimutuels or his designee. Each report shall detail those expenses incurred by the licensee that are directly related to the simulcast race or program. Each report shall itemize the monies available for purses and how they will be allocated between horses and greyhounds. Immediately upon receipt of expense billings, each licensee shall submit to the inspector of parimutuels a written report of actual simulcast expenses for those expenses previously estimated. Each licensee shall reconcile estimated and actual expenses weekly. Each report of expenses and allocation of purse monies shall be subject to audit by the commission. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing L. 1992, Ch. 27, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-6. Expenses. (a) For simulcasting, expenses shall include:

(1) the actual amount paid by a simulcasting licensee to a racetrack for the use of its simulcast race or program;

(2) the actual amount paid by a simulcasting licensee for a decoder to descramble a simulcast signal received from a satellite. If a decoder is used for more than one race or program, the expense shall be prorated;

(3) the actual cost of installation for data lines for the purpose of combined wagering pools, prorated over a one-year period beginning with the first race or program in which the licensee participates in a combined wagering pool;

(4) the actual amount paid by the licensee for accounting services, wire transfer or like services approved by the executive director for the reconciliation of accounts, if the licensee participates in a combined wagering pool;

(5) the actual cost of a facsimile machine to be located in the totalisator room for the purpose of backup communication and manual merging, prorated when the licensee participates in a combined wagering pool and depreciated over not fewer than three years;

(6) the actual cost of one satellite receiving dish for receiving simulcast races, prorated per race or program and depreciated over not fewer than five years;

(7) the actual costs paid by the simulcasting licensee for long distance telephone service, for any dial-up computer phone lines and calls, for long distance telephone service for facsimile transmissions necessary for a combined wagering pool or for calls to the sending or host track's stewards' or judges' stand, mutuel room, totalisator room or track management offices as part of a simulcast race or program;

(8) the actual cost paid by a simulcasting licensee for totalisator interface fees for a simulcast race or program;

(9) the actual cost paid by a simulcasting licensee for additional video fees incurred to provide patron information for a simulcast race or program;

(10) the actual cost paid by the simulcasting licensee to the racing form or like entity to acquire information on past performance lines;

(11) the actual totalisator cost paid by the simulcasting licensee for the additional handle created by the simulcast race or program; and

(12) other costs, if the commission grants prior approval for the costs.

(b) Expenses claimed by the licensee shall not exceed the revenues received by the licensee for a simulcast race or program. No licensee shall carry-over expenses from one simulcast race or program to a future simulcast race or program. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing L. 1992, Ch. 27, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-7. Changes to approved simulcasting schedule. Any simulcasting licensee may apply to the commission or the executive director for changes in its approved simulcasting schedule.

Each application for change in schedule shall be submitted 24 hours before the proposed simulcast race or program that is subject of the change. Each application shall state the reasons for the proposed change and shall include approval from the respective greyhound owners' group or recognized horsemen's group, or both, as appropriate. Each condition of a simulcasting license shall apply to any change in the simulcasting schedule. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3 and L. 1992, Ch. 286, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-8. Fee for simulcasting race or performance. There shall be no additional race day fee for simulcast races or programs conducted on the same day as live races. Each simulcast race or program displayed on a day when live races are not conducted shall constitute a race day, and each simulcasting licensee shall pay a license fee for the simulcasting race day that is identical to the license fee it pays for a live racing day. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2, and implementing K.S.A. 1991 Supp. 74-8813(g), as amended by L. 1992, Ch. 27, Sec. 5; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-9. Duties of receiving facility. (a) A simulcasting licensee that conducts parimutuel wagering on a simulcast race or program shall act as a receiving facility on those dates. Each receiving facility shall provide communication facilities, which shall include all wire, radio, optical, satellite, and other electromagnetic systems used to receive audio and visual transmissions between the sending racetrack, host facility, and receiving facility.

(b) Before the beginning of the transmission of the first simulcast race or program of each day, each receiving facility shall initiate a test program of its receiver, decoder, and data communication to ensure the proper operation of the system. If a test program run under this subsection is unsuccessful or indicates a malfunction of any component of the receiving system, the licensee shall not conduct parimutuel wagering on a simulcast race or program until a successful test program is completed.

(c) After each simulcast race or program, each receiving facility shall provide the reports of its

parimutuel operations as required by K.A.R. 112-9-8 for both simulcast and live races. (Authorized by and implementing K.S.A. 74-8804 and 74-8836; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992; amended Sept. 6, 1994; amended Oct. 17, 2003.)

112-18-10. Duties of sending racetrack.

(a) A simulcasting licensee that simulcasts races conducted by the licensee acts as a sending racetrack on the dates the races or program are conducted and simulcast.

(b) Each sending racetrack shall be responsible for the content of the simulcast and shall use all reasonable efforts to present a simulcast which offers the viewers an exemplary depiction of the performance, continuity of programming between racing events, and, if it is also acting at the host facility for a combined wagering pool, a periodic display of wagering information.

(c) Each sending racetrack shall provide transmission equipment of acceptable broadcast quality that does not interfere with the closed-circuit television system of the receiving location.

(d) The commission may require a simulcasting licensee to scramble its signal. If so required, each simulcast shall be encrypted using a time displacement decoding algorithm encryption system or an equivalent encryption system approved by the commission.

(e) Unless otherwise permitted by the commission, each simulcast must contain in its video content:

- (1) the date;
- (2) a digital display of the actual time of day at the sending racetrack;
- (3) the name of the sending racetrack;
- (4) the number of the race being displayed; and
- (5) any other relevant information available to patrons at the host racetrack.

(f) Before the beginning of the transmission of the first simulcast race or program of each day, each sending racetrack shall initiate a test program of its transmitter, encryption equipment and data communication to ensure proper operation of the system. If a test program run under this subsection is unsuccessful or indicates a malfunction of any component of the sending racetrack's system, the simulcasting licensee shall not transmit any races until a successful test program is completed. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implement-

ing L. 1992, Ch. 27, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-11. Procedures for lost video signal. (a) A simulcasting licensee shall not merge wagers on a simulcast race until the simulcasting licensee is receiving the video signal from the sending racetrack. If the signal is not received, the simulcasting licensee shall establish a telephone linkup with the sending racetrack's stewards, racing judges, or simulcast official and shall announce to the patrons all pertinent information.

(b) If the simulcasting licensee loses the video signal from the sending racetrack, the simulcasting licensee shall immediately notify the sending racetrack of the lost signal.

(c) If the video signal is lost after wagering has commenced, wagering shall be suspended while it is determined if the signal can be reestablished. An announcement shall be made to the patrons advising them that wagering has been temporarily suspended due to video problems. The results and prices of each race that goes post while the signal is lost shall be received through the tote linkup. An announcement of the results shall be made to the patrons.

(d) If the video signal cannot be reestablished, the simulcast licensee shall cease accepting wagers. The licensee may order a refund of all monies wagered on future races, or at the determination of the mutuel manager, the outstanding wagers on future races may remain in the system. If the decision is made to keep outstanding wagers in the system, a ticket list shall be run showing all outstanding wagers on the remainder of the performance. The mutuel manager shall verify the prices and results of all races in which there are outstanding wagers, and the results of these races shall be announced to the patrons.

(e) If the licensee loses the video signal as described above in subsection (c) or (d), the licensee shall file a written report with the inspector of parimutuels.

(f) Wagers that encompass more than one race shall be unaffected by signal problems encountered in any race of the sequence other than the first. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8836; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992; amended Sept. 6, 1994; amended Jan. 11, 2002; amended Oct. 17, 2003; amended Jan. 18, 2008.)

112-18-12. Combined wagering pools, general provisions. (a) With the prior approval of the commission, parimutuel pools offered by a simulcasting licensee that participates in a simulcast may be combined with corresponding wagering pools offered by the other racetracks or facilities that participate in the simulcast to form a combined wagering pool.

(b) Each contract governing participation in a combined wagering pool shall be submitted to the commission for approval in accordance with K.A.R. 112-18-3(a)(8).

(c) In determining whether to approve an interstate combined wagering pool that does not include the sending racetrack, the commission shall consider, and may approve, the use of a wager that is not used at the sending racetrack.

(d) Any wager that has been approved for the use of the simulcasting licensee may be offered, although types of pools that require more races than those included in the simulcast may not become part of the combined wagering pool.

(e) The content and format of the visual display of racing and wagering information at facilities in other racing jurisdictions in an interstate combined wagering pool need not be identical to the information required to be displayed by these racing regulations. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-13. Formation of combined wagering pool. (a) Wagering data shall be transmitted through one of the methods authorized by this paragraph in the following order of preference:

- (1) via a dedicated leased line data circuit;
- (2) via a dial-up data circuit;
- (3) via teletype or facsimile machine on a separate telephone line; or
- (4) by voice via cellular or dial-up telephone.

(b) Each guest and host facility shall have adequate equipment to transmit the wagering data by any of the methods listed in paragraph (a) of this regulation.

(c) Except as otherwise provided in this paragraph, the odds and prices for a combined wagering pool shall be calculated in accordance with the laws of the jurisdiction where the host facility is located. In determining the amount distributable to the wagerers, each simulcasting licensee shall use the total takeout required in the jurisdiction

where the host facility is located except as provided in 1992 SB 383, Sec. 2(j)(2). The simulcasting licensee may use the net pool pricing method for determining the payoff prices.

(d) Each simulcasting licensee shall ensure that the necessary records are maintained regarding the amounts wagered at its racetrack for accounting, auditing and reporting purposes. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-14. Distribution of combined wagering pools. (a) Each wager is made at the point of sale in the state where the wager is placed.

(b) Each payoff attributable to the simulcasting licensee shall be based on the actual winnings indicated by the totalisator wagering data.

(c) Each total takeout applicable to the wagers received in this state for a combined wagering pool shall be distributed in accordance with the Kansas parimutuel racing act. Each gain or loss caused by a difference in takeout totals shall be part of the simulcasting licensee's revenue or expense from the interstate simulcast.

(d) Each surcharge or other withholding, other than the takeout authorized by law, shall be applied only in the jurisdiction imposing the surcharge or withholding. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; and implementing K.S.A. 1991 Supp. 74-8823, as amended by L. 1992, Ch. 27, Sec. 10; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-15. Breakage, interstate combined wagering pool. The ratio of each simulcasting licensee's allocation of the breakage to the total breakage in an interstate combined wagering pool shall be equal to the ratio of the dollars contributed to the combined wagering pool from the simulcasting licensee to the total amount of the combined wagering pool. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-16. Report to commission, combined wagering pool. Each simulcasting licens-

ee participating in a combined wagering pool shall submit to the commission a report on the pool not later than the close of the next business day after the date of the race or program for which the pool was formed. Each report shall contain:

- (1) the total amount of the combined wagering pool;
- (2) the total amount of the combined wagering pool generated by wagers received in this state;
- (3) the total winnings for the combined wagering pool;
- (4) the total winnings attributable to wagers received in this state;
- (5) the total commission derived from the combined wagering pool; and
- (6) the total commission derived from the simulcasting licensee's share of the combined wagering pool. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-17. Manual merge. (a) If the guest facility's computer system fails to adequately transmit wagering data to the host facility, and a manual merge will not endanger the pools at the host facility, the host facility may manually merge the pools.

(1) To merge the pools manually, each guest facility's parimutuel representative shall notify the host facility via telecopy or facsimile machine of:

- (A) the total amount in the pool;
- (B) the total dollars on winning wagers;
- (C) the total dollars on the losing wagers in the pool.

(2) For purposes of declaring the race official, the following individuals shall be notified when the procedure is complete:

(A) the stewards, racing judges or simulcast official at the sending racetrack; and

(B) the stewards, racing judges or simulcast official at both the host facility, if different from the sending racetrack, and guest facility. (Authorized by and implementing K.S.A. 1993 Supp. 74-8804; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992; amended Sept. 6, 1994.)

112-18-18. Failure to merge. (a) Except as otherwise provided by this regulation, if it becomes impossible to successfully merge a guest facility's wagers in the combined wagering pool, the

simulcasting licensee may either order a refund of all monies wagered or calculate the pool as a separate pool to be distributed in accordance with the Kansas parimutuel racing act, including take-out. However, each pool containing a carryover feature or a type of wager not available in Kansas shall be refunded.

(1) As soon as failure to merge is acknowledged, a parimutuel representative at the guest facility shall notify the simulcast coordinator.

(2) The simulcast coordinator shall immediately make an announcement to the patrons via intercom or TV monitors, explaining the circumstances.

(b) Each simulcast licensee shall be required to advise patrons of its failure-to-merge policy by prominently displaying notice in the wagering areas, other special patron areas, and the official racing program.

(c) Each contract for combined wagering pools entered into by a simulcasting licensee shall contain a provision stating that the simulcasting licensee is not liable for any measures taken that could result in a guest facility's wagers not being accepted into a combined wagering pool formed by the licensee if either of the following occurs:

(1) It becomes impossible to successfully merge the wagers placed in another state in the combined wagering pool formed by the simulcasting licensee.

(2) The commission's or simulcasting licensee's representative determines that attempting to transfer pool data from the guest facility will endanger the simulcasting licensee's wagering pool. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8836; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992; amended Sept. 6, 1994; amended Oct. 17, 2003.)

112-18-19. Responsibility for the accuracy of transmitted wagering data. The accuracy of all transmitted wagering data shall be the responsibility of the host facility. Responsibility will shift to a guest facility if the transmission of incorrect data would have been detected had the guest facility properly confirmed the transmitted check sum. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-20. Accuracy of payoffs. The simulcast licensee may delay paying mutuel tickets until the accuracy of the payoffs is confirmed. (Authorized by and implementing K.S.A. 1993 Supp. 74-8804; effective Sept. 6, 1994.)

112-18-21. Election and recognition of recognized greyhound owners' group. (a) Each recognized greyhound owners' group for each racetrack facility licensed by the Kansas racing and gaming commission shall be elected pursuant to K.S.A. 74-8802(ff), and amendments thereto.

(b) Each recognized greyhound owners' group shall be duly recognized by the commission before assuming any duties concerning the approval of any simulcast schedule proposed by an organization licensee.

(c) Only one group for greyhound owners as appropriate for each race meeting shall be recognized by the commission for the purpose of serving at each racetrack facility.

(d) Each recognized greyhound owners' group shall be responsible for performing the following:

(1) Negotiating agreements pertaining to simulcast license applications;

(2) signing simulcast license applications pursuant to K.S.A. 74-8836(d)(2), and amendments thereto; and

(3) determining how the purse money will be distributed for horse and greyhound purses pursuant to K.S.A. 74-8836(g)(3) and (4), and amendments thereto.

(e) Each recognized greyhound owners' group shall consist of five individuals elected in accordance with this regulation.

(f) Elections for recognized greyhound owners' groups shall commence on August 1 of each odd-numbered year unless held sooner according to the provisions of subsection (k) of this regulation.

(g) Except as otherwise provided in this regulation or by commission order, each member of a greyhound owners' group shall serve a term of two years, commencing on October 1 of the year in which the recognized greyhound owners' group is elected, and ending on September 30 of the next odd-numbered year or until the member's successor has been duly elected and recognized by the commission after the commission is presented with a petition in accordance with subsection (k) of this regulation.

(h) To be eligible to vote in the election process at the racetrack facility where the recognized greyhound owners' group is to serve, a voter shall

have been a licensed greyhound owner or kennel owner participating as an owner on and after December 1 of the year before the election and through July 31 of the election year, and shall have raced at that racetrack facility on and after January 1 and through July 31 of the election year.

(i) The procedure for conducting an election of a recognized greyhound owners' group shall be as follows:

(1) On August 1 of each odd-numbered year, a notice of elections to be held for a recognized greyhound owners' group for the racetrack facility in question shall be posted conspicuously by the commission or its designee, if any, pursuant to K.S.A. 74-8802(ff), and amendments thereto. The notice shall be posted throughout each racetrack facility, including the following:

(A) The racing office;

(B) the commission offices; and

(C) any other places greyhound owners are known to congregate. Notice of elections to be held may also be published in one or more greyhound parimutuel industry publications at the commission's direction.

(2) On August 1 of each odd-numbered year, the notice of elections to be held shall be mailed by the commission or its designee, if any, pursuant to K.S.A. 74-8802(ff), and amendments thereto, by depositing the notice in the United States mail, first-class postage prepaid, to each eligible voter at the eligible voter's last known address appearing in the records of the Kansas racing and gaming commission.

(3) Nominating petitions shall be made available by the commission or its designee, if any, pursuant to K.S.A. 74-8802(ff), and amendments thereto, for distribution to any eligible voter upon request in the Kansas racing and gaming commission office. The nominating petitions shall be in a form approved by the commission for the purpose of nominating individuals to stand for election to a recognized greyhound owners' group. The nominating petitions shall contain a statement signed by the nominee that the nominee agrees to perform the following:

(A) Serve as a member of the recognized group for which the nominee is standing for election;

(B) be reasonably available to attend meetings of the recognized group for which the nominee is standing for election;

(C) bargain in good faith as a member of the recognized group for which the nominee is standing for election; and

(D) obtain the signatures of three other eligible voters on the nominating petition.

(4) Nominating petitions for election to a recognized greyhound owners' group shall be returned to the Kansas racing and gaming commission office in Topeka by 12 o'clock noon of the third Friday following the first Monday in August following the posting of the notice of election required by paragraph (i)(1) of this regulation.

(5) After the close of the nominating period prescribed in paragraph (i)(4) of this regulation, the nominating petitions shall be reviewed by commission staff or its designee, if any, pursuant to K.S.A. 74-8802(ff) and amendments thereto, in accordance with procedures approved by the commission to confirm the following:

(A) That the signatures on the nominating petitions appear on the list of eligible voters in the records of the Kansas racing and gaming commission; and

(B) that the required number of signatures of eligible voters has been received by each nominee.

(6) Once the nominating petitions have been processed by the commission staff or its designee, if any, pursuant to K.S.A. 74-8802(ff), and amendments thereto, a ballot shall be prepared by the commission that shall include the following:

(A) A list of names of the duly nominated persons standing for election to the recognized group;

(B) a serial number;

(C) a statement that the voter shall vote for no more than five nominees;

(D) a statement that the five nominees receiving the highest number of votes from those voting in the election shall be elected to serve as the recognized greyhound owners' group for the racetrack facility at which the election is being conducted for the term provided in subsection (g) of this regulation;

(E) a statement that if one or more of the members elected to the recognized greyhound owners' group resigns or for any other reason fails to complete the term of service as provided in subsection (g) of this regulation, then the member or members shall be replaced by the nominee or nominees having received the next highest number of votes from those voting in the election. The nominee or nominees shall serve out the remainder of the term for any member or members who failed to complete the member's or members' term; and

(F) a statement that proxy voting shall not be permitted.

(7) On or before September 1 of each odd-numbered year following the preparation of the ballots as prescribed by paragraph (i)(6) of this regulation the following actions shall be performed by the commission or its designee, if any, pursuant to K.S.A. 74-8802(ff) and amendments thereto:

(A) Conspicuously post copies of the ballot clearly and indelibly marked "SAMPLE" throughout each racetrack facility, including the following:

(i) The racing office;

(ii) the commission offices; and

(iii) any other places greyhound owners are known to congregate; and

(B) mail official ballots to each voter who is eligible to vote, by depositing the ballot in the United States mail, first-class postage prepaid, to each voter's last known address as shown in the records of the Kansas racing and gaming commission.

(8) Ballots shall be returned to the Kansas racing and gaming commission office in Topeka by 12 o'clock noon of the third Friday following the first Monday in September following the posting of the sample ballot as required by paragraph (i)(7)(A) of this regulation.

(9) On the Wednesday following the deadline set out in paragraph (i)(8) above, an open meeting shall be convened by the commission chairperson, executive director, and general counsel at the commission offices, and the ballots shall be counted by these individuals.

(10) In the event of a tie in the number of votes received by one or more nominees, lots shall be cast to settle the election results.

(11) Ten days following the counting of the ballots or as soon thereafter as the commission meeting schedule will permit, a certificate of election shall be executed by the commission to each of the five nominees receiving the highest number of votes designating those nominees as duly elected members of a recognized greyhound owners' group having been elected in accordance with this regulation.

(j) Within 10 days following the counting of the ballots in any election held pursuant to this regulation, any commission staff member, nominee, or eligible voter may file a sworn complaint with the commission concerning the conduct in any election held pursuant to this regulation. A hearing shall be commenced by the commission upon the receipt of a complaint in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq. The filing of a complaint with the commission concerning the conduct in an election

held pursuant to this regulation shall not impair or inhibit the duly elected recognized group from functioning, pending resolution of the complaint.

(k) No election for a recognized greyhound owners' group that is conducted within 24 months of a prior election shall be recognized by the commission, except upon the filing of a petition with the commission to conduct a new election signed by at least 30 percent of the number of eligible voters that actually voted in the preceding election.

(l) Upon receipt of a petition for a new election signed by the required number of voters set out in subsection (k) above, an election for a new recognized greyhound owners' group shall be conducted by the commission as soon as practicable in accordance with this regulation. (Authorized by K.S.A. 1999 Supp. 74-8804; implementing K.S.A. 1999 Supp. 74-8802 and K.S.A. 1999 Supp. 74-8836; effective Nov. 1, 1996; amended Jan. 30, 1998; amended Aug. 25, 2000.)

112-18-22. Election and recognition of recognized horsemen's group. (a) Each recognized horsemen's group for each racetrack facility licensed by the Kansas racing and gaming commission shall be elected pursuant to K.S.A. 74-8802(gg) and amendments thereto.

(b) Each recognized horsemen's group shall be duly recognized by the commission before assuming any duties concerning the approval of any simulcast schedule proposed by an organization licensee.

(c) Only one group for horsemen as appropriate for each race meeting shall be recognized by the commission for the purpose of serving at each racetrack facility.

(d) Each recognized horsemen's group shall be responsible for performing the following:

(1) Negotiating agreements pertaining to simulcast license applications;

(2) signing simulcast license applications pursuant to K.S.A. 74-8836(d)(2), and amendments thereto; and

(3) determining how the purse money shall be distributed for horse and greyhound purses pursuant to K.S.A. 74-8836(g)(3) and (4) and amendments thereto.

(e) Each recognized horsemen's group shall consist of five individuals elected in accordance with this regulation.

(f) Elections for recognized horsemen's groups shall commence on August 1 of each even-

numbered year unless held sooner pursuant to the provisions of subsection (k) of this regulation.

(g) Except as otherwise provided in this regulation or by commission order, each member of a recognized horsemen's group shall serve a term of two years, commencing on October 1 of the year in which the recognized horsemen's group is elected, and ending on September 30 of the next even-numbered year or until the member's successor has been duly elected and recognized by the commission after the commission is presented with a petition in accordance with subsection (k) of this regulation.

(h) To be eligible to vote in the election process at the racetrack facility where the recognized horsemen's group is to serve, a voter shall have been licensed as a horse owner or trainer and have raced at that racetrack facility during the year preceding the election year.

(i) The procedure for conducting an election of a recognized horsemen's group shall be as follows:

(1) On August 1 of each even-numbered year, a notice of elections to be held for a recognized horsemen's group for the racetrack facility in question shall be posted conspicuously by the commission or its designee, if any, pursuant to K.S.A. 74-8802(gg), and amendments thereto. The notice shall be posted throughout each racetrack facility, including the following:

(A) The racing office;

(B) the commission offices; and

(C) any other places horsemen are known to congregate. Notice of elections to be held may also be published in one or more horse parimutuel industry publications at the commission's discretion.

(2) On August 1 of each even-numbered year, the notice of elections to be held shall be mailed by the commission or its designee, if any, pursuant to K.S.A. 74-8802(gg), and amendments thereto, by depositing the notice in the United States mail, first-class postage prepaid, to each eligible voter at the eligible voter's last known address appearing in the records of the Kansas racing and gaming commission.

(3) Nominating petitions shall be made available by the commission or its designee, if any, pursuant to K.S.A. 74-8802(gg), and amendments thereto, for distribution to any eligible voter upon request in the Kansas racing and gaming commission office. The nominating petitions shall be in a form approved by the commission for the purpose of nominating individuals to stand for election to a recognized horsemen's group. The nominating petitions shall

contain a statement signed by the nominee that the nominee agrees to perform the following:

(A) Serve as a member of the recognized group for which the nominee is standing for election;

(B) be reasonably available to attend meetings of the recognized group for which the nominee is standing for election;

(C) bargain in good faith as a member of the recognized group for which the nominee is standing for election; and

(D) obtain the signature of 10 other eligible voters on the nominating petition.

(4) Nominating petitions for election to a recognized horsemen's group shall be returned to the Kansas racing and gaming commission office in Topeka by 12 o'clock noon of the third Friday following the first Monday in August following the posting of the notice of election required by paragraph (i)(1) of this regulation.

(5) After the close of the nominating period prescribed in paragraph (i)(4) of this regulation, the nominating petitions shall be reviewed by the commission staff or its designee, if any, pursuant to K.S.A. 74-8802(gg), and amendments thereto, in accordance with procedures approved by the commission to confirm the following:

(A) That the signatures on the nominating petitions appear on the list of eligible voters in the records of the Kansas racing and gaming commission; and

(B) that the required number of signatures of eligible voters has been received by each nominee.

(6) Once the nominating petitions have been processed by the commission staff or its designee, if any, pursuant to K.S.A. 74-8802(gg), and amendments thereto, a ballot shall be prepared by the commission, which shall include the following:

(A) A list of names of the duly nominated persons standing for election to the recognized group;

(B) a serial number;

(C) a statement that the voter shall vote for no more than five nominees;

(D) a statement that the five nominees receiving the highest number of votes from those voting in the election shall be elected to serve as the recognized horsemen's group for the racetrack facility at which the election is being conducted for the term provided in subsection (g) of this regulation;

(E) a statement that if one or more of the members elected to the recognized horsemen's group resigns or for any other reason fails to complete the term of service as provided in subsection (g) of this regulation, then the member or members

shall be replaced by the nominee or nominees having received the next highest number of votes from those voting in the election. The nominee or nominees shall serve out the remainder of the term of any member or members who failed to complete the member's or members' term; and

(F) a statement that proxy voting shall not be permitted.

(7) The commission or its designee, if any, pursuant to K.S.A. 74-8802(gg), and amendments thereto, shall perform the following on or before September 1 of each even-numbered year following the preparation of the ballots as prescribed by paragraph (i)(6) of this regulation:

(A) Conspicuously post copies of the ballot clearly and indelibly marked "SAMPLE" throughout each racetrack facility, including the following:

(i) The racing office;

(ii) the commission offices; and

(iii) any other places horsemen are known to congregate; and

(B) mail official ballots to each voter who is eligible to vote, by depositing the ballots in the United States mail, first-class postage prepaid, to each voter's last known address as shown in the records of the Kansas racing and gaming commission.

(8) Ballots shall be returned to the Kansas racing and gaming commission office in Topeka by 12 o'clock noon of the third Friday following the first Monday in September following the posting of the sample ballot as required by paragraph (i)(7)(A) of this regulation.

(9) On the Wednesday following the deadline set out in paragraph (i)(8) above, the commission chairman, executive director, and general counsel shall convene an open meeting at the commission offices and count the ballots.

(10) In the event of a tie in the number of votes received by one or more nominees, lots shall be cast to settle the election results.

(11) Ten days following the counting of the ballots or as soon thereafter as the commission meeting schedule will permit, a certificate of election shall be executed by the commission to each of the five nominees receiving the highest number of votes designating those nominees as duly elected members of a recognized horsemen's group having been elected in accordance with this regulation.

(j) Within 10 days following the counting of the ballots in any election held pursuant to this regulation, any commission staff member, nominee, or eligible voter may file a sworn complaint with

the commission concerning the conduct in any election held pursuant to this regulation. A hearing shall be commenced by the commission upon the receipt of a complaint, in accordance with the Kansas administrative procedure act, K.S.A. 77-501 *et seq.* The filing of a complaint with the commission concerning the conduct in an election held pursuant to this regulation shall not impair or inhibit the duly elected recognized group from functioning pending resolution of the complaint.

(k) No election for a recognized horsemen's group that is conducted within 24 months of a prior election shall be recognized by the commission, except upon the filing of a petition with the commission to conduct a new election, signed by at least 30 percent of the number of eligible voters that actually voted in the preceding election.

(l) Upon receipt of a petition for a new election signed by the required number of voters set out in subsection (k) above, an election for a new recognized horsemen's group shall be conducted by the commission as soon as practicable in accordance with this regulation. (Authorized by K.S.A. 1998 Supp. 74-8804; implementing K.S.A. 1998 Supp. 74-8802 and K.S.A. 1998 Supp. 74-8836; effective Nov. 1, 1996; amended Feb. 11, 2000.)

Article 100.—GENERAL PROVISIONS AND DEFINITIONS

112-100-1. Definitions. In addition to the definitions in the Kansas expanded lottery act, the following terms as used in these regulations shall have the meanings specified in this regulation, unless the context requires otherwise: (a) "The act" means the Kansas expanded lottery act.

(b) "The commission" means the Kansas racing and gaming commission.

(c) "Executive director" means the executive director of the Kansas racing and gaming commission.

(d) "Facility manager" means a lottery gaming facility manager or racetrack gaming facility manager that is certified to operate a lottery gaming facility or racetrack gaming facility as indicated by a certificate issued by the commission.

(e) "Gaming facility" means a lottery gaming facility or a racetrack gaming facility.

(f) "Junket" means a promotional trip to a gaming facility that is partially or wholly funded by a facility manager.

(g) "Person" means any natural person, association, limited liability company, corporation, sole

proprietorship, partnership, or other legal entity. (Authorized by K.S.A. 2007 Supp. 74-8751 and 74-8772; implementing K.S.A. 2007 Supp. 74-8751; effective Sept. 26, 2008.)

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.)

112-100-3. Duty to submit to background investigations and to cooperate. (a) Each applicant for a certificate or license and each person whom the executive director determines to be subject to a background investigation pursuant to the act or these regulations shall complete any application or disclosure forms requested by the commission staff and shall submit to being fingerprinted.

(b) Each person that is subject to investigation shall have a duty to cooperate with the commission during any investigation and to provide the information that the commission requests. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective Sept. 26, 2008.)

112-100-4. Knowledge of the law and regulations. Each applicant, certificate holder, or licensee shall be responsible for knowing and complying with the applicable provisions of the act, these regulations, and each amendment to the law or regulations relating to the certificate or license. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective Sept. 26, 2008.)

112-100-5. Display of credentials. Each person who has been issued a current license, certificate, or temporary permit by the commission shall carry a commission-issued badge in a conspicuous manner while the person is working in a gaming facility. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective Sept. 26, 2008.)

112-100-6. Loss of badges. Each person who loses or destroys any commission-issued badge shall perform the following, no later than 24 hours after the loss or destruction: (a) Notify the commission licensing office at the gaming facility; and

(b) obtain a replacement badge. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective Sept. 26, 2008.)

112-100-7. Nontransferability. Each license, certificate, and badge issued by the commission shall be nontransferable. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective Sept. 26, 2008.)

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 non-refundable. (Authorized by K.S.A. 2007 Supp. 74-8751 and 74-8772; implementing K.S.A. 2007 Supp. 74-8734, 74-8741, 74-8751, and 74-8772; effective April 17, 2009.)

112-101-6. Disqualification criteria. (a) A facility manager's certificate shall be denied or revoked by the commission if the applicant or certificate holder itself has been convicted of any felony, crime involving gambling, or crime of moral turpitude.

(b) A certificate may be denied, suspended, or revoked by the commission, and a certificate holder may be otherwise sanctioned by the commission as specified in K.A.R. 112-113-1 if the certificate holder or its officers, directors, key gaming employees, or any person directly or indirectly owning an interest of at least 0.5% in the applicant meets any of the following conditions:

(1) Has any employees who have knowingly or negligently provided false or misleading material information to the commission or its staff;

(2) fails to notify the commission staff about a material change in the applicant's or certificate holder's application within seven days;

(3) is delinquent in paying for the cost of regulation, oversight, or background investigations required under the act or any regulations adopted under the act;

(4) has violated any provision of the act or any regulation adopted under the act;

(5) has failed to meet any monetary or tax obligation to the federal government or to any state or local government;

(6) is financially delinquent to any third party;

(7) has failed to provide information or documentation requested in writing by the commission in a timely manner;

(8) does not consent to or cooperate with investigations, inspections, searches, or having photographs and fingerprints taken for investigative purposes;

(9) has failed to meet the requirements of K.A.R. 112-101-4;

(10) has officers, directors, key gaming employees, or persons directly or indirectly owning an interest of at least 0.5% that have any present or prior activities, criminal records, reputation, habits, or associations meeting either of the following criteria:

(A) Pose a threat to the public interest or to the effective regulation of gaming; or

(B) create or enhance the dangers of unfair or illegal practices in the conduct of gaming; or

(11) has violated any contract provision with the Kansas lottery. (Authorized by and implementing K.S.A. 2009 Supp. 74-8751 and 74-8772; effective April 17, 2009; amended April 1, 2011.)

112-101-7. Certificate duration. Each certificate for a gaming manager shall be issued by the commission for no longer than two years and one month. Each certificate shall expire on the last day of the month of the anniversary date of issue. (Authorized by K.S.A. 2007 Supp. 74-8751

and 74-8772; implementing K.S.A. 2007 Supp. 74-8751; effective April 17, 2009.)

112-101-8. Certificate renewal. (a) Each renewal application for a facility manager's certificate shall be submitted to the commission staff at least 120 days before the expiration of the current certificate. Each certificate holder shall submit the renewal application on a commission-approved form along with any supporting documents.

(b) Each person seeking to renew its gaming certificate shall be required to meet all requirements for an initial gaming certificate.

(c) An applicant's timely submission of a renewal application shall suspend the expiration of the certificate until the commission has taken action on the application. This suspended expiration shall not exceed six months. (Authorized by K.S.A. 2010 Supp. 74-8751 and 74-8772; implementing K.S.A. 2010 Supp. 74-8751; effective April 17, 2009; amended Dec. 9, 2011.)

112-101-9. Notice of anticipated or actual change. (a) Each facility manager or applicant shall notify the commission in writing of any reasonably anticipated or actual change in its directors, officers, or key employees or persons directly or indirectly owning an interest of at least 0.5% in the facility manager or applicant.

(b) Each new director, officer, key employee, or person directly or indirectly owning an interest of at least 0.5% in the facility manager shall submit to a background investigation as specified in K.A.R. 112-101-3 before acting in the person's new capacity.

(c) Failure to comply with this regulation may result in a sanction as specified in K.A.R. 112-113-1. (Authorized by K.S.A. 2007 Supp. 74-8751 and 74-8772; implementing K.S.A. 2007 Supp. 74-8751; effective April 17, 2009.)

112-101-10. Advertising; promotion of responsible gaming. (a) As used in this regulation, the term "advertisement" shall mean any notice or communication to the public of any information concerning the gaming-related business of an applicant or facility manager through broadcasting, publication or any other means of dissemination. The following notices and communications shall be considered advertisements for purposes of this regulation:

(1) Any sign, notice, or other information required to be provided by the act or by regulation, including the following:

(A) Notices regarding the rules of the games;
(B) information about rules of the games, pay-offs of winning wagers, and odds;

(C) gaming guides;

(D) information imprinted upon gaming table layouts; and

(E) information imprinted, affixed, or engraved on slot machines or bill changers;

(2) any signs or other directional devices contained in a gaming facility for the purpose of identifying the location of authorized games; and

(3) press releases.

(b) Each facility manager and each applicant shall provide to the executive director any proposed advertisement that references the Kansas lottery at least seven business days in advance of its anticipated publication, broadcast, or other use. The advertisement may be inspected and 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 non-gaming suppliers for the previous month and cumulatively for the past 12 months.

(b) Each facility manager shall submit a monthly report to the commission listing all persons working in the gaming facility and any ancillary facilities and each person's department, job duty, and function.

(c) At the end of its tax year, each facility manager shall submit to the commission a copy of its certified financial statements, along with an opinion from a certified public accountant or independent registered certified public accounting firm certifying the total revenue from all lottery facility games.

(d) Each facility manager and each applicant for a gaming certificate shall disclose in writing within 11 days any material change in any information provided in the application forms and requested materials submitted to the commission. Each change in information that is not material shall be disclosed to the commission during the facility manager's subsequent application for renewal. For the purpose of this regulation, a change shall be deemed material if the change includes any of the following:

(1) The personal identification or residence information;

(2) the officers, directors, or key employees or any persons owning an interest of at least 0.5% in a lottery gaming facility or racetrack gaming facility manager; or

(3) other information that might affect an applicant's or facility manager's suitability to hold a gaming certificate, including any of the following occurrences that happen to the applicant, facility manager, or its material people as determined by the executive director pursuant to K.A.R. 112-101-3:

(A) Arrests;

(B) convictions or guilty pleas;

(C) disciplinary actions or license denials in other jurisdictions;

(D) significant changes in financial condition, including any incurrence of debt equal to or exceeding \$1,000,000; or

(E) relationships or associations with persons having criminal records or criminal reputations. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective April 17, 2009.)

112-101-16. Prohibitions. Each facility manager shall be prohibited from and subject to sanctions as specified in K.A.R. 112-113-1 for the following: (a) Failing to exercise discretion and judgment to prevent any incident that might adversely reflect on the reputation of the state of Kansas or act as a detriment to the development of the lottery industry, including allowing lewd entertainment at a gaming facility;

(b) failing to conduct advertising and public relations activities in accordance with honest and fair representation;

(c) knowingly or negligently catering to, assisting, employing, or associating with, either socially or in business affairs, persons who have a criminal reputation or who have felony police records, or

employing either directly through a contract or other means, any firm or individual in any capacity in which the reputability of the state of Kansas or the lottery industry is liable to be damaged because of the unsuitability of the firm or the individual;

(d) failing to conduct gaming in accordance with the act and these regulations or permitting conduct that could reflect negatively on the reputation of the state of Kansas or act as a detriment to the lottery industry;

(e) failing to report to the commission any known or suspected violations of commission regulations and applicable law;

(f) failing to comply with any regulation or order of the commission or its employees relating to gaming; and

(g) receiving goods or services from a person or business that does not hold a certificate under article 103 but is required to do so. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective April 17, 2009.)

Article 102.—GAMING SUPPLIER AND NON-GAMING SUPPLIER CERTIFICATION

112-102-1. Prohibition against 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, accessories, or items that meet at least one of the following conditions:

(A) Are designed for use in a gaming facility;

(B) are needed to carry out a lottery facility game;

(C) have the capacity to affect the result of the play of a lottery facility game; or

(D) have the capacity to affect the calculation, storage, collection, or control of the revenues from a gaming facility;

(2) provides maintenance services or repairs gaming equipment, including slot machines;

(3) provides services directly related to the management or administration of a gaming facility;

(4) provides junket services; or

(5) provides items or services that the commission has determined are used in or are incidental to gaming or to an activity of a gaming facility.

(b)(1) Any person that is not a gaming supplier but otherwise meets one or more of the following may be considered a non-gaming supplier:

(A) Acts as a manager of an ancillary lottery gaming facility;

(B) is not a public utility and provides goods or services to a facility manager or ancillary lottery gaming facility in an amount of \$250,000 or more within a one-year period; or

(C) provides goods or services to a gaming facility and could present a security, integrity, or safety concern to the gaming operations as determined by the executive director.

(2) A person that is any of following shall not be considered a non-gaming supplier:

(A) Regulated insurance company providing insurance to a facility manager, an ancillary lottery gaming facility, or the employees of either;

(B) employee benefit or retirement plan provider, including the administrator;

(C) regulated bank or savings and loan association that provides financing to a facility manager or ancillary lottery gaming facility; or

(D) professional service provider, including an accountant, architect, attorney, and engineer. (Authorized by and implementing K.S.A. 2015 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009; amended Dec. 9, 2011; amended July 15, 2016.)

112-102-3. Gaming and non-gaming supplier employees. Any employee or agent of a gaming or non-gaming supplier may be required by the commission to be separately investigated or licensed. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Aug. 14, 2009.)

112-102-4. Application for a certificate.

Each person that does not qualify for reciprocal certification under K.S.A. 74-8751(b), and amendments thereto, and any directives of the executive director and is seeking a gaming supplier certificate or a non-gaming supplier certificate shall submit the following to the commission staff:

(a) A completed application for the certificate on a commission-approved form;

(b) any supporting documents;

(c) a copy of the applicant's contractual agreement or statement of intent with a facility manager that the applicant expects to be supplying its goods or services. As a part of that contract or statement of intent, the applicant shall describe any arrangement it has made with the facility manager to cover the fees and costs incurred by the commission in performing the background investigation of the applicant pursuant to K.A.R. 112-102-7; and

(d) any other information that the commission deems necessary for investigating or considering the applicant. (Authorized by and implementing K.S.A. 2008 Supp. 74-8751; effective Aug. 14, 2009.)

112-102-5. Temporary supplier permit.

(a) The commission staff may issue a temporary supplier permit if all of the following conditions are met:

(1) The commission staff determines that the applicant has filed a completed application for a gaming or non-gaming supplier certificate.

(2) The applicant has no immediately known present or prior activities, criminal records, reputation, habits, or associations that meet either of these conditions:

(A) Pose a threat to the public interest or to the effective regulation of gaming; or

(B) create or enhance the dangers of unfair or illegal practices in the conduct of gaming.

(3) The applicant has completed a supplier-sponsored agreement with each gaming facility that the applicant proposes to conduct business with.

(b) A temporary supplier permit may be issued for a period not to exceed 90 days. Any temporary supplier permit may be extended by the commission's licensing staff for an additional 90 days.

(c) The issuance of a temporary supplier permit shall not extend the duration of the gaming or non-gaming supplier certificate for which the applicant has applied. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009.)

112-102-6. Affirmative duty to demonstrate qualifications.

Each applicant for a certificate as a gaming supplier or non-gaming supplier shall have an affirmative duty to the commission to demonstrate that the applicant, including the applicant's directors, officers, stockholders, and principal employees and any persons deemed

necessary by the executive director because of that person's relationship to the applicant, is qualified for certification. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009.)

112-102-7. Background investigations. (a) Each applicant and each person whom the executive director deems to have a material relationship to the applicant, including officers, directors, key gaming employees, and any persons known to directly or indirectly own an interest of at least 0.5% in the applicant, shall submit to a background investigation conducted by the commission's director of security or other person designated by the executive director.

For purposes of this regulation, a material relationship shall mean a relationship in which a person participates in the business decisions or finances of the applicant or can exhibit control over the applicant, as determined by the executive director.

(b) To determine the known owners as required in subsection (a), each applicant or certificate holder that is a publicly traded company or is owned by a publicly traded company shall rely on the publicly traded company's most recent annual certified shareholder list.

(c) Each applicant or certificate holder shall identify any passive investing company that owns between 0.5% and 10% as a candidate for completing a commission-approved institutional investor background form. (Authorized by and implementing K.S.A. 2008 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009.)

112-102-8. Disqualification criteria. (a) A certificate shall be denied or revoked by the commission if the applicant or certificate holder has been convicted of any felony, crime involving gambling, or crime of moral turpitude.

(b) A certificate may be denied, suspended, or revoked by the commission, and a certificate holder may be sanctioned by the commission under K.A.R. 112-113-1 if the certificate holder or its officers, directors, key gaming employees, or any person known to directly or indirectly own an interest of at least 0.5% in the applicant meets any of the following conditions:

(1) Has knowingly provided false or misleading material information through its employees to the commission or commission staff;

(2) fails to notify the commission staff about a

material change in the application within seven days;

(3) has violated any provision of the act or any regulation adopted under the act;

(4) has failed to meet any monetary or tax obligation to the federal government or to any state or local government;

(5) is financially delinquent to any third party;

(6) has failed to provide information or documentation requested in writing by the commission in a timely manner;

(7) does not consent to or cooperate with investigations, interviews, inspections, searches, or having photographs and fingerprints taken for investigative purposes;

(8) has failed to meet the requirements of K.A.R. 112-102-6;

(9) has any officers, directors, key gaming employees, or any person known to directly or indirectly own an interest of at least 0.5% in the applicant that has any present or prior activities, criminal records, reputation, habits, or associations meeting either of the following criteria:

(A) Pose a threat to the public interest or to the effective regulation of gaming; or

(B) create or enhance the dangers of unfair or illegal practices in the conduct of gaming; or

(10) has violated any contract with the Kansas lottery. (Authorized by and implementing K.S.A. 2009 Supp. 74-8751 and 74-8772; effective Aug. 14, 2009; amended April 1, 2011.)

112-102-9. Certificate duration. Each certificate for a gaming supplier or non-gaming supplier shall be issued by the commission for no longer than two years and one month. Each certificate shall expire on the last day of the month of the anniversary date of issue. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751; effective Aug. 14, 2009.)

112-102-10. Certificate renewal application. Each renewal application for a gaming or non-gaming supplier certificate shall be filed with the commission staff at least 120 days before the expiration date of the license. Each certificate holder shall submit the renewal application on a commission-approved form along with any supporting documents. An applicant's timely submission of a renewal application shall suspend the expiration of the certificate until the commission has taken action on the application. This suspended expiration shall not exceed six months. (Au-

thorized 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 complimentary, authorizing the complimentary, or determining the amount of complimentary;
- (8) analyzing facility manager operations data and making recommendations to key personnel of the facility manager relating to facility manager marketing, complimentary, gaming, special events and player ratings, and other similar items;
- (9) entering data into the gaming-related computer systems or developing, maintaining, installing, or operating gaming-related computer software systems;
- (10) collecting and recording patron checks and personal checks that are dishonored and returned by a bank;
- (11) developing marketing programs to promote gaming in the gaming facility;

(12) processing coins, currency, chips, or cash equivalents of the facility manager;

(13) controlling or maintaining the electronic gaming machine inventory, including replacement parts, equipment, and tools used to maintain electronic gaming machines;

(14) having responsibilities associated with the installation, maintenance, or operation of computer hardware for the facility manager computer system;

(15) providing surveillance in a gaming facility;

(16) providing security in a gaming facility;

(17) supervising areas, tasks, or staff within a gaming facility or ancillary lottery gaming facility operations; or

(18) any other person designated by the executive director.

(c) Each person who will be employed by or working for a facility manager or with an ancillary lottery gaming facility operator and who is not required under the act or these regulations to obtain a level I or level II occupation license shall obtain a temporary work permit or a level III occupation license. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective April 17, 2009; amended April 1, 2011.)

112-103-3. Temporary work permit. (a)

The commission staff may issue a temporary work permit to an applicant if both of the following conditions are met:

(1) The commission staff determines that the applicant has filed a completed application for a level I, level II, or level III occupation license.

(2) The applicant has no immediately known present or prior activities, criminal records, reputation, habits, or associations that meet either of these conditions:

(A) Pose a threat to the public interest or to the effective regulation of gaming; or

(B) create or enhance the dangers of unfair or illegal practices in the conduct of gaming.

(b) A temporary work permit may be issued for an initial period not to exceed 90 days. Any temporary work permit may be extended by the commission's licensing staff for an additional 90 days.

(c) The issuance of a temporary work permit shall not extend the duration of the level I, level II, or level III license for which the applicant has applied. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 17, 2009.)

112-103-4. Application for a license. Each applicant for a level I, level II, or level III occupation license shall submit a completed application on a commission-approved form to the human resources department of the facility manager with which the applicant seeks employment. The human resources staff shall ensure the form's completeness and shall submit the form to the commission's licensing staff. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective April 17, 2009; amended April 1, 2011.)

112-103-5. Applicant identification. (a) Each applicant shall have the responsibility to provide identification when submitting an application by presenting one of the following:

(1) A current and valid state-issued driver's license that has a photograph of the applicant on the license;

(2) documentation for American citizens or persons born in the United States that includes one or more of the following:

(A) A certified United States birth certificate;

(B) a certified birth certificate from a United States territory;

(C) a current and valid United States passport or passport card;

(D) a current and valid United States military card;

(E) a certified order of adoption that is an original United States document;

(F) a certificate of naturalization with intact photo or a certificate of United States citizenship;

(G) a United States military common access card with photo, date of birth, and name and branch of service; or

(H) a United States government-issued consular report of birth abroad;

(3) documentation for persons not born in the United States or persons who are not American citizens that includes one or more of the following:

(A) A valid foreign passport with a form I-94 or valid "processed for I-551" stamp with a mandated departure date more than 60 days in the future. This shall exclude border-crossing cards;

(B) a form I-94 with refugee status;

(C) a valid form I-551 green card or alien registration; or

(D) a valid photo employment authorization issued by the United States department of justice; or

(4) documentation for proof of name change that includes one or more of the following:

(A) A certified United States marriage certificate indicating the city, county, and state where issued;

(B) a certified United States divorce decree containing an official signature;

(C) a certified United States court order of name change;

(D) a certified court order of adoption; or

(E) a marriage certificate from a foreign country. If the marriage certificate from a foreign country 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.)

112-103-15. 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 sub-

mitted 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.)

112-104-2. Facility manager's organization. (a) Each facility manager's internal control system shall include organization charts depicting the segregation of functions and the responsibilities and descriptions of the duties and responsibilities for each position shown. Each facility manager shall be permitted, except as otherwise provided in this regulation, to tailor organizational structures to meet the needs or policies of a particular management philosophy. Each facility

manager's organization charts shall provide for the following:

(1) A system of personnel and chain of command that permits management and supervisory personnel to be held accountable for actions or omissions within their areas of responsibility;

(2) the segregation of incompatible functions, duties, and responsibilities so that no employee is in a position both to commit an error or perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties;

(3) the performance of all functions, duties, and responsibilities in accordance with legitimate financial practices by trained personnel;

(4) the areas of responsibility that are not so extensive as to be impractical for one person to monitor; and

(5) a chief executive officer. For the purposes of this article, a "chief executive officer" shall mean the person located at the gaming facility who is ultimately responsible for the daily conduct of the facility manager's business regardless of the particular title that person actually holds. Unless otherwise specified in these regulations, each supervisor of a department required by subsection (b) shall report directly to the chief executive officer of the facility manager regarding administrative matters and daily operations. The facility manager's organization charts shall designate which positions, in the absence of the chief executive officer, shall be designated as having responsibility for the daily conduct of the facility manager's gaming business.

(b) Each facility manager's internal control system shall also include the following departments and supervisory positions, each of which shall be categorized as mandatory and shall cooperate with, yet perform independently of, other mandatory departments and supervisory positions of the facility manager. However, a department or supervisor of a facility manager that is not required or authorized by this subsection may operate under or in conjunction with a mandatory department or supervisor if the organizational structure is consistent with the requirements of the act and subsection (a). The mandatory departments and supervisory positions shall be the following:

(1) A surveillance department supervised by a person located at the gaming facility who functions, for regulatory purposes, as the director of surveillance;

(2) an internal audit department supervised by a person located at the gaming facility who func-

tions, for regulatory purposes, as the director of internal audit:

(A) The director of internal audit department shall report directly to one of the following persons or entities regarding matters of policy, purpose, responsibility, and authority, which persons or entities shall also control the hiring, termination, and salary of the position:

(i) The independent audit committee of the facility manager's board of directors;

(ii) the independent audit committee of the board of directors of any holding or intermediary company of the facility manager that has authority to direct the operations of the facility manager;

(iii) the internal audit executives of any holding or intermediate company if the most senior executive in the reporting line reports directly to the independent audit committee of the board of directors of the holding or intermediary company; or

(iv) for facility managers or holding companies that are not corporate entities, the noncorporate equivalent of any of the persons or entities listed in paragraphs (b)(2)(A)(i) through (iii) as approved by the commission; and

(B) the internal audit department shall operate under all of the provisions contained under K.A.R. 112-104-24;

(3) a management information systems (MIS) department supervised by a person located at the gaming facility who functions, for regulatory purposes, as the MIS director;

(4) an EGM department supervised by a person located at the gaming facility who functions, for regulatory purposes, as the EGM director;

(5) a security department supervised by a person located at the gaming facility who functions, for regulatory purposes, as the director of gaming facility security;

(6) an accounting department supervised by a person located at the gaming facility who functions as the controller, for regulatory purposes:

(A) The controller shall be responsible for all accounting functions, including the preparation and control of books, records, and data, the control of stored data, the control of unused forms, the accounting for and comparison of operational data and forms; and

(B) the facility manager shall have in its accounting department at least one individual responsible for and dedicated to verifying financial transactions and reviewing accounting forms and data. This function, which is sometimes referred to as "income or revenue reconciliation," shall be

independent of the transactions under review. This function shall include a daily reconciliation of EGM transactions documentation, a daily reconciliation of the parimutuel transaction documentation, a daily reconciliation of the facility manager cage accountability, document control, and signature verification; and

(7) a cashier's cage department supervised by a person located at the gaming facility who functions as the treasurer, for regulatory purposes:

(A) The treasurer shall be responsible for the control and supervision of the cashier's cage, satellite cages, count room, and vault. The cashier's cage may be separated into independent operations or satellite cages to facilitate operations and accountability;

(B) the cashier's cage department shall be responsible for the following:

(i) The custody and accountability of coin, currency, negotiable instruments, documents, and records normally associated with the operation of a cage;

(ii) any other functions normally associated with the operation of a cage;

(iii) the count room; and

(iv) the vault; and

(C) the cage department shall be responsible for the control and supervision of gaming cashiers and change persons.

(d) The facility manager's personnel shall be trained in all policies, procedures, and internal controls relevant to each employee's individual function. The facility manager shall develop special instructional programs in addition to any on-the-job instruction sufficient to make each member of the department knowledgeable about the requirements and performance of all transactions relating to that employee's functions.

(e) Notwithstanding other provisions to the contrary, a facility manager may designate and assign more than one person to serve jointly as the supervisor of a department required by this regulation. Each person approved to serve as a joint supervisor of a mandatory department shall be located at the gaming facility and shall be individually and jointly accountable for the functioning of that department.

(f) If a vacancy in the chief executive officer position or any mandatory department supervisory position required by subsection (b) occurs, all of the following requirements shall apply:

(1) The facility manager shall notify the commission within five days from the date of vacancy.

The notice shall be submitted in writing and shall indicate the following information:

- (A) The vacant position;
- (B) the date on which the position will become or became vacant; and
- (C) the date on which the facility manager anticipates that the vacancy will be filled on a permanent basis.

(2) The facility manager shall designate a person to assume the duties and responsibilities of the vacant position within 30 days after the date of vacancy. The person may assume the duties and responsibilities of the vacant position on a temporary basis if both of the following conditions are met:

(A) The person does not also function as the department supervisor for any other mandatory department required by this regulation.

(B) The person's areas of responsibility will not be so extensive as to be impractical for one person to monitor.

(3) Within five days of filling a vacancy under paragraph (f)(2), the facility manager shall notify the commission. The notice shall be submitted in writing and shall indicate the following:

- (A) The position;
- (B) the name of the person designated;
- (C) the date that the vacancy was filled; and
- (D) an indication of whether the position has been filled on a temporary or permanent basis.

(4) The notices required in this subsection shall be directed to the executive director. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-3. Accounting records. (a) Each facility manager's internal control system shall include internal controls for accounting records. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. Each facility manager shall maintain complete, accurate, and legible records of all transactions pertaining to the revenues, expenses, assets, and liabilities of each gaming facility.

(b) General accounting records shall be maintained on a double-entry system of accounting with transactions recorded on a basis consistent with generally accepted accounting principles. Detailed, supporting, and subsidiary records sufficient to meet the requirements of subsection (c) shall also be maintained in accordance with the requirements of this article.

(c) The detailed, supporting, and subsidiary records shall include the following:

(1) Records pertaining to revenue, expenses, assets, and liabilities of all facility manager activities;

(2) records pertaining to the financial statements and all transactions impacting the financial statements of the facility manager, including contracts or agreements with licensed manufacturers, suppliers, junket enterprises, vendors, contractors, consultants, management companies, attorneys and law firms, accountants and accounting firms, insurance companies, and financial institutions, including statements and reconciliations related to these contracts or agreements;

(3) records that identify the handle, payout, actual win amounts and percentages, theoretical win amounts and percentages, and differences between theoretical and actual win amounts and percentages for each EGM on a daily, week-to-date, month-to-date, and year-to-date basis;

(4) records documenting the costs of complementaries as defined in article 100;

(5) records created in connection with the internal control system submitted to the commission under this article;

(6) records of all returned checks;

(7) records supporting the daily and other periodic reconciliations of cash and account balances to general ledger accounts;

(8) records supporting the reconciliation of accounting records to those of the independent auditors;

(9) records supporting the preparation of any state and federal tax returns and reconciliation of all such records to general ledger accounts;

(10) records required to comply with all federal financial recordkeeping requirements as specified in 31 C.F.R. part 103; and

(11) any other relevant records that the executive director requires to be maintained. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-4. Forms, records, and documents. (a) Each facility manager's internal control system shall include internal controls for forms, records, and documents. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. Information required by this article to be placed on any form, record, or document shall be recorded on the form, record, or document in ink or in another permanent format.

(b) The accounting department shall be responsible for the receipt, control, and issuance of all

prenumbered forms. Serial numbers on manual forms shall be printed on the form by the manufacturer. Computerized forms shall be sequentially numbered by the computer system. Documentation of all serial numbers shall be maintained to account for the forms.

(c) Whenever duplicate or triplicate copies are required of a form, record, or document, the original, duplicate, and triplicate copies shall be color-coded and have the name of the recipient originally receiving a copy preprinted on the bottom of that copy to differentiate one copy from the other.

(d) If the facility manager prepares more copies than required by this article and the forms, records, and documents are required to be inserted in a locked dispenser, the last copy shall remain in a continuous, unbroken form in a locked dispenser. The key to this dispenser shall be controlled by the accounting department.

(e) Whenever a prenumbered form is voided, the original and all copies shall be marked "void" and the person voiding the form shall record that person's signature on the voided form.

(f) Whenever forms or serial numbers are required to be accounted for under this article and an exception is noted, the exception shall be reported in writing to the facility manager's internal audit department and the commission within two days of identification of the exception or upon confirmation of the exception, whichever occurs earlier.

(g) Unless otherwise specified in this article, all forms, records, documents, and stored data required by this article to be prepared, maintained, and controlled shall have the name of the gaming facility and the title of the form, record, document, and, for stored data, the imprinted or preprinted date.

(h) Nothing in this article shall be construed as prohibiting a facility manager from preparing more copies of any form, record, or document than the number of those copies required by this article. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

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 account-

ing firm shall be approved by the executive director before the audit engagement.

(b) Independent certified public accountants and independent registered certified public accounting firms performing annual audits or special reports shall not perform internal audit services for the same facility manager.

(c) The annual financial statements audit shall be prepared on a comparative basis for the current and prior fiscal years and present financial position and results of operations in conformity with generally accepted accounting principles.

(d) The financial audit required by this regulation shall include a footnote reconciling and explaining any differences between the financial statements included in any annual report filed in conformity with K.A.R. 112-104-5 and the audited financial statements. The footnote shall disclose the effect of adjustments on the following:

- (1) Revenue from the operation of EGMs;
- (2) EGM revenue minus expenses for complementaries;
- (3) total costs and expenses;
- (4) income before extraordinary items, as that term is used within GAAP; and
- (5) net income.

(e) The facility manager shall require the independent certified public accountant or independent registered certified public accounting firm auditing the facility manager's financial statements to render the following additional reports:

(1) A report on the prospective financial statements, including a one-year forecast and three-year projection, expressing an opinion as to whether the prospective financial information is properly prepared on the basis of the assumptions and is presented in accordance with the relevant financial reporting framework; and

(2) any additional relevant reports if required by the executive director.

(f) At any time a special audit of a facility manager may be required by the commission to be conducted by commission personnel, an independent certified public accountant, or an independent registered certified public accounting firm licensed to practice in the state of Kansas. The scope, procedures, and reporting requirements of any special audit shall be established by the executive director.

(g) Copies of the audited financial statements in an amount determined by the executive director, together with any management letter or report prepared regarding that statement by the facility

manager's independent certified public accountant or independent registered certified public accounting firm, shall be filed with the commission not later than 120 days after the end of the facility manager's fiscal year.

(h) The facility manager shall prepare a written response to the independent certified public accountant's or independent registered certified public accounting firm's reports required by subsection (e). The response shall indicate, in detail, any corrective actions taken. The facility manager shall submit a copy of the response to the commission within 90 days of receipt of the reports.

(i) The facility manager shall file with the commission copies of the reports required by subsection (e) in an amount determined by the executive director and copies in an amount determined by the executive director of any other reports on internal controls, administrative controls, or other matters relative to the facility manager's 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.)

112-104-7. Meter readings and related statistical reports. (a) Each facility manager's internal control system shall include internal controls for meter reading and the related statistical reports. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. Accounting department employees who are independent of the drop process according to K.A.R. 112-104-18 shall read and record on a gaming machine meter sheet the numbers on all meters as required under the technical standards adopted by the commission in article 110.

(b) Any facility manager may have a computer system, as approved by the commission under K.A.R. 112-107-2, to record any of the required meter readings if the meter readings are recorded in accordance with subsection (a) at least weekly. The computer shall store in machine-readable form all information required by this regulation. The stored data shall not be susceptible to change or removal by any personnel without the system identifying and establishing a record of the personnel making the change, maintaining an archive of the original record, and identifying the new record as having been changed. Access to this information shall be restricted to the following:

- (1) Accounting department personnel;
- (2) internal audit department personnel;
- (3) EGM department personnel when diagnosing EGM problems;
- (4) management staff when assessing EGM performances; and
- (5) count room supervisors when reconciling an EGM drop.

(c)(1) Bill validator meter readings shall be taken when any of the following occurs:

- (A) Devices containing bill validators are moved.
- (B) Denominations change.

(C) Devices containing bill validators are placed in service.

(D) Devices containing bill validators are taken out of service.

(E) The computer components of the devices containing bill validators are accessed, which could cause the device or system meters to reset.

(2) A bill validator meter reading shall be taken for each drop.

(d) After preparation of the gaming machine meter sheet, each employee involved with its preparation shall sign the gaming machine meter sheet attesting to the accuracy of the information contained on the sheet. The sheet shall then be forwarded directly to the accounting department for comparison to the gaming machine win sheet and calculation of gaming machine statistics.

(e) Upon receipt of the gaming machine meter sheet, the accounting department shall review all meter readings for reasonableness using preestablished parameters and prior meter readings. Meter readings shall not be altered except to correct meters that were incorrectly recorded. All changes shall have adequate supporting documentation. The accounting department shall notify the EGM department of potentially faulty meters and follow up to ensure that proper maintenance is performed. Documentation that supports machine service and maintenance shall be maintained.

(f) If a meter unexpectedly resets to 0000, which is also known as "zeroing out," accounting personnel shall notify the EGM department to determine the cause of the reset. Using the information obtained from the EGM department, accounting personnel shall complete a meter reset form whenever a meter is reset. On a monthly basis, accounting personnel shall review the meter reset form to determine if there are any ongoing problems with any electronic device. If a problem is noted in three consecutive drops, the commission shall be notified. The accounting department shall ensure that appropriate and adequate meter readings are available to generate statistical reports.

(g) The EGM activity for all EGMs that were active on the gaming floor shall be reflected on statistical reports. Large or unexpected variances shall be investigated by the appropriate personnel, and the results shall be documented in accordance with internal control procedures as approved by the commission according to K.A.R. 112-104-1. The accounting department shall prepare, review, and analyze the following reports:

(1) The EGM revenue summary report, which is also called an EGMR report, shall be prepared at least once each month. This report shall be a summary of EGM activity by drop and by denomination, for the period reported on. Information included on this report shall be the dollar value of currency by denomination, drops, payouts, fills, and net EGM income. Tickets and coupons redeemed shall include total tickets and coupons redeemed by all devices and in all cages. All reconciling items, including a statewide multilink progressive contribution, unclaimed jackpots, and bills accepted into the cage from bill validator malfunctions, shall be documented on the EGMR report.

(2) The comparison of the meter drop with the actual drop report shall compare the meter drop with the actual drop by device, by denomination, and in total, which shall be prepared at least once each month. The report shall be prepared on a drop-by-drop basis. Additionally, monthly and yearly drop information by machine, by denomination, and in total shall be either included on the last report of each month or available on a separate report. Information needed to calculate the drop report shall include the actual drop from the EGMR report and current and prior drop meter readings. The incremental change in the drop meter shall reflect what the EGM machine recorded as dropped, pursuant to K.A.R. 112-104-18, in the current drop period. The variance percentages between what the meter records and what is counted in the count room shall be computed by dividing the dollar variance by the meter drop amount. When a variance both equals or exceeds 2% and equals or exceeds \$25, the variance shall be investigated and documented in accordance with internal control procedures as approved by the commission under K.A.R. 112-104-1.

(3) The comparison of meter jackpots with actual jackpots paid report shall be prepared at least monthly. This report shall compare the total attendant-paid jackpot meter and cancelled credit meters with the actual manual pay jackpots by machine, by denomination, and in total. The report shall be prepared on a drop-by-drop basis. Additionally, monthly and yearly jackpot information by machine, by denomination, and in total shall be either included on the last report of each month or available on a separate report. The monthly totals on this report shall agree with the manual jackpot payout totals shown on the EGMR report.

(A) Information needed to calculate the report shall include the actual manual pay jackpots from

the jackpot payout slips and the current and prior jackpot meter readings.

(B) Variance percentages between meter and actual jackpots shall be computed by dividing the dollar variance by the meter jackpot amount. If a variance both equals or exceeds 1% and equals or exceeds \$10, the variance shall be investigated and documented in accordance with internal control procedures as approved by the commission under K.A.R. 112-104-1.

(C) Payouts that are not a result of a wager shall be considered promotional and shall be included in the calculation of net EGM income. These types of payments shall be shown as a reconciling item on the EGMR report. These payouts shall include the following:

(i) Amount of overpayment of jackpots due to incorrectly calculating the jackpot;

(ii) payments due to incorrect machine setup;

(iii) payments due to failing to perform slot machine maintenance; and

(iv) any payment resulting from a patron dispute that is not supported by documentation verifying accuracy of the transaction and is not approved by the executive director.

(4) The comparison of the theoretical hold with the actual hold report shall be prepared at least monthly. This report shall compare the theoretical hold with the actual hold by machine, by denomination, and in total, on a month-to-date and year-to-date basis. A theoretical hold shall be defined as the intended hold percentage or win of a machine as computed by reference to its payout schedule or reel strip settings, or both. The actual hold percentage shall be calculated by dividing net EGM income by the dollar value of currency in. The theoretical hold percentage shall be obtained from the par sheet, which is a manufacturer's specification sheet located and maintained in each EGM machine. Each facility manager with any EGM games whose outcome is determined in whole or in part by skill shall use the higher range of the manufacturer's expected field return subtracted from 100 as the theoretical hold for these types of games. Each facility manager with multigame and multidenominational EGMs shall use the weighted theoretical hold percentage from the EGM each month. The machines' weighted theoretical hold shall be compared to the actual hold percentage. The dollar value of currency in for the current month shall be calculated by subtracting the prior month's end meter readings from the current month's end meter readings and

multiplying the difference by the denomination of the machine. Large or unexpected variances between the theoretical and the actual hold shall be investigated and documented in accordance with internal control procedures as approved by the commission under K.A.R. 112-104-1.

(5) The comparison of ticket-in meter to tickets redeemed by device report shall be prepared at least monthly. This report shall compare the change in the ticket-in meter to the actual tickets redeemed by machine. This report shall be prepared on a drop-by-drop, month-to-date, and year-to-date basis and shall show totals by machine, denomination, and grand totals. Variance percentages between the ticket-in meter and actual tickets redeemed shall be computed by dividing the dollar variance by the total ticket-in meter amount. When a variance both equals or exceeds 1% and equals or exceeds \$10, the variance shall be investigated and documented in accordance with internal control procedures as approved by the commission under K.A.R. 112-104-1.

(6) The comparison of ticket-out meter to tickets issued by device report shall be prepared at least monthly. This report shall compare the change in the ticket-out meter to the actual tickets issued, as reported by the ticket verification system, by each device. This report shall be prepared on a drop-by-drop, month-to-date, and year-to-date basis and shall show totals by machine, denomination, and grand totals. This report shall be used in the reconciliation of outstanding tickets in order to determine ticket liability.

(7) A comparison of coupon-in meter to coupons redeemed by device report shall be prepared at least monthly. This report shall compare the change in the coupon-in meter to the actual coupons redeemed by machine. This report shall be prepared on a drop-by-drop, month-to-date, and year-to-date basis and shall show totals by machine, denomination, and grand totals. Variance percentages between the coupon-in meter and actual coupons redeemed shall be computed by dividing the dollar variance by the total coupon in meter amount. When a variance both equals or exceeds 1% and equals or exceeds \$10, the variance shall be investigated and documented in accordance with internal control procedures as approved by the commission under K.A.R. 112-104-1.

(h) No person shall alter meter information on any statistical report, unless the meter was read or recorded incorrectly or a data entry error oc-

curred. All changes shall be supported with adequate documentation.

(i) If a variance exceeds any of the variances listed in subsection (g), then the facility manager shall prepare and file an incident report documenting the variance with the commission. The facility manager shall report the actual cause of the variance, unless the cause cannot be definitively determined after an investigation, in which case the probable cause of the variance shall be reported. The incident report shall be filed at least within one week from discovery. The incident report shall include the following:

- (1) The date of the meter reading;
- (2) the date the report was filed;
- (3) the asset number of the device involved;
- (4) the amount of the variance by currency, gaming tickets, or coupons;
- (5) an explanation for the cause of the variance, with documentation to support the explanation;
- (6) the manufacturer and model number of the device to which the bill validator is attached or in which the bill validator is embedded;
- (7) the manufacturer of the bill validator involved;
- (8) the total number of reported variances, by manufacturer and model number of the device;
- (9) the total number of reported variances, by manufacturer of the bill validator;
- (10) the total number of reported variances compared to the total number of bill validator canisters counted; and
- (11) the signature and license number of the preparer. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

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.)

112-104-9. Complimentaries. (a) Each facility manager's internal control system shall include internal controls for the authorization, issuance, recording, and auditing of complimentaries, including cash and non-cash gifts. The internal controls shall be submitted according to K.A.R. 112-104-1. These internal controls shall include the procedures by which the facility manager delegates to its employees the authority to approve the issuance of complimentaries and the procedures by which conditions or limits that may apply to this authority are established and modified, including limits based on relationships between the authorizer and recipient.

(b) On a daily basis the facility manager shall record the name of each patron provided with complimentaries, the category of service or item, the value of the services or items provided to each patron or that patron's guests as calculated

in accordance with subsection (d), and the license number of the employee authorizing the issuance of the services or items. For the purposes of this regulation, “guest” shall mean any person who receives complimentary as a result of that person’s relationship with the patron receiving the primary complimentary. Upon request, a copy of this daily report shall be submitted to the commission.

(c) The internal audit department shall review the reports required in subsection (b) at least monthly. These reports shall be made available to the commission, audit committee of the board of directors, and any other entity designated by the executive director, upon request.

(d) All complimentary shall be valued and recorded as follows:

(1) At full retail price normally charged by the facility manager if the complimentary is provided directly to patrons in the normal course of the facility manager’s business, including rooms, food, and beverages;

(2) at an amount based upon the actual cost to the facility manager of providing the service or item, if the complimentary is not offered for sale to patrons in the normal course of a facility manager’s business;

(3) at an amount based upon the actual cost to the facility manager of having a third party who is not affiliated with the facility manager provide a service or item directly or indirectly to patrons by the third party; or

(4) if provided directly or indirectly to a patron on behalf of a facility manager by a third party who is affiliated with the facility manager, in accordance with the provisions of this regulation as if the affiliated third party were the facility manager.

(e) Complimentary that are cash gifts shall include the following:

(1) Public relations payments made for the purpose of resolving complaints by or disputes with facility manager patrons;

(2) travel payments made for the purpose of enabling a patron to return home;

(3) cash gifts issued to patrons as a result of actual gaming activity; and

(4) coupons issued and redeemed as part of a promotion program.

(f) The facility manager shall report to the commission on a quarterly basis both the dollar amount of and number of patrons provided with each category of complimentary. The complimentary reported shall be separated into categories for rooms, food, beverage, travel, cash gift, non-cash gift, and other services or items.

categories for rooms, food, beverage, travel, cash gift, non-cash gift, and other services or items.

(g) If cash and non-cash complimentary issued to a patron or the patron’s guest or guests have a value of \$600.00 or more, the facility manager shall meet the following requirements, in addition to those in subsection (f):

(1) Record the name and address of the recipient;

(2) record the unique identification number from the recipient’s government-issued photo identification card and perform one of the following:

(A) Examine the identification card to ensure that it is consistent with the actual appearance of the patron;

(B) obtain the patron’s signature and compare it to the patron’s signature and general physical description in a patron signature file; or

(C) obtain authorization from a level I employee attesting to the patron’s identity; and

(3) record the method of verification.

(h) All cash complimentary shall be disbursed directly to the patron by a gaming cashier at the cage after receipt of appropriate documentation or in any other manner approved by the executive director.

(i) No facility manager shall permit any employee to authorize the issuance of cash or non-cash complimentary with a value of \$1,000.00 or more, unless the employee is licensed and functioning as a level I employee.

(j) Each facility manager shall submit to the commission a report listing the name of each patron who has received \$1,000.00 or more in cash and non-cash complimentary, including amounts received by the patron’s guests within a calendar month. Each report shall be filed within five business days and shall include the total amount of cash or non-cash complimentary provided to each patron and the patron’s guests. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-10. Personal check cashing. (a) Each facility manager’s internal control system shall include internal controls for the acceptance of personal checks. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. The internal controls submitted by the facility manager shall include procedures for complying with this regulation.

(b) Each personal check accepted by a facility manager to enable a patron to take part in gaming shall meet the following requirements:

(1) Be drawn on a commercial bank, savings bank, saving and loan association, or credit union located in the United States and be payable on demand;

(2) be drawn on an account listed in the name of the patron presenting the check or on an account for which the patron is a listed signatory;

(3) be drawn for a specific amount;

(4) be made payable to the facility manager; and

(5) be currently dated and not postdated.

(c) Each personal check accepted under subsection (b) shall be presented by the patron drafting the check directly to a gaming cashier. The gaming cashier shall do all of the following:

(1) Restrictively endorse the check "for deposit only" to the bank account designated by the facility manager;

(2) initial the check;

(3) date and time-stamp the check;

(4) verify that the signature of the patron on the personal check and the patron's physical appearance agree with information recorded in a patron signature file created and maintained by the facility manager in accordance with subsection (d) or with the signature and either the photograph or physical description contained on a government-issued identification presented by the patron. The gaming cashier shall document how the signature verification was performed in connection with the acceptance of each personal check;

(5) for each personal check equaling or exceeding \$500.00, verify the validity of the check directly with the commercial bank, savings bank, saving and loan association, or credit union upon which the check is drawn or obtain an authorization and guarantee of the check from a check verification and warranty service certified as a vendor by the commission. The gaming cashier shall document how the check verification was performed in connection with the acceptance of each personal check; and

(6) exchange the personal check for cash in an amount equal to the amount for which the check is drawn.

(d) To record a patron's signature in a patron signature file, a gaming cashier shall require the person for whom the file is to be created to present for examination the following:

(1) If the identity of the patron is to be confirmed in accordance with paragraph (e)(1), one form of identification; or

(2) if the identity of the patron is to be confirmed in accordance with paragraph (e)(2), two

forms of identification, at least one of which shall contain a photograph or a general physical description of the patron.

(e) Before a facility manager may use a signature recorded in a patron signature file to verify the identity of a patron or the validity of a signature on a document, the facility manager shall confirm the identity of the patron by either of the following:

(1) Comparing the signature on the identification presented by the patron under paragraph (d)(1) with the signature obtained from the patron and verifying the address of the patron's residence with a credit board or a commercial bank or, if neither of these sources has the person's address on file or will not provide the information, with an alternative source that does not include any documentation presented by the patron at the cage; or

(2) comparing the signature on each of two forms of the identification presented by the patron under paragraph (d)(2) with the signature obtained from the patron and comparing the photograph or general physical description contained on at least one of the forms of identification with the patron's actual physical appearance.

(f) Each facility manager's internal control system shall include internal controls for each patron signature file to be established and maintained by a facility manager under subsection (d) and shall include the following, in addition to the patron's signature:

(1) The patron's name;

(2) the patron's residential address;

(3) the types of identification examined under subsection (e) and an indication of whether the identification contained a photograph or physical description of the patron, including the date of birth, approximate height, approximate weight, hair color, and eye color;

(4) the date and time that the patron signature file was established;

(5) the procedure by which the identity of the patron was confirmed under subsection (e), including one of the following:

(A) The source of confirmation, date, and time if confirmed under paragraph (e)(1); or

(B) the date and time of confirmation if confirmed under paragraph (e)(2); and

(6) the signature of the gaming cashier or cage supervisor who examined the identification of the patron and established the patron signature file. The signature shall evidence that the following conditions are met:

(A) The signature of the patron recorded in the patron signature file is consistent with the signature on each form of identification that was examined; and

(B) the physical description recorded in the patron signature file is consistent with both the actual appearance of the patron and any photograph or physical description that may be contained on an identification that was examined.

(g) Each check shall be required to be deposited for collection by the next banking day following receipt.

(h) Each check returned for insufficient funds or any other reason shall be documented on a returned check log maintained by the accounting department and shall contain the following information:

- (1) The original date of the check;
- (2) the name and address of the drawer of the check;
- (3) the amount of the check;
- (4) the check number;
- (5) the date the check was dishonored; and
- (6) the date and amount of each collection received on the check after being returned by a financial institution, if applicable.

(i) The amount of all personal checks that remain uncollected shall be the responsibility of the facility manager and shall not be used in any net EGM income calculations.

(j) The facility manager shall not accept checks from any patron who has outstanding liabilities for any dishonored checks. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-11. Wire transfers. (a) Each facility manager's internal control system shall include internal controls for the acceptance, verification, accounting for, and sending of wire transfers. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1 and shall include the following:

(1) A cage log to record the following information with regard to wire transfers accepted:

- (A) A sequential number assigned by the facility manager to the wire transfer transaction;
- (B) the date and time of notification;
- (C) the name of the financial institution and account number to which the funds were transferred;
- (D) the amount of funds transferred;
- (E) the name of the patron for whose benefit the funds were transferred;

(F) the name and address of the financial institution from which the funds were transferred and the account number from which the funds were debited;

(G) the method by which the facility manager was notified of the receipt of the wire transfer. The method shall be limited to one of the following:

(i) Direct telephone notification between the facility manager's bank and a cage employee. When notice is provided by telephone, the name and title of the person providing notice shall be recorded;

(ii) direct hard copy communication sent by the facility manager's bank to a cage employee. The document shall be dated, time-stamped, and signed by the cage employee receiving the notification; or

(iii) direct computer access by the facility manager to the wire transfer or electronic fund transfer transaction as it is credited to the manager's operating account at its bank. The transaction shall be printed from the computer screen and dated, time-stamped, and signed by the cage employee receiving the notification;

(H) the method by which the facility manager verified the wire transfer with the sending financial institution and, if noticed by telephone, the name and title of the person verifying the transfer;

(I) the signature of the cage employee receiving and recording the information required by this subsection; and

(J) a notation that the wire transfer has been reversed under subsection (d), when applicable;

(2) a requirement that a cage supervisor other than the cage employee who initially documented receipt of the wire transfer verify receipt of the wire transfer according to one of the following:

(A) If notice was provided by telephone or direct hard copy, verify the wire transfer with a previously identified and authorized representative of the facility manager's financial institution; or

(B) if notice was provided by direct computer access, review the printout of the computer screen;

(3) a requirement that the cage supervisor verifying receipt of the wire transfer document the verification process performed in the log required under paragraph (a)(1), including the following:

(A) The method by which the receipt of the wire transfer was verified and, if verified by telephone, the name and title of the person providing the verification;

(B) the date and time of verification; and

(C) the signature of the cage supervisor verifying receipt of the wire transfer;

(4) the procedures used to perform the following:

(A) Establish, verify, and document the identity of the patron;

(B) make the wire transfer proceeds available to the patron at the cage; and

(C) adjust the cage accountability;

(5) a cage log to record the following information with regard to wire transfers sent on behalf of a patron:

(A) The name of the patron;

(B) the date of the transaction;

(C) the amount of funds transferred;

(D) the source of funds transferred, whether cash, cash equivalent, or jackpot payout;

(E) the name and address of the financial institution to which the funds will be transferred and the account number to which the funds will be credited;

(F) the signature of the patron if the request to send a wire transfer is made in person at the cage;

(G) documentation supporting the receipt of a request by the facility manager to send a wire transfer on behalf of a patron if the request was not made in person at the cage;

(H) the signature of the cage employee receiving and recording the information required by this subsection; and

(I) the signature of the cage supervisor or accounting department supervisor authorizing the wire transfer; and

(6) when sending a wire transfer on behalf of a patron, the procedures used to perform the following:

(A) Verify and document the identity of the patron; and

(B) adjust the cage accountability.

(b) Each wire transfer accepted by a facility manager on behalf of a patron to enable a patron to take part in gaming shall be recorded in the facility manager's cage accountability documentation upon acceptance.

(c) Each facility manager shall take all steps necessary to return to a patron by wire transfer the patron's residual balance if both of the following circumstances exist after 14 gaming days following the patron's wired deposit:

(1) The wired funds remain in the facility manager's operating account or cage accountability.

(2) The patron has engaged in minimal or no EGM play. Minimal shall mean less than 20% of the wired funds.

(d) The wire transfer returned under subsection (c) shall be sent to the financial institution from which the funds were debited. This reversal of the wire transfer shall be recorded in the wire transfer log maintained under paragraph (a)(1). (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-12. Cash equivalents. Each facility manager's internal control system shall include internal controls for the acceptance and verification of cash equivalents. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. The internal controls developed and implemented by the facility manager shall include the following: (a) A requirement that cage employees perform the specific verification procedures required by the issuer of each cash equivalent accepted. The facility manager shall retain adequate documentation evidencing the verification of each cash equivalent;

(b) a requirement that cage employees examine each cash equivalent for counterfeiting, forgery or alteration;

(c) if a facility manager elects to incorporate in its verification procedures a level of reliance on previously accepted cash equivalents, a description of the general parameters governing the reliance;

(d) the criteria for cage supervisor involvement in the verification process;

(e) the procedures for verifying any patron signature on the cash equivalent. Signature verification shall be accomplished in accordance with the signature verification procedures in K.A.R. 112-104-10. The facility manager shall retain adequate documentation evidencing how each signature was verified; and

(f) for cash equivalents equaling or exceeding \$500.00, verification of the validity of the cash equivalent with the financial institution upon which it is drawn. The gaming cashier shall document how the verification was performed in connection with the acceptance of each cash equivalent. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-13. Patron deposits. (a) Each facility manager's internal control system shall include internal controls for the receipt and withdrawal of patron deposits. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1.

(b) At the request of a patron, a facility manager may hold cash, funds accepted by means of wire transfer in accordance with K.A.R. 112-104-11, or cash equivalents accepted in accordance with K.A.R. 112-104-12 for a patron's subsequent use for gaming purposes. For the purposes of this regulation, non-cash items shall be considered converted to cash and deposited as cash for credit to the patron in a patron deposit account maintained in the cage.

(c) The internal controls developed and implemented by the facility manager under subsection (a) shall include the following:

(1) A requirement that patron deposits be accepted at the cage according to the following requirements:

(A) A file for each patron shall be prepared manually or by computer before the acceptance of a cash deposit from a patron by a gaming cashier, and the file shall include the following:

- (i) The name of the patron;
- (ii) a unique identifying number obtained from a United States government-issued photo identification card or a government-issued passport;
- (iii) the date and amount of each cash deposit initially accepted from the patron;
- (iv) the date and amount of each request accepted from the patron, as a draw against a cash deposit; and
- (v) the date and amount of each cash deposit redemption;

(B) the gaming cashier accepting a deposit shall prepare a patron deposit form and other necessary documentation evidencing the receipt;

(C) patron deposit forms shall be serially pre-numbered, each series of patron deposit forms shall be used in sequential order, and the series number of all patron deposit forms shall be accounted for by employees with no incompatible function. All original and duplicate void patron deposit forms shall be marked void and shall require the signature of the preparer;

(D) for establishments in which patron deposit forms are manually prepared, a prenumbered two-part form shall be used;

(E) for establishments in which patron deposit forms are computer-prepared, each series of patron deposit forms shall be a two-part form and shall be inserted in a printer that will simultaneously print an original and duplicate and store, in machine-readable form, all information printed on the original and duplicate. The stored data shall not be susceptible to change or removal by

any personnel after preparation of a patron deposit form;

(F) on the original and duplicate of the patron deposit form, or in stored data, the gaming cashier shall record the following information:

- (i) The name of the patron making the deposit;
- (ii) a unique identifying number obtained from a United States government-issued photo identification card or a government-issued passport;
- (iii) the total amount being deposited;
- (iv) the date of deposit;
- (v) the signature of the gaming cashier or, if computer-prepared, the identification code of the gaming cashier; and
- (vi) nature of the amount received, including cash, cash equivalents, wire transfer, or electronic fund transfer; and

(G) after preparation of the patron deposit form, the gaming cashier shall obtain the patron's signature on the duplicate copy and shall distribute the copies in the following manner:

- (i) If an original, give a copy to the patron as evidence of the amount placed on deposit with the facility manager; and
- (ii) if a duplicate copy, forward the copy along with any other necessary documentation to the main bank cashier, who shall maintain the documents;

(2) a requirement that patron deposits be withdrawn by the patron at the cage or upon receipt by the facility manager of a written request for withdrawal whose validity has been established:

(A) A patron shall be allowed to use the deposit by supplying information as required by K.A.R. 112-104-10 to verify the patron's identification:

- (i) The gaming cashier shall ascertain, from the cage, the amount of the patron deposit available and request the amount the patron wishes to use against this balance. The gaming cashier shall prepare a patron deposit withdrawal form, which shall include the signature of the patron; and

(ii) the gaming cashier shall verify the signature on the patron deposit withdrawal form with the signature on the patron deposit form and sign the patron deposit withdrawal form to indicate verification;

(B) the patron's deposit balance shall be reduced by an amount equal to that on the patron deposit withdrawal form issued at the cage;

(C) a patron may obtain a refund of any unused portion of the patron's funds on deposit by performing either of the following:

- (i) Sending the facility manager a signed, written request for a refund together with a signed, original patron deposit form; or

(ii) appearing personally at the cage, requesting the refund, and returning the original patron deposit form;

(D) once the original patron deposit form is presented at a cage, a gaming cashier shall perform the following:

(i) Verify the unused balance with the main bank gaming cashier;

(ii) require the patron to sign the original of the patron deposit form;

(iii) prepare necessary documentation evidencing the refund, including a patron deposit withdrawal form or any other similar document that evidences the date and shift of preparation, the amount refunded, the nature of the refund made, the patron's name, and the signature of the gaming cashier preparing the documentation; and

(iv) verify the patron's identity with a United States government-issued photo identification card or a government-issued passport;

(E) the gaming cashier shall forward each original patron deposit form tendered by the patron pursuant to paragraph (c)(2)(D), along with any other necessary documentation, to the main bank gaming cashier, who shall compare the patron's signature on the original patron deposit form and any attached written, signed request required by paragraph (c)(2)(A)(i) to the patron's signature on the duplicate patron deposit form and on the original patron deposit withdrawal form. The main bank gaming cashier shall sign the original patron deposit form if the signatures are in agreement, notify the gaming cashier of the results of the comparison, and maintain the original patron deposit form and the documentation supporting the signature verification; and

(F) if the patron has requested the return of the patron's original deposit, the main bank gaming cashier shall return the patron's original patron deposit form to the gaming cashier. After the main bank gaming cashier has notified the gaming cashier that the signatures contained in paragraph (c)(2)(E) are a match, the gaming cashier shall then refund the unused balance of the deposit to the patron and, if applicable, return the original patron deposit form to the patron. The gaming cashier shall maintain any necessary documentation to support the signature verification and to evidence the refund;

(3) a requirement that the patron receive a receipt for any patron deposit accepted reflecting the total amount deposited, the date of the deposit, and the signature of the cage employee accepting the patron deposit; and

(4) procedures for verifying the identity of the patron at the time of withdrawal. Signature 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, pari-mutuel 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. Emp-

ty currency cassettes shall not be stored with the currency cassettes containing cash;

(iii) all currency cassettes used in kiosks shall be filled with currency by a main bank cashier. The amount of currency to be placed in the cassettes shall be counted by the main bank cashier and placed in the cassette. A prenumbered tamper-resistant seal that secures the cash in each cassette shall be immediately placed on the cassette. The type of seal shall be submitted to the commission director of security for prior approval. All cassettes that contain currency and are not immediately placed in a kiosk shall be stored in the designated storage area;

(iv) a currency cassette log shall be maintained and updated each time currency cassettes are sealed. The log shall contain the following information: date, time, seal number, cassette number, amount of currency in the cassette, denomination of currency in the cassette, and signature of the main bank cashier who prepared the cassette;

(v) each cassette shall be labeled with the required dollar denomination for that cassette and a unique cassette number. The label shall be clearly visible to surveillance during the fill process;

(vi) each individual transporting currency cassettes outside of the cage shall be escorted by security;

(vii) only cassettes properly prepared and sealed in the main bank shall be used to place currency in the redemption kiosk. A seal may be broken before the count and reconciliation only if there is a machine malfunction. If a seal must be broken before the redemption kiosk is reconciled due to a malfunction, the cassette shall be brought to the main bank with security escort before the seal is broken. The seal shall be broken under surveillance coverage. Once the cassette is repaired, the funds shall be recounted and resealed by the main bank cashier;

(viii) the individual who removed the seal on the cassette in order to perform the count of the cassettes shall record the seal number of all cassettes used in the kiosk since the last reconciliation on the count and reconciliation documentation;

(ix) the individual who reconciles the redemption kiosk shall not be one of the individuals who initially prepared the currency in any of the cassettes used in the kiosk since the last reconciliation; and

(x) if cassettes need to be replaced during the gaming day before the redemption kiosk is dropped and reconciled, the individual cassettes

that are replaced and that still contain currency shall be locked in a storage area designated in the internal controls. This storage area shall be separate from the storage area of filled cassettes.

(g)(1) Whenever a gaming cashier, parimutuel teller, or change person exchanges funds with the main bank cashier, the cashier shall prepare a two-part even exchange form. The form shall include the following, at a minimum:

(A) The date of preparation;

(B) the window location;

(C) a designation of which items are being sent to or received from the main bank;

(D) the type of items exchanged;

(E) the total of the items being exchanged;

(F) the signature of the cashier preparing the form requesting the exchange; and

(G) the signature of the cashier completing the exchange.

(2) If the exchange is not physically between a gaming cashier, parimutuel teller, or change person and the main bank, the exchange shall be transported by a representative of the security department, who shall sign the form upon receipt of the items to be transported.

(h) Overages and shortages per employee shall be documented on a cage or bank variance slip, which shall be signed by the responsible cashier and that person's supervisor. Each variance in excess of \$50 shall be investigated and the result of the investigation shall be documented. If there is a variance of \$500 or more, the commission agent on duty shall be informed within 24 hours. Repeated shortages by an employee totaling \$500 or more over any seven-day period shall be reported to the commission agent on duty within 24 hours.

(i) All cashier's paperwork shall include the date, shift of preparation, and location for which the paperwork was prepared.

(j) At the end of each gaming day, the cashiers' original bank count sheet, vault accountability form, and related documentation shall be forwarded to the accounting department for verification of agreement of the opening and closing inventories, agreement of amounts on the sheets with other forms, records, and documents required by this article, and recording transactions.

(k) Each facility manager shall establish a training program for gaming cashiers and main bank cashiers, which shall include written standard operating procedures. No cashier shall be allowed to individually perform gaming cashier duties until

the cashier has completed at least 40 hours of training. No cashier shall be allowed to 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.)

112-104-17. Bill validators and bill validator canisters. (a) Each facility manager's internal control system shall include internal controls for bill validators and their related canisters. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. Each electronic device configured to accept any combination of currency, gaming tickets, coupons, and any other instruments authorized by the commission shall be equipped with a bill validator.

(b) Each bill validator used by the facility manager shall meet the technical standards adopted by the commission under article 110. The identifying information on each bill validator shall be noted on the master list of approved gaming machines in accordance with K.A.R. 112-107-10.

(c) If an electronic device has a bill validator that is controlled by a software program that can be modified without replacing any physical element of the bill changer, the facility manager shall submit for review and approval the manager's internal controls, which shall address the following:

(1) The method for detecting authorized and unauthorized software changes;

(2) the generation of a daily report from its EGM monitoring system, which immediately documents the software change;

(3) procedures for the control and installation of the software by the management information systems (MIS) department;

(4) the creation of a software control log by the MIS department evidencing all authorized changes to the bill validator software; and

(5) the review and comparison of the report and log required in paragraphs (c)(2) and (4) by the

internal audit department for any deviations and investigation.

(d) Access to the bill validator shall be controlled by at least one lock, the key to which shall be controlled by the EGM department.

(e) Unless otherwise authorized by the commission, each electronic device with a bill validator attached shall also be equipped with the following mechanical, electrical, or electronic machines:

(1) A cash box meter that continuously and automatically registers the total amount in dollars accepted by the bill validator;

(2) bill meters that continuously and automatically count, for each denomination of currency accepted by the bill validator, the actual number of bills accepted by the bill validator; and

(3) any other meters that may be required by the executive director.

(f) The bill validator in each electronic device shall contain a secure, tamper-resistant container known as a bill validator canister. Currency, gaming tickets, coupons, and commission-approved instruments inserted into the bill validator shall be deposited into the bill validator canister.

(g) The bill validator canister shall be secured to the bill validator by two separate locks, the keys to which shall be different from each other. One key shall be to the lock on the belly door or main door of the EGM, and the second key shall be for the lock on the release mechanism on the bill validator canister. If there is not a full door on the bill validator, the lock on the release mechanism on the bill validator canister shall detect and display whether the lock is locked or unlocked and communicate whether the lock is locked or unlocked to an EGM monitoring system. The keys shall be maintained and controlled as follows:

(1) The key to the belly door or main door of the electronic device shall be maintained and controlled by the EGM department.

(2) The key to the lock securing the release mechanism on the bill validator canister shall be maintained and controlled by the security department. The security department shall establish a sign-out and sign-in procedure for this key, which shall include documentation of each transfer.

(h) Each bill validator canister shall meet the following requirements:

(1) Have at least one lock securing the contents of the bill validator canister, the key to which shall be maintained and controlled by the cage department;

(2) have a slot opening through which currency, gaming tickets, and coupons can be inserted into the bill validator canister;

(3) have a mechanical arrangement or device that prohibits the removal of currency, gaming tickets, and coupons from the slot opening whenever the bill validator canister is removed from the bill validator;

(4) be fully enclosed, except for openings that may be required for the operation of the bill validator or the bill validator canister. However, the location and size of the openings shall not affect the security of the bill validator canister, its contents, or the bill validator;

(5) have an asset number that is permanently imprinted, affixed, or impressed on the outside of the bill validator canister that corresponds to the asset number of the electronic device to which the bill validator has been attached. In lieu of the asset number, a facility manager may develop and maintain, with prior commission approval, a system for assigning a unique identification number to its bill validator canisters. The system shall ensure that each bill validator canister can readily be identified, either manually or by computer, when in use with, attached to, and removed from a particular bill validator. Each unique identification number shall be permanently imprinted, affixed, or impressed on the outside of each bill validator canister that does not otherwise bear an asset number. The asset number or unique identification number shall be conspicuous and visible to persons involved in removing or replacing the bill validator canister in the bill validator and through the facility manager's surveillance system. However, emergency bill validator canisters may be maintained without an asset number or a unique identification number if the word "emergency" is permanently imprinted, affixed, or impressed on each canister and if, when put into use, each canister is temporarily marked with the asset number of the electronic device to which the bill validator is attached; and

(6) be designed and installed in a manner that renders the electronic device inoperable in the event of the removal or absence of the bill validator canister.

(i) Notwithstanding paragraph (h)(5), any facility manager that uses a computerized EGM monitoring system may use bill validator canisters and any related components, which shall, through the use of technology approved by the commission, meet the following requirements:

(1) Have a unique identifier number assigned to each bill validator canister:

(A) The number shall not be subject to change without the approval of the executive director; and

(B) the facility manager shall provide the commission with a list of the unique identifier numbers;

(2) in the EGM monitoring system, associate the bill validator canister with the electronic device into which the bill validator canister is inserted. The association shall remain with the bill validator canister until the completion of the count process; and

(3) provide the commission and the facility manager with a method to determine the unique identifier number of the bill validator canister. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-18. Transportation of bill validator canisters to and from bill validators; storage.

(a) Each facility manager's internal control system shall include internal controls for the transportation of bill validator canisters. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. Each facility manager shall file with the commission a schedule setting forth the specific times at which bill validator canisters will be brought to or removed from the bill validators, along with specifications as to the areas of the gaming floor where canisters will be brought to or removed from the bill validator on each pickup day and the specific transportation route to be utilized from the gaming floor to the count room.

(b) Each facility manager shall maintain and make available to the commission, upon request, a detailed and current list of all employees participating in the transportation of bill validator canisters. Each deviation from the schedule setting forth the specific times at which bill validator canisters will be brought to or removed from the bill validators, change in the areas to be dropped, or change in the transportation route to the count room shall be noticed to the commission in advance.

(c) Each bill validator canister removed from a bill validator shall be transported directly to, and secured in, the count room or a trolley storage area located adjacent, configured, and secured by at least three employees. At least one of these employees shall be a member of the security department, and at least one of these employees shall be a member of the cage department. The

facility manager shall also comply with the following procedures:

(1) Before the removal of a bill validator canister from a bill validator, patrons shall be removed from the immediate area being dropped by representatives of the security department.

(2) Each bill validator canister that is removed from a bill validator during the drop process shall be replaced with an empty bill validator canister that meets the requirements of K.A.R. 112-104-17.

(3) Upon its removal from a bill validator, a bill validator canister shall be placed in an enclosed trolley that is secured by two separately keyed locks. The keys shall be maintained and controlled as follows:

(A) The key to one lock shall be maintained and controlled by the cage department; and

(B) the key to the second lock shall be maintained and controlled by the security department. Access to the security department's key shall be controlled by a sign-out and sign-in procedure. The security department's key shall be returned to its secure location upon the completion of the collection and transportation of the bill validator canisters.

(4) Before the movement of any trolley containing bill validator canisters from the gaming floor into the count room, the drop team supervisor shall verify that the number of bill validator canisters being transported from the gaming floor equals the number of bill validator canisters scheduled to be collected that day.

(5) Each bill validator canister being replaced by an emergency bill validator canister shall be transported to, and secured in, the count room by at least three employees, at least one of which shall be a member of the cage department and at least one of which shall be a member of the security department.

(d) All bill validator canisters not contained in a bill validator, including emergency bill validator canisters that are not actively in use, shall be stored in the count room or other secure area outside the count room approved by the commission, in an enclosed storage cabinet or trolley and secured in the cabinet or trolley by a separately keyed, double-locking system. The keys shall be maintained and controlled as follows:

(1) The key to one lock shall be maintained and controlled by the cage department; and

(2) the key to the second lock shall be maintained and controlled by a security department.

Access to the security department's key shall be limited to a supervisor of that department.

(e) Notwithstanding subsection (c), the security department may, before beginning the count process, issue its key to the storage cabinet or trolley to a count room supervisor for the purpose of allowing count room personnel to gain access to the bill validator canisters to be counted. Each key transferred from the custody of the security department to the count room supervisor shall be returned immediately following the conclusion of the count of the bill validator canisters and the return of the empty emergency drop boxes and bill validator canisters to their respective storage cabinet or trolley by the count room supervisor. The security department shall establish a sign-out and sign-in procedure, which shall include documentation of each transfer.

(f) Employees authorized to obtain bill validator canister storage cabinet or trolley keys shall be precluded from having simultaneous access to bill validator canister keys, with the exception of the count team in the count room.

(g) The access to bill validator canisters stored in the count room that have not been emptied and counted shall be restricted to authorized members of the drop and count teams. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-19. Unsecured currency, gaming tickets, and coupons. (a)(1) Each facility manager's internal control system shall include internal controls for unsecured currency, gaming tickets, and coupons. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1.

(2) As used in this article when modifying "currency," "gaming ticket," or "coupon," "unsecured" shall mean that the currency, gaming ticket, or coupon is found inside a bill validator but outside the bill validator canister.

(3)(A) If an EGM department representative finds any unsecured currency, tickets, or coupons, the representative shall complete a form that includes the following:

(i) The asset number or other unique identification number of the bill validator canister in the bill validator in which the unsecured currency, unsecured gaming ticket, or unsecured coupon was found;

(ii) the date the unsecured currency, unsecured gaming ticket, or unsecured coupon was found; and

(iii) the total value of the unsecured currency, unsecured gaming ticket, or unsecured coupon.

(B) After the requirement specified in paragraph (a)(3)(A) is met, a representative of the gaming machine department or cage department and a member of the security department shall perform the following:

(i) Sign the form as evidence of the total value being transported;

(ii) place the form and the unsecured currency, unsecured gaming ticket, or unsecured coupon into an envelope or container, unless the form is printed on the front of the envelope in which the currency, gaming ticket, or coupon is being placed; and

(iii) transport the envelope or container directly to the cage.

(b) Upon receipt of the envelope or container from the EGM department representative or cage department representative, a main bank cashier or cage supervisor shall prepare an unsecured bill validator report. If the unsecured currency, unsecured gaming ticket, or unsecured coupon was not transported by an EGM department supervisor or cage supervisor, the unsecured bill validator report shall be prepared by a cage supervisor pursuant to subsection (d).

(c) The unsecured bill validator reports shall be on serially prenumbered forms. Each series of unsecured bill validator reports shall be used in sequential order and shall be accounted for by employees of the accounting department. All original and duplicate void unsecured bill validator reports shall be marked "void" and shall require the signature of the preparer. All copies of void unsecured bill validator reports shall be forwarded to the accounting department at the end of each gaming day.

(d) For facilities in which unsecured bill validator reports are manually prepared, the following requirements shall be met:

(1) Each series of unsecured bill validator reports shall be a three-part form and shall be inserted into a locked dispenser that permits an individual slip in the series and its copies to be written upon simultaneously while still locked in the dispenser and that discharges the original and duplicate while the triplicate remains in a continuous, unbroken form in the dispenser.

(2) Access to the triplicates shall be maintained and controlled at all times by employees responsible for controlling and accounting for the unused supply of unsecured bill validator reports, placing unsecured bill validator reports in the dispensers,

and removing from the dispensers the remaining triplicates.

(e) For facilities in which unsecured bill validator reports are computer-prepared, each series of unsecured bill validator reports shall be a two-part form and shall be generated by a computer system that can simultaneously print an original and duplicate and store, in machine-readable form, all information printed on the original and duplicate and discharge the original and duplicate. The stored data shall not be susceptible to change or removal by any personnel after preparation of the unsecured bill validator report.

(f) On the original, duplicate, and triplicate or, if applicable, in stored data, the main bank cashier or cage supervisor shall record the following information:

(1) The date and time of preparation;

(2) the asset number or other unique identification number of the bill validator canister in the bill validator from which the unsecured currency, unsecured gaming ticket, or unsecured coupon was removed;

(3) each denomination of unsecured currency;

(4) the total value of the unsecured currency;

(5) each denomination of unsecured coupons;

(6) the total value of the unsecured coupons;

(7) the serial number and value of each unsecured gaming ticket;

(8) the total value of the unsecured gaming tickets; and

(9) the signature or, if computer-prepared, identification code of the preparer.

(g) The original and duplicate copies of the unsecured bill validator report shall be presented to the representative of the EGM department or cage department and the security representative for signature.

(h)(1) Upon meeting the signature requirements, the main bank cashier or cage supervisor shall transport the unsecured currency, unsecured gaming tickets, and unsecured coupons along with the original and duplicate copies of the unsecured bill validator report to the main bank and shall do one of the following:

(A) If the unsecured bill validator report was prepared by a cage supervisor, the main bank cashier shall perform the following:

(i) Sign the original and duplicate copies of the unsecured bill validator report;

(ii) retain the original unsecured bill validator report and the unsecured currency, unsecured gaming tickets, and unsecured coupons; and

(iii) return the duplicate unsecured bill validator report to the cage supervisor, who shall attach the form referenced in subsection (a) to the duplicate and deposit the duplicate with the attached form into the locked accounting box located in the cage.

(B) If the unsecured bill validator report was prepared by the main bank cashier, the main bank cashier shall perform the following:

(i) Retain the original unsecured bill validator report and the unsecured currency, unsecured gaming tickets, and unsecured coupons;

(ii) attach the form referenced in subsection (a) to the duplicate unsecured bill validator report; and

(iii) return the duplicate unsecured bill validator report and attached form to the security representative, who shall deposit the duplicate with the attached form into a locked accounting box maintained in a location approved by the commission.

(2) The main bank cashier shall then perform one of the following:

(A) Add the value of the unsecured currency, unsecured gaming tickets, and unsecured coupons to the main bank's accountability and retain the original of the unsecured bill validator report until the end of the gaming day; or

(B) maintain the unsecured currency, the unsecured gaming tickets, the unsecured coupons, and the original unsecured bill validator report until collected by a count room supervisor and transported to the count room, where both of the following requirements shall be met:

(i) The currency, gaming tickets, and coupons shall be counted with the contents removed from the corresponding bill validator canisters and recorded on the bill validator canisters report; and

(ii) the original unsecured bill validator report shall be forwarded to the accounting department.

(i) At the end of the gaming day, the original and the duplicate copy of the unsecured bill validator report, along with any gaming tickets and coupons, shall be forwarded as follows:

(1) If, pursuant to paragraph (h)(1), the main bank cashier has retained possession of the original, the cashier shall forward the original, along with any gaming tickets and coupons, directly to the accounting department for agreement with the triplicate or stored data; and

(2) the duplicate with the attached form shall be forwarded directly to the accounting department for recording on the bill validator canisters report and gaming machine win sheet and agreement with the triplicate or stored data. However,

no additional recording of the unsecured currency, unsecured gaming tickets, and unsecured coupons shall be required if the currency, gaming tickets, and coupons have been transported to the count room, counted, and recorded pursuant to paragraph (h)(2).

(j) The duplicate copy of the unsecured bill validator report shall be attached to the bill validator canisters report as supporting documentation. A notation shall be made on the duplicate unsecured bill validator report indicating whether the dollar value of the unsecured currency, unsecured coupons, and unsecured gaming tickets has been added to the bill validator canisters report, gaming machine win sheet, and the main bank's accountability in accordance with subsection (g) or (h). (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-20. Counting and recording bill validator canisters. (a) Each facility manager's internal control system shall include internal controls for the opening, counting, and recording of the contents of bill validator canisters. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1.

(b) The internal controls developed and implemented by the facility manager under subsection (a) shall include a description of all computer equipment used in the counting and recording process and other systems, if any, that communicate with that computer equipment for purposes related to the counting of net EGM income.

(c) Each facility manager shall file with the commission a schedule setting forth the specific times during which the contents of bill validator canisters are to be counted and recorded. Each deviation from the schedule shall be noticed to the commission at least 48 hours in advance.

(d) The computerized equipment utilized to count and secure currency, gaming tickets, and coupons shall meet the following requirements:

(1) Automatically provide two separate counts of the funds at different stages of the count process and, if the separate counts are not in agreement, document the discrepancy; and

(2) be capable of determining the value of a gaming ticket or coupon by independently examining information printed on the gaming ticket or coupon. The information shall be used by the counting equipment to either calculate the value internally or obtain the value directly from the

gaming ticket system or coupon system in a secure manner. If the gaming ticket system is utilized to obtain the value of a gaming ticket or coupon, the gaming ticket system shall perform a calculation or integrity check to ensure that the value has not been altered in the system in any manner since the time of issuance.

(e) All persons accessing the count room when uncounted funds are present shall wear clothing without any pockets or other compartments, with the exception of representatives of the commission, the Kansas lottery, the facility security department, the facility internal audit department, and independent auditors specified in K.A.R. 112-104-6.

(f) No person present in the count room shall perform either of the following:

(1) Carry a handbag or other container unless it is transparent; or

(2) remove that person's hands from or return them to a position on or above the count table or counting equipment, unless the backs and palms of the hands are first held straight out and exposed to the view of other members of the count team and a surveillance camera.

(g) Immediately before beginning the count, a count room employee shall notify the surveillance department that the count is about to begin, to facilitate the recording, under article 106, of the entire count process.

(h) Each gaming ticket or coupon deposited in a bill validator canister shall be counted and included in the calculation of net EGM income without regard to the validity of the gaming ticket or coupon.

(i) A coupon that has not already been canceled upon acceptance or during the count shall be canceled before the conclusion of the count.

(j) Each variance between the value of cash gaming tickets and coupons in a bill validator canister as determined in the count room and the value for that particular bill validator canister recorded on corresponding reports generated by the gaming ticket system or coupon system shall be disclosed to the commission in a detailed written report citing each variance, the reason for the variance, and the corrective action taken. This variance report shall be filed by the facility manager with the commission within 72 hours of the count that is the subject of the variance. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-21. Jackpot payouts. (a) Each facility manager's internal control system shall include internal controls for jackpot payouts that are not paid directly from an EGM and for the method of jackpot payout specified in subsection (d). The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1.

(b) The internal controls developed and implemented by the facility manager under subsection (a) shall include the following:

(1) A request for jackpot payout document or an electronic entry into an EGM computer system generating jackpot payouts by an EGM department employee or EGM department supervisor, evidencing the observation by the EGM department employee or EGM department supervisor of the winning combination of characters on the EGM and a determination of the amount of the jackpot payout based on the observed winning combinations;

(2) a requirement that the preparer of the request for jackpot payout document or the employee performing the electronic entry into the EGM computer system be an EGM department supervisor if the hand-paid jackpot is \$10,000 or more;

(3) a requirement that the following information be on the request for jackpot payout document or electronically entered into the EGM computer system and maintained in stored data:

(A) The date and time of the jackpot;

(B) the asset number of the EGM on which the jackpot was registered;

(C) the winning combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot;

(D) the dollar amount of the jackpot payout in both alpha and numeric form or a description of personal property awarded, including the fair market value of the personal property;

(E) the method of payment requested by the patron;

(F) the signature or identification code of the preparer; and

(G) the following additional signatures or identification codes, which shall be required if the EGM or the progressive meter is reset before the patron is paid or if payment is made directly to the patron by a gaming cashier:

(i) The signature or identification code of a security department member or EGM department attendant other than the preparer, attesting to the

winning combination of characters constituting the jackpot and the amount of the jackpot payout; or

(ii) the signature or identification code of the EGM department shift manager, attesting to the winning combination of characters constituting the jackpot and the amount of the jackpot payout if the jackpot amount is \$25,000 or more;

(4) a requirement that, upon preparation, the request for jackpot payout document be transported by the preparer to the cage, where the document will serve to authorize the preparation of a jackpot payout document or that the information be made available by the EGM computer system;

(5) a requirement that if the winning patron will not be paid before the EGM or progressive meter is reset, the preparer of the request for jackpot payout document or the employee performing the electronic entry required by paragraph (b)(1) also prepare a two-part receipt document containing the following information:

(A) The date and time of the jackpot;

(B) the asset number of the EGM on which the jackpot was registered;

(C) the winning combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot;

(D) the dollar amount of the jackpot payout in both alpha and numeric form or a description of personal property awarded, including the fair market value of the personal property;

(E) the signature of the winning patron on the original form only; and

(F) the signature of the preparer, attesting that the information on the receipt document is correct and agrees with the information on the request for jackpot payout document or in stored data;

(6) a requirement that the receipt document be distributed as follows:

(A) The original shall be immediately delivered to the gaming cashier by the preparer, security department member, or verifying EGM department attendant, along with the request for jackpot payout document if manually generated in accordance with paragraph (b)(1); and

(B) the duplicate shall be immediately presented to the winning patron, who shall be required to present the duplicate receipt document before being paid the jackpot in accordance with the procedures set forth in this regulation;

(7) a requirement that the following information be on any jackpot payout document generated by the EGM computer system:

(A) The asset number of the EGM on which the jackpot was registered;

(B) the winning combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot;

(C) the date on which the jackpot occurred;

(D) the dollar amount of the jackpot payout in both alpha and numeric form or a description of personal property awarded, including the fair market value of the personal property;

(E) the date, time, and method of payment; and

(F) the signature or identification code of the preparer;

(8) a requirement that the data in paragraphs (b)(7)(A) through (F) not be susceptible to change or removal by any personnel after preparation of a jackpot payout document;

(9) a requirement that whenever the winning patron is paid directly by the gaming cashier, the following procedures be followed:

(A) A jackpot payout document shall be generated by the EGM computer system in accordance with paragraph (b)(7);

(B) if a one-part request for jackpot payout document is involved and a security department member or verifying EGM department attendant other than the preparer has not signed the one-part request for jackpot payout document, the gaming cashier shall summon a security department member or EGM department employee other than the preparer of the request for jackpot payout document and provide that employee with the request for jackpot payout document. The security department member or verifying EGM department employee shall proceed to the EGM identified on the request for jackpot payout document and sign the request for jackpot payout document, attesting that the winning combination of characters on the EGM and the amount to be paid match those that appear on the request for jackpot payout document. If the jackpot amount is \$25,000 or more, an EGM department shift manager shall also sign the request for jackpot payout document, attesting that the winning combination of characters on the EGM and the amount to be paid match those that appear on the request for jackpot payout document. The request for jackpot payout document shall be returned to the gaming cashier before the end of that gaming day;

(C) after the gaming cashier determines that the required signatures verifying the winning combination of characters on the EGM and the amount

to be paid have been placed on the one-part request for jackpot payout document, if the amount being paid is less than \$10,000, the gaming cashier shall pay the winning patron in the presence of the preparer of the request for jackpot payout document. If the amount being paid is \$10,000 or more but less than \$25,000, the gaming cashier shall pay the winning patron in the presence of the EGM department attendant supervisor who prepared the request for jackpot payout document. If the amount being paid by the cashier is \$25,000 or more, the gaming cashier shall pay the winning patron in the presence of the EGM department supervisor and the EGM department shift manager who prepared the request for jackpot payout document in accordance with this subsection. The personnel required by this subsection to witness the payment shall sign the duplicate jackpot payout document, attesting to the accuracy of the information on the duplicate jackpot payout document and the disbursement of the payment to the patron;

(D) if a receipt document under paragraph (b) (5) was issued, the duplicate receipt document shall be signed by the patron in the presence of the gaming cashier. The gaming cashier shall compare the signature on the duplicate receipt document to that on the original receipt document and make the payment only if the signatures are in agreement;

(E) once the required signatures are obtained and payment has been made, the gaming cashier shall give the duplicate jackpot payout document to a security department member or EGM department employee, who shall deposit the document into a locked accounting box; and

(F) the gaming cashier shall attach the request for jackpot payout document, if applicable, and the original and duplicate receipt documents, if applicable, to the original copy of the jackpot payout document. All documents shall be forwarded by the end of the gaming day to the main bank for reimbursement;

(10) a requirement that the facility manager's accounting department perform, at the conclusion of each gaming day, income control reconciliation procedures over the issuance of jackpot payouts, including adequate comparisons to gaming ticket system data; and

(11) details for processing system overrides or adjustments.

(c) Nothing in this regulation shall preclude the use of an EGM computer system, approved

by the commission, that electronically records the information required on a request for jackpot payout document or facilitates through the EGM computer system the verifications and comparisons as to a winning combination of characters on the EGM or an amount to be paid required under this regulation.

(d) Nothing in this regulation shall preclude a facility manager from implementing procedures by which a gaming cashier, in the presence of a member of the security department, utilizes an imprest inventory of funds secured in a pouch or wallet to pay a jackpot of less than \$1,200 that is not totally and automatically paid directly from an EGM. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-22. Annuity jackpots. (a) Each facility manager's internal control system shall include internal controls for the payment of an annuity jackpot. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. The internal controls developed and implemented by the facility manager shall include the following:

(1) Procedures to be followed by a winning patron to exercise a cash payout option;

(2) procedures with regard to the administration of the trust agreement established to ensure the future cash payments due under the annuity jackpot award; and

(3) a requirement that the trustee for the trust fund established by the trust agreement be a facility manager or, for a wide-area progressive system offering an annuity jackpot, the EGM system operator for that wide-area progressive system.

(b) Any facility manager offering an annuity jackpot payable over 10 years or more may offer a winning patron the option to be paid in a single cash payout, in lieu of the annuity jackpot, in an amount that is equal to the present value of the face amount of the jackpot payout as calculated in subsection (c).

(c) Any facility manager may offer a cash payment option. The present value of the cash payout option on an annuity shall be determined by applying a discount rate to each of the future annuity jackpot payments, taking into consideration the number of years until each jackpot payment would otherwise have been received and adding to that amount the amount of the first cash payment that would otherwise have been received. For the purposes of this subsection, the discount

rate shall equal the United States treasury constant maturity rate for 20-year United States government securities for the week ending before the date of the jackpot, as identified in the federal reserve statistical release form H.15 for selected interest rates, plus 0.5%.

(d) A facility manager shall not offer an annuity jackpot payout unless both of the following conditions are met:

(1) The terms and conditions of the annuity jackpot, including the effect on the calculation of the theoretical payout percentage, meet the requirements of the act, this article, and the technical standards approved by the commission under article 110.

(2) The commission has approved the specific offer of the annuity jackpot.

(e) Each cash payout made in connection with an annuity jackpot shall be made in accordance with K.A.R. 112-104-21. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-23. Merchandise jackpots. (a) Each facility manager's internal control system shall include internal controls for the payment of a merchandise jackpot. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1.

(b) A facility manager shall not offer a merchandise jackpot payout unless both of the following conditions are met:

(1) The terms and conditions of the merchandise jackpot, including the effect on the calculation of the theoretical payout percentage, meet the requirements of the act, this article, and the technical standards approved by the commission under article 110.

(2) The commission has approved the specific offer of the merchandise jackpot. To obtain commission approval, a facility manager shall file an amendment waiver and request form containing all of the details related to the merchandise jackpot payout.

(c) Each cash payout made in connection with a merchandise jackpot shall be made in accordance with K.A.R. 112-104-21. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-24. Internal audit standards. (a) Each facility manager's internal control system shall include internal controls for internal audit

standards. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. The facility manager shall maintain a separate internal audit department whose primary function is to perform internal audit work that shall be independent with respect to the departments subject to audit. The facility manager shall ensure that the standards, conventions, and rules governing audits in the United States are followed for all audits. The internal audit department shall be responsible for the following:

(1) The review and appraisal of the adherence of the facility manager's systems of internal control to commission regulations and technical standards;

(2) performing tests to ensure compliance with internal control procedures;

(3) the reporting to the facility manager's management and the commission of instances of non-compliance with the internal control system;

(4) the reporting to the facility manager's management and the commission of any weaknesses in the internal control system;

(5) the recommendation of procedures to eliminate any weaknesses in the internal control system; and

(6) performing tests to ensure compliance with K.A.R. 112-104-6.

(b) The auditing department shall prepare documents to evidence all internal audit work performed as the work relates to the requirements in this regulation, including all instances of noncompliance with internal control procedures:

(1) The internal audit department shall operate with audit programs that address the requirements of this regulation.

(2) The internal audit department shall accurately document the work performed, the conclusions reached, and the resolution of all exceptions.

(c) All audit reports shall be prepared, maintained, and provided to the commission on a schedule approved by the executive director.

(1) Internal audit personnel shall perform audits of all major gaming areas of the facility manager. The following shall be reviewed at least quarterly:

(A) Wagering, including calculation and payout procedures;

(B) net EGM income;

(C) EGM activity, including the following:

(i) Jackpot payout and EGM or electronic device fill procedures;

(ii) EGM or electronic device drop counts, bill validator counts, and subsequent transfer of funds;

(iii) unannounced testing of count room currency counters or currency interface;

(iv) EGM drop cabinet access;

(v) tracing of source documents to summarized documentation and accounting records;

(vi) reconciliation to restricted copies;

(vii) compliance with erasable programmable read-only memory (EPROM) duplication procedures; and

(viii) compliance with internal control procedures for EGMs or electronic devices that accept currency and issue cash-out tickets and for EGMs that do not accept currency and do not return currency;

(D) cage procedures, including the reconciliation of trial balances to physical instruments on a sample basis. Cage accountability shall be reconciled to the general ledger;

(E) information technology standards specified in K.A.R. 112-104-25;

(F) complimentaries, including procedures whereby complimentaries are issued, authorized, and redeemed;

(G) control of keys that require accountability in a log beginning with the authorization to order, number received, establishment of the beginning key inventory, and control of issuance of keys to the operating departments;

(H) purchasing functions and contractual agreements to determine that the purchases and agreements are not in excess of their fair market value; and

(I) any other internal audits as required by the executive director, audit committee of the board of directors, or other entity designated by the executive director.

(2) The audit reports shall include the following information:

(A) Audit objectives;

(B) audit procedures and scope;

(C) findings and conclusions;

(D) recommendations, if applicable; and

(E) management's response.

(3) In addition to the observation and examinations performed under paragraph (c)(1), follow-up observations and examinations shall be performed to verify that corrective action has been taken regarding all instances of noncompliance cited by internal audit, the independent accountant, and the commission. The verification shall be performed within three months of the issuance of the audit report.

(4) Whenever possible, internal audit observations shall be performed on an unannounced basis.

(5) All exceptions disclosed during audits shall be investigated and resolved, with the results being documented and retained for seven years.

(d) All internal audit findings shall be reported to management, who shall be required to respond to internal audit findings stating corrective measures to be taken to avoid recurrence of the audit exception. The management responses shall be included in the internal audit reports that are delivered to the facility manager's management, the commission, audit committee of the board of directors, or other entity designated by the executive director. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-25. Information technology standards.

(a) Each facility manager's internal control system shall include internal controls for information technology standards. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. The management information systems (MIS) department shall be responsible for the quality, reliability, and accuracy of all EGM computer systems used by the facility manager regardless of whether data, software, or systems are located within or outside the gaming facility. The MIS department shall be responsible also for the security and physical integrity of, and the accountability and maintenance of, the following:

(1) Access codes and other security controls used to ensure limited access to computer software and the systemwide reliability of data;

(2) computer tapes, disks, or other electronic storage media containing data relevant to the facility manager's operations;

(3) computer hardware, communications equipment, and software used in the conduct of the facility manager's operations; and

(4) the computerized EGM monitoring system utilized by the facility manager, which shall ensure that the following conditions are met:

(A) EGMs located on the gaming floor are connected to the facility manager's computerized EGM monitoring system and to the Kansas lottery's central computer system in accordance with the act;

(B) the security features of the computerized EGM monitoring system prohibit the deletion, creation, or modification of any data unless a permanent record is created that sets forth the original information, modifications to the original

information, the identity of the employee making the modification, and, if applicable, the identity of each employee authorizing the modification;

(C) computerized jackpot payout systems utilized by the facility managers are configured to require that any modification of \$100 or more to the original amount recorded on a computerized jackpot payout or system override is authorized by two cage department employees, one of whom is in a position of greater authority than the individual preparing the jackpot payout; and

(D) procedures and controls are in place that define and limit interaction between the EGM department, the cage department, and the accounting department and the computerized EGM monitoring system, including access to system menus, the establishment of EGM profile parameters, and the ability of each department to access, delete, create, or modify information contained in the EGM monitoring system.

(b) The internal controls specified in subsection (a) shall include general controls for gaming hardware and software. These general controls shall include all of the following requirements:

(1) The facility manager's management shall ensure that physical and logical security measures are implemented, maintained, and adhered to by personnel to prevent unauthorized access that could cause errors or compromise data or processing integrity.

(2) The facility manager's management shall ensure that all new gaming vendor hardware and software agreements and contracts contain language requiring the vendor to adhere to internal control standards applicable to the goods and services the vendor is providing.

(3) Physical security measures shall exist over computers, computer terminals, data lines, and storage media to prevent unauthorized access and loss of integrity of data and processing.

(4) The requirements in paragraph (b)(1) shall apply to each applicable department within the gaming facility. Only authorized personnel shall have access to the following:

- (A) Systems software and application programs;
- (B) computer data;
- (C) computer communications facilities;
- (D) the computer system; and
- (E) information transmissions.

(c) Each facility manager shall include the following in that facility manager's internal controls:

(1) The method for detecting authorized and unauthorized software changes;

(2) the generation of daily reports from all computer systems, which shall document any software changes;

(3) procedures for the control and installation of software by the MIS department;

(4) the creation of a software control log by the MIS department evidencing all authorized changes to software; and

(5) the review and comparison of the report and log required in paragraphs (c)(2) and (4) by the internal audit department for any deviations and investigation.

(d) The main computers for each gaming application shall be located in a secured area with access restricted to authorized persons, including vendors. Non-MIS department personnel shall be precluded from having unrestricted access to the secured computer areas.

(e) Access to computer operations shall be restricted to authorized personnel.

(f) Incompatible functions shall be adequately segregated and monitored to prevent lapses in general information technology procedures that could allow errors to go undetected or fraud to be concealed.

(g) The computer systems, including application software, shall be secured through the use of passwords or other means approved by the commission, if applicable. MIS department personnel shall assign and control the access to system functions.

(h) Passwords shall be controlled through both of the following requirements:

(1) Each user shall have that person's own individual password.

(2) Each password shall be changed at least quarterly with each change documented.

(i) MIS department personnel shall have backup and recovery procedures in place that include the following:

(1) Daily, monthly, and annual backup of data files;

(2) backup of all programs;

(3) secured off-site storage of all backup data files and programs or other adequate protection access to which shall be restricted to authorized MIS department personnel; and

(4) recovery procedures, which shall be tested on a sample basis at least semi-annually with documentation of results.

(j) Information technology system documentation shall be maintained, including descriptions of hardware and software, including current ver-

sion numbers of approved software and licensee manuals.

(k) MIS department personnel shall meet the following requirements:

(1) Be precluded from unauthorized access to the following:

(A) Computers and terminals located in gaming areas;

(B) source documents; and

(C) live data files, which shall not contain test data; and

(2) be restricted from the following:

(A) Having unauthorized access to cash or other liquid assets; and

(B) initiating general or subsidiary ledger entries.

(1) All program changes for in-house developed systems shall be documented as follows:

(1) Requests for new programs or program changes shall be reviewed by the MIS department supervisor. The approval to begin work on the program shall be documented.

(2) A written plan of implementation for new and modified programs shall be maintained and shall include the following:

(A) The date the program is to be placed into service;

(B) the nature of the change;

(C) a description of procedures required in order to bring the new or modified program into service, including the conversion or input of data and installation procedures; and

(D) an indication of who is to perform the procedures specified in paragraph (1)(2)(C).

(3) The testing of new and modified programs shall be performed and documented before implementation.

(4) A record of the final program or program changes, including evidence of user acceptance, the date in service, the name of the programmer, and the reason for changes, shall be documented and maintained.

(m) The facility manager shall maintain computer security logs. If computer security logs are generated by the system, the logs shall be reviewed by MIS department personnel for evidence of the following:

(1) Multiple attempts to log on. Alternatively, the system shall deny user access after three attempts to log on;

(2) unauthorized changes to live data files; and

(3) any other irregular transactions.

(n) The following requirements shall apply

to accessing computer systems through remote dial-up or other methods as authorized by the commission:

(1) If remote dial-up to any associated equipment is allowed for software support, MIS department personnel shall maintain an access log that includes the following:

(A) The name of employee authorizing modem access;

(B) the name of authorized programmer or vendor representative;

(C) the reason for modem access;

(D) a description of work performed; and

(E) the date, time, and duration of access.

(2) The facility manager shall be required by the commission to maintain evidence of all changes being made during remote access sessions.

(o) Any facility manager may scan or directly store documents to an unalterable storage medium if all of the following requirements are met:

(1) The storage medium shall contain the exact image of the original document.

(2) All documents stored on the storage medium shall be maintained with a detailed index listing the department and date. This index shall be available upon request by the executive director.

(3) Upon request and adequate notice by the commission, hardware, including the terminal and printer, shall be made available in order to perform auditing procedures.

(4) Controls shall exist to ensure the accurate reproduction of records, including the printing of stored documents used for auditing purposes.

(5) The storage medium shall be retained for at least seven years.

(p) If a facility manager employs computer applications to replace or to supplement manual procedures, the computer application procedures implemented shall provide the same level of documentation or procedures, or both, that manual procedures approved by the commission provide. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-26. Gaming facility. (a) Each facility manager's internal control system shall include internal controls for the gaming facility requirements contained within this regulation. The internal controls shall be submitted to and approved by the commission according to K.A.R. 112-104-1. Each gaming facility shall be equipped with a surveillance system configured and approved in accordance with article 106.

(b) Restricted areas within the gaming facility shall be designated for the repair and storage of EGMs. The areas approved and utilized within the gaming facility for EGM repair shall be monitored by the surveillance system.

(c) Each emergency exit from the gaming floor shall be equipped with an audible alarm system that produces a loud, distinguishable warning sound, discernable in the vicinity of the exit, whenever the emergency door is opened. The alarm system shall be designed to require deactivation and reset by means of a key. The key shall be maintained by the facility manager's security department.

(d) Each facility manager shall, in accordance with the act, provide for and maintain facilities for use by the commission and the Kansas lottery for the purpose of carrying out each commission's responsibilities. The facilities shall be located in the same building as the gaming floor and shall include adequate office space, equipment, partitions, and supplies to meet the continuing needs of the commission and the Kansas lottery at the facility, including the following:

(1) A surveillance system monitoring room that meets all of the requirements of K.A.R. 112-106-1(o);

(2) an area for detention that meets all of the requirements of K.A.R. 112-105-6;

(3) a fingerprinting and photographing facility for use by the commission, located in conformance with and outfitted in compliance with specifications established by the commission;

(4) adequate computer, telephone, and copying capability to meet the commission's and the Kansas lottery's continuing data processing and related needs;

(5) direct telephone connections between these facilities and the facility manager's surveillance monitoring room and its security department; and

(6) computer terminals facilitating read-only access to any EGM computer system used by the facility manager in its gaming operations.

(e) The keys or alternative locking mechanisms securing access to the on-site facilities shall be under the exclusive custody and control of the commission or the Kansas lottery.

(f) Each facility manager shall provide additional accommodations within the gaming facility upon receipt of a written request from the executive director or the Kansas lottery to accommodate periodic audit, compliance, or investigative reviews at the gaming facility.

(g) Each facility manager shall provide adequate parking spaces adjacent or proximate to the on-site facilities, clearly marked for the commission and the Kansas lottery use only.

(h) Each facility manager shall equip the facility with communication systems necessary to ensure communication between the gaming facility and the commission, the Kansas lottery, and any applicable local law enforcement agency or emergency first responders. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-27. Acceptance of tips or gratuities from patrons. Notwithstanding the requirements of K.A.R. 112-107-18, a level I employee or gaming employee who serves in a supervisory position shall be prohibited from soliciting or accepting a tip or gratuity from a patron of the facility manager. No level II or level III employee may solicit a tip or gratuity from a patron of the facility manager. A facility manager shall not permit any practices prohibited by this regulation. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-28. Automated teller machines. Automated teller machines may be placed at any location within the gaming facility, if the location is approved by the executive director. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-29. Waiver of requirements. (a) One or more of the requirements of this article applicable to accounting and internal controls may be waived by the commission on its own initiative, upon the commission's determination that the compensating control or procedure, as documented in a facility manager's internal control system, meets the operational integrity requirements of the act and this article.

(b) Any 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 proposed accounting and internal controls for which the waiver has been requested would meet the operational integrity requirements of the act and this article. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-30. Gaming day. (a) The beginning and ending times of the gaming day shall be determined by the Kansas lottery and shall be uniform for all facility managers for the purposes of determining net EGM income.

(b) Before beginning gaming operations, each facility manager shall submit to the commission in writing its hours of gaming. The gaming times shall correspond to the portion of the gaming day the facility manager will be open to the public for the purpose of gaming activities. A facility manager shall not commence gaming until its hours of gaming are approved by the commission.

(c) Each facility manager shall provide written notice of any planned change in the facility manager's hours of gaming to the commission at least 72 hours before the change. The facility manager shall notify the commission of a change in the facility manager's hours due to an emergency at that time. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-31. Signature. An employee signature may be in either of the following formats: (a) The employee's first initial, last name, and employee credential number, which shall be written by the employee, immediately adjacent to or above the clearly printed or preprinted title of the employee; and

(b) the employee's unique identification number or other computer identification code issued to the employee by the facility manager, if the document to be signed is authorized by the commission to be generated by an EGM computer system and this method of signature is approved or required by the commission. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

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.)

112-104-33. Disputes. (a) If a dispute arises with a patron concerning the payment of alleged winnings, the facility manager shall provide the patron with a patron complaint form and instructions for submitting a patron complaint.

(b) If a facility manager refuses to pay the winnings claimed by a patron and the patron and the facility manager remain unable to resolve the dispute after seven days, the facility manager shall, on the next day, notify the commission in writing of the dispute in a manner and form the commission prescribes. The notice shall identify the parties to the dispute and shall state the known relevant facts regarding the dispute. A determination regarding the dispute may be made by the commission. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-104-34. Physical key controls; automated key controls. (a) "Sensitive keys" shall mean those unlocking devices designated by the Kansas lottery, a facility manager, or the commission as important to preserving the security of the facility manager's business. Each facility manager shall control the storage, duplication, custody, issuance, and return of sensitive keys. The sensitive key box may be stored in each facility manager's accounting department. At a minimum, the following keys shall be deemed sensitive keys:

- (1) The EGM belly glass key;
- (2) the tip box key, sometimes called a "toke box" key; and
- (3) the accounting or audit box key.

(b) Sensitive keys may be further designated as "critical." Critical keys shall mean those unlocking devices that shall be maintained in a dual-lock box. If a critical key is lost or becomes missing, all locks that the key fits shall be changed within 24

hours. At a minimum, the following keys shall be deemed critical keys:

- (1) The EGM central processing unit key;
 - (2) the EGM main door key;
 - (3) the EGM drop door key;
 - (4) the bill validator door and box release key;
 - (5) the bill validator contents key;
 - (6) the jackpot or EGM reimpressionment kiosk keys;
 - (7) the self-redemption or bill breaker kiosk keys;
 - (8) the change cart key;
 - (9) the key for each table game's drop box;
 - (10) the key for the table game drop box release;
 - (11) the keys for the bill validator and table drop storage cart;
 - (12) the key for each table game's chip bank cover;
 - (13) the key for each table game's chip tray;
 - (14) the key for each progressive game's controller;
 - (15) the key for each progressive game's reset switch;
 - (16) the keys for the reserve chip storage;
 - (17) the keys for the card and dice storage area;
 - (18) the keys for the secondary chip storage area;
 - (19) the access door key to any cage, EGM bank, or redemption booth;
 - (20) the window key to any cage, EGM bank, or redemption booth;
 - (21) the keys to the vault;
 - (22) the keys to the soft count room; and
 - (23) any key not listed in this subsection that controls access to any cash or chip storage area.
- (c) If a facility manager chooses to use rings to maintain its keys, each key on the ring shall be individually identified on a key access list.
- (d) Each facility manager's internal control system shall include the following information:
- (1) The location of each sensitive key and critical key box;
 - (2) each employee or contract job title that is authorized to access the sensitive key or critical key boxes;
 - (3) the procedure for issuing and controlling the keys for the sensitive key or critical key boxes;
 - (4) the sensitive key or critical key names, location, and persons authorized to sign out each sensitive key or critical key;
 - (5) the location and custodian of each duplicate sensitive key; and
 - (6) continuous surveillance coverage of each key box.

(e) If a facility manager chooses to use an automated key control system, the facility manager's internal control system shall include the following information:

(1) A description of the automated system and its configuration, including how access is controlled;

(2) the system's ability to provide scheduled and on-demand reports for a complete audit trail of all access, including the following:

(A) The identity of the key box;

(B) the identity of the employee;

(C) the identity of the keys;

(D) the date and time a key was removed;

(E) the date and time a key was returned;

(F) any unauthorized attempts to access the key box; and

(G) all entries, changes, or deletions in the system and the name of the employee performing the entry, change, or deletion;

(3) the employee position that is in charge of any automated key control system;

(4) each employee position that is authorized to enter, modify, and delete any keys;

(5) each employee position that is authorized to access the system;

(6) details about the alarms being used to signal for the following events:

(A) Overdue keys;

(B) open key box doors;

(C) unauthorized attempts to access; and

(D) any other unusual activities;

(7) any system override procedures; and

(8) a procedure for the notification of a commission security agent on duty if a partial or complete system failure occurs.

(f) Each individual authorized to access keys in the automated system shall have the authorization noted in the employee's personnel file.

(g) Each change to the list of authorized employees that have access to the automated keys shall be updated within 72 hours of the change. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

112-104-35. Key control procedures. (a) Each facility manager's internal controls for keys shall include a key box custodian. Each custodian of a sensitive key box or critical key box shall be issued a sensitive key or critical key access list that notes the authorized employee positions that may access each sensitive key or critical key.

(b) If two keys are required to access a controlled area, then the keys shall be issued to differ-

ent employees and each key shall be individually signed out of the key access list.

(c) Each key that requires issuance under security or management escort shall be identified as such in the sensitive key or critical key access list. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

112-104-36. Key access list. (a) Each facility manager shall maintain a current and accurate key access list for each sensitive key or critical key. Each facility manager shall provide a copy of the key access list to the commission's director of security. The key access list shall include the following details:

(1) The name of the key;

(2) the storage location of the key;

(3) the name of the custodian of the key;

(4) the quantity of the keys;

(5) the title of each employee authorized to remove the key; and

(6) any escort requirements and specific limitations to key access.

(b) The custodian of duplicate keys shall maintain a key access list documenting the following information:

(1) The name of the keys;

(2) the identification number assigned to the key;

(3) the employee positions that are authorized to remove a key; and

(4) any escort requirements for each key's use.

(c) The internal control system for keys shall indicate which employees have the authority to make changes, deletions, or additions to the sensitive key and critical key access lists. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

112-104-37. Key log. (a) Any sensitive key or critical key may be issued only after completion of a sensitive key or critical key log. The key log shall include the following information:

(1) The date the key was issued or returned;

(2) the key number;

(3) the individual or automated key box issuing the key;

(4) the individual receiving the key;

(5) the time the key was signed out or removed;

(6) the time the key was signed in;

(7) the individual returning the key; and

(8) the individual or automated key box receiving the returned key.

(b) Each individual who signs out a sensitive key or a critical key shall maintain custody of the key

until the key is returned to the sensitive key or the critical key box. Keys may be passed only to count team leads and distributed to other count team members during bill validator drops and EGM drops. In the event of an emergency, illness, or injury rendering the individual incapable of returning the key, a supervisor may return the key with a notation on the sensitive key log.

(c) Upon completion, sensitive key or critical key logs shall be forwarded at intervals specified by the facility manager to the accounting or internal audit department, where the logs shall be reviewed and retained. If any discrepancies are found in the key logs, the security or internal auditing department shall begin an investigation and document the discrepancy.

(d) Each facility manager shall maintain a duplicate key inventory log documenting the current issuance, receipt, and inventory of all duplicate sensitive keys. The duplicate key inventory log shall include the following information:

- (1) The date and time of the key issuance, receipt, or inventory;
- (2) each key name;
- (3) each key number;
- (4) the number of keys in beginning inventory;
- (5) the number of keys added or removed;
- (6) the number of keys in ending inventory;
- (7) the reason for adding or removing keys; and
- (8) the signatures of the two individuals accessing the box. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

112-104-38. Broken, lost, or missing keys. (a) The internal control system shall include procedures for the following if a critical key or sensitive key is broken:

- (1) The name of the employee required to receive and replace the broken key;
 - (2) disposition of the broken key; and
 - (3) notification to a commission agent on duty.
- (b) An inventory of duplicate keys shall be maintained in such quantity that there is always at least one duplicate key in inventory for each critical key or sensitive key.

(c) The internal control system shall include procedures to be followed when a sensitive key or critical key is lost, missing, or taken from the premises.

(d) The internal control system shall include procedures for investigating and reporting missing critical keys or sensitive keys. The commission agent on duty shall be notified upon discovery that

any sensitive keys or critical keys are missing. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

112-104-39. Corrections to forms. (a) Monetary corrections to a figure originally recorded on a form may be made only in ink by performing the following:

- (1) Crossing out the error;
- (2) entering the correct figure; and
- (3) obtaining the initials of the employee making the change and the initials of the employee's supervisor.

(b) Each nonmonetary correction to a form shall be initialed by the employee making the correction.

(c) Each form that is not prenumbered shall be maintained and controlled by the applicable department manager. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

112-104-40. Manual form dispensers. (a) Each facility manager's accounting or security department shall be responsible for loading and unloading any locked manual form dispenser. Each form unloaded from the dispenser shall be delivered directly to the accounting department.

(b) If the manual form dispenser jams, an employee from the accounting department or security department shall clear the jam and relock the manual form dispenser.

(c) If a facility manager uses a manual form dispenser, then the dispenser shall be configured to dispense a single form at a time, with undispensed forms kept in continuous order. (d) Manual form dispensers shall be used to control the following manual forms:

- (1) Table fill slips;
- (2) table credit slips; and
- (3) EGM hand-paid jackpot payout forms. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

112-104-41. Forms; description. (a) Each facility manager shall maintain a supply of all forms listed in subsection (b) and any additional forms that the manager deems necessary to manage the facility. Each facility manager's internal control submission shall include an index of all forms that the manager may use.

(b) The following forms shall be a part of each facility manager's minimum internal controls:

- (1) Inventory ledgers for the following:

- (A) Date of receipt, count, or issuance of cards or dice;
- (B) quantity of cards and dice received or issued; and
- (C) balance of cards or dice inventory on hand;
- (2) a log for card or dice pickup and either cancellation or destruction, including the following details:
- (A) The date of the form's preparation;
- (B) the date and time of cancellation or destruction of the cards or dice;
- (C) the quantity of cards and dice picked up, canceled, or destroyed; and
- (D) all required signatures;
- (3) a card or dice storage log for the pit area, including the following details:
- (A) The date of each entry on the log;
- (B) the quantity and description of all cards and dice placed in the compartment;
- (C) the quantity and description of all cards and dice removed from the compartment;
- (D) the current number of each design and color combination of cards and dice; and
- (E) each daily verification of the current inventory;
- (4) a cashier's cage or vault count sheet, including the following details:
- (A) The date and time of completion of the count sheet;
- (B) the location of the cashier's cage;
- (C) the amount of each type and denomination of funds;
- (D) the actual count total or closing inventory;
- (E) the accountability total;
- (F) the amount of overages or shortages; and
- (G) each signature required by these regulations for the count sheet;
- (5) a cashier's cage multiple-transaction log, including the following details:
- (A) The location of the cashier's cage or bank where the cash transactions occurred;
- (B) the date of the multiple-transaction log;
- (C) the full name of any patron making multiple transactions, if provided by the patron, or a description to help identify the patron if the patron refuses to provide a name. Each description shall include weight, height, hair color, and any other observed distinguishing features;
- (D) the total cash transaction amount; and
- (E) the transaction type. The transaction types shall be the following:
- (i) Cash-outs, including cashing personal checks and travelers checks;
- (ii) chip redemptions. The gaming location shall be included in the comments column;
- (iii) deposits for safekeeping;
- (iv) deposits out when withdrawing a safekeeping deposit; and
- (v) any other transactions not listed in paragraphs (b)(5)(E)(i) through (iv), including each cash transaction payment of EGM jackpots and each exchange of currency for currency;
- (F) the time of the transaction;
- (G) the signature and commission license number of the employee logging the transaction;
- (H) any observed information that would be useful in identifying the patron or explaining the transaction;
- (I) the supervisor's signature. The supervisor's signature shall acknowledge the following items:
- (i) That the supervisor has reviewed the log and, to the best of the supervisor's knowledge, all cash transactions of \$500 or more have been properly recorded; and
- (ii) that all currency transaction reports have been properly completed for all single cash transactions and series of multiple cash transactions in excess of \$10,000; and
- (J) the page number and total pages of the log for the gaming day;
- (6) a chip inventory ledger, including the following details:
- (A) The date of receipt, issuance, and destruction;
- (B) the number of each denomination of chips received, issued, or destroyed;
- (C) the dollar amount of each denomination of value chips, as defined in K.A.R. 112-108-1, received, issued, or destroyed;
- (D) the number and description of non-value chips received, issued, or destroyed;
- (E) any required signatures; and
- (F) the identification of any primary chips held in reserve with the word "reserve";
- (7) a safekeeping deposit or withdrawal form, including the following details:
- (A) Preprinted numbering on all copies;
- (B) the name and signature of the patron making the deposit;
- (C) the date of each deposit or withdrawal;
- (D) the amount of each deposit or withdrawal;
- (E) the type of deposit or withdrawal;
- (F) the reason for the deposit or withdrawal; and
- (G) any required signatures;
- (8) a duplicate key inventory log, including the following details:

- (A) The date and time of the log's completion;
- (B) the key name;
- (C) the key number;
- (D) the number of keys in beginning inventory;
- (E) the number of keys added or removed;
- (F) the number of keys in ending inventory;
- (G) the reason for adding or removing keys; and
- (H) the required signatures of the two individuals accessing the box;
- (9) a tips and gratuity deposit form, including the following details:
- (A) The date of completion of the form;
- (B) the number of chips listed by denomination;
- (C) the total number of all denominations; and
- (D) all required signatures;
- (10) a temporary bank voucher, including the following details:
- (A) The date and time of the voucher's completion;
- (B) the location of the temporary bank;
- (C) the amount of funds issued;
- (D) the signature from the main bank cashier who is issuing the funds;
- (E) the signature of the individual receiving funds;
- (F) the signature of the individual returning funds; and
- (G) the signature of the main bank cashier receiving returned funds;
- (11) a duplication of any critical program storage media log. "Critical program storage media" and "CPSM" shall mean any media storage device containing data, files, or programs, as determined by the commission, that are capable of affecting the integrity of gaming. The duplicate CPSM log shall include the following details:
- (A) The date of completion of the form;
- (B) the manufacturer of the chip;
- (C) the program number;
- (D) any personnel involved; and
- (E) the disposition of any permanently removed CPSM;
- (12) an EGM drop compartment sweeps log, including the following details:
- (A) Each EGM number and location;
- (B) the date and time of the drop;
- (C) the signature of each employee performing the sweep; and
- (D) the signature of the supervisor overseeing the drop;
- (13) an EGM drop or win report, including the following details:
- (A) The gaming date;
- (B) the amount wrapped by denomination and totaled;
- (C) the dollar value difference by denomination;
- (D) the percentage variance difference by denomination;
- (E) the total jackpot payouts;
- (F) the total drop by denomination;
- (G) the total drop of all denominations;
- (H) the net win or loss by denomination and total; and
- (I) all required signatures;
- (14) an EGM entry access log, including the following details:
- (A) The EGM number and location;
- (B) the date and time of the EGM access;
- (C) the reason for entry; and
- (D) all required signatures;
- (15) an EGM hand-paid jackpot form, including the following details:
- (A) The date and time of completion of the form;
- (B) an EGM number that required hand payment and the location and denomination of the payment;
- (C) the amount of jackpot;
- (D) the reel symbols on each EGM jackpot requiring hand payment; and
- (E) all required signatures;
- (16) an EGM sweeps log, including the following details:
- (A) Each EGM number and location;
- (B) the date and time of the EGM sweep;
- (C) the signature of each employee performing the sweep; and
- (D) the signature of the supervisor overseeing the sweep;
- (17) an even exchange slip, including the following details:
- (A) The date, time, and location of the exchange;
- (B) the amounts to be exchanged by type;
- (C) the amounts to be changed for;
- (D) all required signatures; and
- (E) the total amount exchanged;
- (18) each cage or bank variance slip, including the following details:
- (A) The date and time of completion of the slip;
- (B) the location of the bank;
- (C) the amount of overage or shortage; and
- (D) all required signatures;
- (19) ingress or egress logs for the count rooms, surveillance rooms, and cages, including the following details:
- (A) The date and time of each ingress or egress;

- (B) the printed name of each person entering or leaving;
- (C) the room entered or left;
- (D) the reason for entry; and
- (E) all required signatures;
- (20) a main bank or vault accountability log, including the following details:
- (A) The date and shift that the accounting was made;
- (B) the opening balance;
- (C) the amount of each type of accountability transaction;
- (D) detail of the total main bank or vault inventory, including the inventory of the following:
- (i) Currency;
- (ii) coin;
- (iii) chips;
- (iv) safekeeping deposits; and
- (v) any unclaimed property account;
- (E) the total main bank or vault inventory;
- (F) all overages and shortages;
- (G) the closing balance; and
- (H) all required signatures;
- (21) a master gaming report, including the following details:
- (A) The gaming date;
- (B) the game and table number;
- (C) the opening table inventory slip;
- (D) the total fill slips;
- (E) the total credit slips;
- (F) the closing table inventory slip;
- (G) the total drop per table;
- (H) the overall totals by game;
- (I) the total win or loss; and
- (J) all required signatures;
- (22) a RAM clearing slip, including the following details:
- (A) The date and time that the RAM was cleared;
- (B) an EGM number, the location, and the number of credits played before the RAM clearing occurred;
- (C) the current reel positions or video displays;
- (D) the previous two reel positions or video displays;
- (E) the actual meter readings of the internal hard and soft meters;
- (F) the progressive jackpot display, if linked;
- (G) the reason for RAM clear; and
- (H) all required signatures;
- (23) the returned check log, including the following details:
- (A) The name and address of each person who presented the check that was subsequently returned;
- (B) the date of the check;
- (C) the amount of the check;
- (D) the check number;
- (E) the date the facility manager received notification from a financial institution that the check was not accepted; and
- (F) the dates and amounts of any payments received on the check after being returned by a financial institution;
- (24) a sensitive key log, including the following:
- (A) The date the key activity occurred;
- (B) the key number;
- (C) the individual or automated key box issuing the key;
- (D) the name of the individual receiving the key;
- (E) the time the key was signed out;
- (F) the time the key was signed in;
- (G) the individual returning the key; and
- (H) the individual or automated key box receiving the returned key;
- (25) a signature authorization list, including the following details for each employee listed:
- (A) The employee's hire date;
- (B) the employee's name;
- (C) the department;
- (D) the position;
- (E) the license number;
- (F) the employee's initials as on a signature card; and
- (G) the employee's signature, with at least the first initial and last name;
- (26) a surveillance incident report, including the following details:
- (A) The date and incident report number;
- (B) the time and location of the incident;
- (C) the name and address of each witness and subject involved in the incident, if known;
- (D) a detailed narrative of the incident;
- (E) an identification of any videotape covering the incident;
- (F) the final disposition of the incident; and
- (G) all required signatures;
- (27) a surveillance shift log, including the following details:
- (A) The date that the entry is being made;
- (B) the time of and duration, description, and location of all unusual occurrences observed;
- (C) a listing of any surveillance issues, including the following:
- (i) Equipment malfunctions related to other logged events or activities;

- (ii) completed tapes;
- (iii) still photograph requests; and
- (D) required signatures;
- (28) a surveillance tape release log, including the following details:
 - (A) The tape number;
 - (B) the date and time of release;
 - (C) the printed name, department, or agency;
 - (D) a notation indicating whether the tape is a duplicate or original;
 - (E) an authorization notation;
 - (F) an "issued by and to" notation; and
 - (G) all required signatures;
- (29) a surveillance tape retention log, including the following details:
 - (A) The date and time of the tape retention activity;
 - (B) the tape number being retained;
 - (C) a description of the activity recorded and the recording mode; and
 - (D) all required signatures;
- (30) a table credit slip, if applicable, including the following details:
 - (A) The date, pit, game or table number, and time of the table credit activity;
 - (B) the amount of each denomination of chips to be credited;
 - (C) the total amount of all denominations to be credited; and
 - (D) all required signatures;
- (31) a table fill slip, including the following details:
 - (A) The date, pit, game or table number, and time of the table fill activity;
 - (B) the amount of each denomination of chips to be distributed;
 - (C) the total amount of all denominations to be distributed; and
 - (D) all required signatures;
- (32) a table inventory slip, including the following details:
 - (A) The date and shift;
 - (B) the game and table number;
 - (C) the total value of each denomination of chips remaining at the table;
 - (D) the total value of all denominations; and
 - (E) all required signatures;
- (33) a table soft count slip or currency counter machine tape, including the following details:
 - (A) The date of the soft count or printing of the machine tape;
 - (B) the table game and number;
 - (C) the box contents by denomination;
 - (D) the total of all denominations; and
 - (E) all required signatures;
- (34) a wide-area progressive secondary jackpot slip, including the following details:
 - (A) The date and time of the wide-area progressive secondary jackpot;
 - (B) an EGM number, location, and denomination;
 - (C) the amount of the jackpot in alpha and numeric description;
 - (D) the reel symbols and number of credits played;
 - (E) all required signatures; and
 - (F) the game type;
- (35) a security incident report, including the following details:
 - (A) The incident report number;
 - (B) the date and time of the incident;
 - (C) the location of the incident;
 - (D) the type of incident;
 - (E) the names and addresses of any witnesses and subjects involved in the incident, if known;
 - (F) a detailed narrative of the incident;
 - (G) the identification of videotape covering the incident, if applicable; and
 - (H) all required signatures;
- (36) a security incident log, including the following details:
 - (A) The date of the daily log;
 - (B) the time of the incident;
 - (C) the incident report number;
 - (D) the name of the reporting security department employee and the employee's commission license number; and
 - (E) the summary of the incident;
- (37) a visitor or vendor log, including the following details:
 - (A) The date of the visitor's or vendor's visit;
 - (B) the printed name;
 - (C) the company;
 - (D) the time in and time out;
 - (E) the type of badge and the badge number;
 - (F) the reason for entry; and
 - (G) all required signatures;
- (38) a key access list, including the following details:
 - (A) The name of the key;
 - (B) the location of the key;
 - (C) the custodian of the key;
 - (D) the quantity of the keys; and
 - (E) the job titles authorized to sign out the key and, if applicable, any escort requirements and specific limitations;

- (39) a table games variance slip, including the following details:
- (A) The gaming date;
 - (B) the game or table number;
 - (C) the shift;
 - (D) a description of the discrepancy found; and
 - (E) all required signatures;
- (40) an inventory log of prenumbered forms, including the following details:
- (A) The name of the prenumbered form;
 - (B) the date received or issued;
 - (C) the quantity received or issued;
 - (D) the number sequence of forms received or issued;
 - (E) the name of each department to which forms were issued; and
 - (F) all required signatures and commission license numbers;
- (41) a gift log, including the following details:
- (A) The name of the gift recipient;
 - (B) the gift donor;
 - (C) a description and value of the gift; and
 - (D) the date the gift was received;
- (42) a safekeeping log, including the following details:
- (A) The date of deposit or withdrawal;
 - (B) the name of the patron;
 - (C) the dollar amount of deposit or withdrawal;
 - (D) the type of deposit or withdrawal; and
 - (E) the total balance of all deposits;
- (43) a card or dice discrepancy report, including the following details:
- (A) The date and time of the noted discrepancy;
 - (B) the location;
 - (C) a description of the discrepancy found; and
 - (D) all required signatures;
- (44) a remote access log, including the following details:
- (A) The access start date and time;
 - (B) the access end date and time;
 - (C) the reason for the remote access; and
 - (D) the person making access;
- (45) a personnel access list, including the following details:
- (A) The employee name;
 - (B) the license number; and
 - (C) all authorized functions the employee may perform;
- (46) a redemption log, including the following details:
- (A) The date the claim is being made;
 - (B) the dollar value of each item received by mail;
 - (C) the check number;
 - (D) the patron's name and address; and
 - (E) the signature of the employee performing the transaction;
- (47) a currency cassette log, including the following details:
- (A) The date of the currency cassette log;
 - (B) the time of the currency cassette log;
 - (C) the tamper-resistant seal number;
 - (D) the unique cassette number;
 - (E) the amount of cash in the cassette;
 - (F) the denomination of currency in the cassette; and
 - (G) the signature of the main bank cashier who prepared the cassette; and
- (48) a table games jackpot slip, including the following details:
- (A) The date of the table game jackpot;
 - (B) the time of the table game jackpot;
 - (C) the amount of winnings in alpha and numeric description;
 - (D) the table game number;
 - (E) the type of jackpot;
 - (F) the player's name;
 - (G) the signature of the cashier;
 - (H) the signature of the dealer;
 - (I) the signature of the table games supervisor; and
 - (J) the signature of the security officer escorting the funds; and
- (49) a meter-reading comparison report, including the following details:
- (A) The date of the meter-reading comparison report;
 - (B) the asset number;
 - (C) the beginning and ending credits played;
 - (D) the beginning and ending credits paid;
 - (E) the beginning and ending amount-to-drop, if applicable;
 - (F) the beginning and ending jackpots paid;
 - (G) the difference between the beginning and ending amount for all meters;
 - (H) the variance between the meters, if any; and
 - (I) the signature of an accounting department employee. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Oct. 16, 2009.)

112-104-42. Purchasing. (a) Each facility manager's internal control system shall include internal controls for purchasing.

(b) The internal controls shall indicate the amount of a single transaction or series of related

transactions that an individual or a group of employees, owners, or directors may approve.

(c) The internal controls shall include the following information for both manual and computerized systems:

(1) Steps for initiating purchasing procedures;

(2) detailed procedures for the preparation and distribution of purchase orders, including the following:

(A) The amounts that can be authorized by various positions or levels of personnel;

(B) the sequence of required signatures and distribution of each part of the purchase order;

(C) a statement that purchase orders shall be issued only for a specific dollar amount. Each change to an issued purchase order shall be returned to the purchasing department to initiate an amended purchase order and obtain additional approvals, if necessary; and

(D) the maintenance of a purchase order log;

(3) detailed procedures for issuing and approving blanket purchase orders for purchases of goods or services, including the following:

(A) The competitive bid requirements for blanket purchase orders;

(B) a statement that each blanket purchase order shall include a maximum amount, the effective date, and the expiration date; and

(C) controlling, documenting, and monitoring blanket purchase orders;

(4) requirements for competitive bidding process, including the following:

(A) The number of bids required. A minimum of two bids shall be required;

(B) a statement that the purchasing department shall have the final responsibility for obtaining competitive bids. The originating departments may provide the amount budgeted for the purchase, cost limitations, and vendor recommendations;

(C) the steps for documenting bids and the minimum amount required for written bids;

(D) a statement that all competitive bids received shall be confidential and shall not be disclosed to any other vendors; and

(E) criteria for qualifying approved vendors of goods or services based on "fair market value," considering factors including quality, service, and price;

(5) detailed procedures and approval process for emergency purchases, including the following:

(A) A statement that emergency purchases shall occur after normal business hours, on weekends or holidays or, in case of immediate need of goods

or services, in response to unusual occurrences during normal business hours;

(B) a statement that approvals may be verbal until purchasing documentation is prepared. Purchasing documentation shall be finalized within five days;

(C) a statement on the purchase order documenting the reason for the emergency purchase; and

(D) the maintenance of an emergency purchase order log;

(6) detailed procedures to ensure that vendor files contain all company-required forms, documentation, and approvals;

(7) a prohibition against the purchase or lease of gaming equipment or supplies from other than a licensed supplier;

(8) detailed procedures for contracts, including the following:

(A) The management levels and the contract amounts that managers may negotiate and execute;

(B) a statement that all contracts shall be subject to the competitive bid process;

(C) the terms of all contracts;

(D) the approval process for payments made against an executed contract; and

(E) the distribution and filing of executed contracts;

(9) if applicable, detailed procedures for the use of purchasing cards, including the following:

(A) Authorized position titles to be purchasing card holders and their spending limits, both single-transaction and monthly;

(B) items that may be purchased with the purchasing card;

(C) use of the purchasing card with approved vendors only, if applicable;

(D) responsibilities of the holder of the purchasing card, including maintaining receipts and verifying monthly statements;

(E) responsibilities of the manager of the purchasing card holder, including approving monthly statements;

(F) disputing fraudulent or incorrect charges;

(G) payment to vendors for purchasing card charges; and

(H) the name of the department or position, as stated in the facility manager's internal controls, that is responsible for overseeing the purchasing card process;

(10) detailed procedures for the receipt of all goods received by an employee independent of the purchasing department as specified in the

facility manager's internal controls, including the following:

(A) The verification process for the receipt of goods, including damaged goods, partial shipments, and overshipments;

(B) the distribution of all receiving documentation; and

(C) the maintenance of receiving documentation; and

(11) payment of vendor invoices, including procedures for the following:

(A) Each time the invoice amount disagrees with the purchase documentation;

(B) processing non-invoice payments; and

(C) the approval process for the utilization of a check request form, if applicable.

(d) Related party transactions, either oral or written, shall meet the minimum internal control standards in this regulation. In addition, the internal controls shall require the following:

(1) Each related party transaction or series of related party transactions reasonably anticipated to exceed \$50,000 annually shall be subject to approval of the board of directors or owners of the company.

(2) An annual report of related party contracts or transactions shall be prepared and submitted to the board of directors or owners and the executive director, listing all related party transactions or group of like transactions occurring during the year. This report shall be due at the end of the third month following each calendar year, be formatted to group related party transactions by key person or entity, and contain the following information:

(A) Name of the related party;

(B) amount of the transaction or payments under the contract;

(C) term of contract;

(D) nature of transaction; and

(E) determination of how the fair market value of the contract, goods, or services was ascertained.

(3) A quarterly report updating new or renewed related party transactions entered into during the quarter shall be prepared and submitted to the board of directors or owners and to the executive director. This report shall also indicate any terminations of related party transactions and shall be due at the end of the second month following the end of the quarter. The annual report shall meet the requirement for the fourth quarterly report. (Authorized by and implementing K.S.A. 2010 Supp. 74-8772; effective Dec. 9, 2011.)

Article 105.—SECURITY

112-105-1. Security department. (a) Each facility manager shall have a security department that is responsible for the security of the gaming facility. The facility manager, through its security department, shall do the following:

(1) Protect the people in the gaming facility;

(2) safeguard the assets within the gaming facility;

(3) protect the patrons, employees, and property from illegal activity;

(4) assist with the enforcement of all applicable laws and regulations;

(5) prevent persons who are under 21 years old from gambling or entering gaming areas;

(6) detain any individual if a commission enforcement agent so requests or if there is reason to believe that the individual is in violation of the law or gaming regulations;

(7) record any unusual occurrences, including suspected illegal activity;

(8) identify and remove any person who is required to be excluded pursuant to article 111 or 112 of the commission's regulations;

(9) report security violations or suspected illegal activity to the commission security staff within 24 hours;

(10) report to the commission's security staff, within 24 hours, any facts that the facility manager has reasonable grounds to believe indicate a violation of law, violation of the facility manager's minimum internal control standards, or violation of regulations committed by any facility manager, including the performance of activities different from those permitted under that person's license or certificate;

(11) notify commission security staff, within 24 hours, of all inquiries made by law enforcement officials and any inquiries made concerning the conduct of a person with a license or certificate; and

(12) establish and maintain procedures for handling the following:

(A) Identification badges;

(B) incident reports;

(C) asset protection and movement on the property;

(D) power or camera failure;

(E) enforcement of the minimum gambling age;

(F) firearms prohibition;

(G) alcoholic beverage control;

(H) disorderly or disruptive patrons;

(I) trespassing;

- (J) eviction;
 - (K) detention; and
 - (L) lost or found property.
- (b) No open carrying of firearms shall be permitted within a gaming facility except for the following:
- (1) Kansas racing and gaming commission enforcement agents;
 - (2) on-duty law enforcement officers; and
 - (3) trained and certified guards employed by an armored car service while on duty and working for a licensed non-gaming supplier company.
- (c) No concealed carrying of firearms shall be permitted within a gaming facility except for the following:
- (1) Kansas racing and gaming commission enforcement agents;
 - (2) on-duty law enforcement officers in plain clothes engaged in the performance of their official duties; and
 - (3) any off-duty or retired law enforcement officer who meets the following conditions:
 - (A) Is in compliance with the firearms policies of the officer's law enforcement agency;
 - (B) is carrying a photographic identification card that identifies the individual as a current or retired law enforcement officer and has been issued by the officer's current agency or the agency from which the individual separated from service as a law enforcement officer;
 - (C) presents the photographic identification card specified in paragraph (c)(3)(B) when requested by a commission agent or gaming facility security personnel; and
 - (D) has not been denied a license to carry a concealed handgun and does not have a license to carry a concealed handgun that has been suspended or revoked pursuant to the personal and family protection act, K.S.A. 75-7c01 et seq. and amendments thereto.
 - (d) As used in this regulation, "law enforcement officer" shall mean any of the following:
 - (1) Any person employed by a law enforcement agency who is in good standing and is certified under the Kansas law enforcement training act;
 - (2) a law enforcement officer who has obtained a similar designation in a jurisdiction outside the state of Kansas but within the United States; or
 - (3) a federal law enforcement officer who, as part of the officer's duties, is permitted to make arrests and to be armed.
 - (e) Each facility manager shall meet its obligations in subsections (b) and (c) in accordance with

the personal and family protection act, K.S.A. 75-7c01 et seq. and amendments thereto. (Authorized by and implementing K.S.A. 74-8772; effective Sept. 26, 2008; amended April 1, 2011; amended March 20, 2020.)

112-105-2. Security plan. (a) Each applicant for a facility manager certification shall submit a security plan to the commission at least 120 days before the proposed opening of a racetrack gaming facility or lottery gaming facility. The plan shall be consistent with the applicant's contractual obligations with the Kansas lottery.

(b) A facility manager shall not commence gaming operations until its security plan has been approved by the commission.

(c) To be approved, the security plan shall include the following:

- (1) An organizational chart showing all positions in the security department;
- (2) a description of the duties and responsibilities of each position shown on the organizational chart;
- (3) the administrative and operational policies and procedures used in the security department;
- (4) a description of the training required for security personnel;
- (5) a description of the location of each permanent security station;
- (6) the location of each security detention area;
- (7) provisions for security staffing; and
- (8) the emergency operations plan required by K.A.R. 112-105-3.

(d) All amendments to the security plan shall be submitted to the commission for approval at least 30 days before the date of desired implementation. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

112-105-3. Emergency operations plan.

(a) The director of security in the security department shall maintain an emergency operations plan, including evacuation procedures, to deal with the following:

- (1) The discovery or threat of an explosive device on the property;
- (2) a fire or fire alarm;
- (3) a terrorist threat directed at the property;
- (4) severe storms;
- (5) the threat or use of an unauthorized firearm or any other weapon, as described in K.S.A. 21-4201 and amendments thereto; and

(6) any other event for which the applicant determines that prior planning is reasonable.

(b) When the applicant establishes the emergency operations plan, the safety of patrons and personnel shall be the first priority.

(c) The director of security shall ensure that the commission's security staff at the facility are notified of any emergency situation at that time.

(d) All amendments to the emergency operations plan shall be submitted to the commission for approval at least 30 days before the desired date of implementation. (Authorized by and implementing K.S.A. 2010 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

112-105-4. Security department staffing.

(a) Each security department shall be supervised by a director of security, who shall report directly to the general manager.

(b) The facility manager shall at all times maintain sufficient security officers on duty to reasonably meet the requirements in this article.

(c) The personnel in the security department shall be employees of the facility manager.

(d) Staffing considerations shall include the following:

(1) The size and layout of the property;

(2) special events;

(3) the number of people entering the facility at a given time;

(4) the number of occurrences of suspected illegal activity; and

(5) the safety of the people lawfully on the property. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-105-5. Reports. (a) The director of security shall ensure that a report is prepared regarding each incident observed by or reported to a security department employee that the employee suspects involves any one of the following:

(1) Criminal conduct;

(2) injuries to a patron or employee;

(3) gambling or any attempt to gamble by a person under the age of 21;

(4) the detention of persons;

(5) violation of any of the commission's regulations; and

(6) the presence within the facility of any person who is on the self-excluded or involuntary exclusion list.

(b) Each report shall include the following, at a minimum:

(1) The name of the person preparing the report;

(2) the date and time of the incident;

(3) the names of the security personnel present;

(4) the nature of the incident;

(5) the names of the persons involved, if available;

(6) the names of any witnesses, if available; and

(7) the security department's action.

(c) Each security department report shall be provided to commission security employees within 24 hours of the incident reported.

(d) Each security department report shall be retained by the director of security for at least one year after the reported incident. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-105-6. Security detention area. (a)

The staff of the security department shall have access to at least one security detention area that is designated and used for the detention of persons by security officers, commission employees, or other law enforcement personnel.

(b) The security detention area shall be used exclusively for the detention of persons and shall be safe, secure, and away from other people lawfully at the facility.

(c) The security detention area shall have video and audio surveillance whenever the area is being used.

(d) A security department employee shall be present in the security detention area whenever a person is being detained. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-105-7. Communications system. (a)

Each security department shall have a communications system that allows all security officers on duty to communicate with each other.

(b) The communications system shall provide two-way communications between security officers and the surveillance department.

(c) The communications system shall be available to and useable by commission security agents. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

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 surveil-

lance 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 cam-

eras dedicated to monitoring the following with sufficient clarity to identify any person:

- (1) The entrances to and exits from the gaming facility;
- (2) the count rooms;
- (3) the vaults;
- (4) the surveillance room;
- (5) the security rooms;
- (6) all cage areas; and
- (7) all exterior entrances to and exits from the property.

(h) The surveillance system required by this regulation shall be equipped with light-sensitive cameras with lenses of sufficient magnification to allow the operator to read information on an electronic gaming machine reel strip and credit meter and be capable of clandestine monitoring in detail and from various vantage points, including the following:

- (1) The conduct and operation of electronic gaming machines, lottery facility games, and pari-mutuel wagering;
- (2) the conduct and operation of the cashier's cage, satellite cashier's cages, mutuel lines, count rooms, and vault;
- (3) the collection and count of the electronic gaming bill validator canisters; and
- (4) the movement of cash and any other gaming facility assets.

(i) All cameras shall be equipped with lenses of sufficient magnification capabilities to allow the operator to clearly distinguish the value of the following:

- (1) Chips;
- (2) dice;
- (3) tokens;
- (4) playing cards;
- (5) positions on the roulette wheel; and
- (6) cash and cash equivalents.

(j) The surveillance system shall provide a view of the pit areas and gaming tables capable of clearly identifying the following:

- (1) The dealers;
- (2) the patrons;
- (3) the hands of all participants in a game;
- (4) facial views of all participants in a game;
- (5) all pit personnel;
- (6) the activities of all pit personnel;
- (7) the chip trays;
- (8) the token holders;
- (9) the cash receptacles;
- (10) the tip boxes;
- (11) the dice;

- (12) the shuffle machines;
- (13) the card shoes, which are also called dealing boxes;
- (14) the playing surface of all gaming tables with sufficient clarity to determine the following:
 - (A) All wagers;
 - (B) card values; and
 - (C) game results; and
- (15) roulette tables, which shall be viewed by the surveillance system with color cameras.
- (k) The surveillance of the electronic gaming devices shall be capable of providing the following:
 - (1) A view of all patrons;
 - (2) a facial view of all patrons with sufficient clarity to allow identification of each patron;
 - (3) a view of the electronic gaming device with sufficient clarity to observe the result of the game;
 - (4) an overall view of the areas around the electronic gaming device;
 - (5) a view of each bill validator with sufficient clarity to determine bill value and the amount of credit obtained; and
 - (6) a view of the progressive games, including the incrementation of the progressive jackpot.
- (l) All surveillance system display screens shall meet all of the following requirements:
 - (1) Be equipped with a date and time generator synchronized to a central clock that meets the following requirements:
 - (A) Is displayed on any of the surveillance system display screens; and
 - (B) is recorded on all video pictures or digital images;
 - (2) be capable of recording what is viewed by any camera in the system; and
 - (3) be of a sufficient number to allow the following:
 - (A) Simultaneous recording and coverage as required by this article;
 - (B) off-line playback;
 - (C) duplication capabilities;
 - (D) single-channel monitors in the following areas:
 - (i) Each entry and each exit;
 - (ii) the main bank and cages;
 - (iii) table games; and
 - (iv) count rooms; and
 - (E) no more than four channels per monitor in all other areas where surveillance is required.
- (m) The surveillance system shall be connected to at least one video printer. Each video printer shall be capable of generating clear color copies of the images depicted on the surveillance system display screen or video recording.

(n) The surveillance system shall allow audio recording in any room where the contents of bill validator canisters are counted.

(o) All wiring within the surveillance system shall be tamper-resistant.

(p) The surveillance system shall be linked to the commission's security office with equipment capable of monitoring or directing the view of any system camera.

(q) The commission's director of security shall be notified at least 48 hours in advance of the relocation of any camera on the surveillance system's floor plan. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

112-106-2. Surveillance system plan. (a) Each applicant for a facility manager 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.)

112-106-3. Surveillance department. (a) Each facility manager shall have a surveillance department that is responsible for the following:

(1) Detection of cheating, theft, embezzlement, and other illegal activities in the gaming facility;

(2) detection of the presence in the gaming facility of any person who is required to be excluded pursuant to voluntary or involuntary exclusion;

(3) detection of persons under age 21 in the gaming areas; and

(4) clandestine video recording of activities in the facility.

(b) The surveillance department shall be independent of all aspects of the gaming facility operations.

(c) The director of surveillance shall ensure that procedures are created for maintaining the chain of evidence custody of surveillance information that reasonably can be expected to be used in a criminal or regulatory investigation.

(d) Upon request, each facility manager shall provide commission employees with access to its surveillance system and transmissions.

(e) Each member of the surveillance department shall comply with any request made by a commission employee to perform the following:

(1) Use, as necessary, any surveillance room in the gaming facility;

(2) display on the monitors in the surveillance room any event capable of being monitored by the surveillance system; and

(3) make a video recording and, if applicable, audio recording of, and take a still photograph of, any event capable of being monitored by the surveillance system.

(f) The director of surveillance shall notify commission security employees as soon as possible but within 30 minutes of any incident of surveillance equipment failure.

(g) The director of surveillance shall ensure that a reasonable attempt to repair or replace malfunctioning equipment is made within 24 hours. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-106-4. Surveillance department staffing.

(a) The surveillance department shall be supervised by a director of surveillance. The director of surveillance shall report directly to the facility manager's board of directors or similar body. The director of surveillance shall not report to or take direction from any authority at or below the level of the general manager.

(b) The personnel of the facility manager's surveillance department shall at all times be employees of the facility manager. The facility manager

shall not outsource the surveillance function to any third party.

(c) The surveillance department shall be reasonably staffed, as determined by the commission's director of security, considering the size and layout of the licensed facility and the number of electronic gaming machines and lottery facility games.

(d) No surveillance department employee shall transfer from the surveillance department to another department of a gaming facility, unless at least one year has passed since the surveillance department employee worked in surveillance. The facility manager may request that the commission waive this requirement if the facility manager demonstrates that the surveillance and security systems of the facility manager will not be jeopardized or compromised by the employment of the surveillance employee in the particular position requested.

(e) Each surveillance employee shall be trained in the following:

(1) Surveillance techniques;

(2) the operation of all surveillance equipment;

(3) regulatory requirements;

(4) internal control procedures;

(5) the rules of all available lottery facility games;

(6) the methods of cheating, theft, embezzlement, and other illegal activities in a gaming facility; and

(7) the surveillance department's procedures on handling surveillance evidence. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

112-106-5. Surveillance room. (a) Each facility manager shall have a secure surveillance room with reasonable space, as determined by the executive director, to accommodate the required equipment and operator stations.

(b) Each surveillance room shall be located out of the view of the gaming area. The entrances to the surveillance room shall be locked at all times and shall not be accessible to members of the public or non-surveillance employees of the gaming facility.

(c) Commission agents shall have unrestricted access to the surveillance room and all information received or stored by the surveillance system.

(d) Access to the surveillance room shall be limited to surveillance employees of the gaming facility and commission security employees, except that persons with a legitimate need to enter the surveillance room may do so upon receiving approval from a commission enforcement agent.

(1) Each person, other than surveillance personnel and commission enforcement agents, entering the surveillance room shall sign a surveillance room entry log.

(2) The surveillance room entry log shall meet the following requirements:

(A) Be maintained in the surveillance room by surveillance room personnel;

(B) be maintained in a book with bound numbered pages that cannot readily be removed;

(C) be signed by each person entering the surveillance room, with each entry containing the following:

(i) The date and time of entering the surveillance room;

(ii) the entering person's name and that person's affiliation or department within the gaming facility;

(iii) the reason for entering the surveillance room; and

(iv) the date and time of exiting the surveillance room; and

(D) be retained for at least one year after the date of the last entry. The destruction of the surveillance room entry log shall be approved by the commission's director of security.

(3) The surveillance room entry log shall be made available for inspection by the commission security employees upon demand.

(e) The surveillance room shall be subject to periodic inspection by commission employees to ensure that all of the following conditions are met:

(1) All equipment is working properly.

(2) No camera views are blocked or distorted by improper lighting or obstructions.

(3) All required surveillance capabilities are in place.

(4) All required logs are current and accurate.

(5) There is sufficient staff to protect the integrity of gaming at the facility.

(6) The surveillance room employees are not performing tasks beyond the surveillance operation. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

112-106-6. Monitoring. (a) The surveillance department employees shall continuously record the transmissions from the cameras used to observe the following locations, persons, activities, and transactions:

(1) The entrances to and exits from the following:

(A) The gaming facility;

(B) the count rooms;

(C) the vaults;

(D) the surveillance room;

(E) the security rooms;

(F) the cage areas; and

(G) the site of all ancillary operations;

(2) each transaction conducted at a cashiering location, whether or not that cashiering location services patrons;

(3) the main bank, vault, and satellite cages;

(4) the collection of cash storage boxes from electronic gaming machines;

(5) the count procedures conducted in the count room;

(6) any armored car collection or delivery;

(7) automated bill breaker, gaming voucher redemption, coupon redemption, and jackpot payout machines whenever the machines are opened for replenishment or other servicing; and

(8) any other areas specified in writing by the commission.

(b) The surveillance department employees shall maintain a surveillance log of all surveillance activities in the surveillance room. The log shall be maintained in a book with bound, numbered pages that cannot be readily removed or in an electronic format with an audit function that prevents modification of information after the information has been entered into the system. The log shall contain the following, at a minimum:

(1) The date and time of each entry;

(2) the identity of the employee making the entry;

(3) a summary of the activity recorded;

(4) the location of the activity;

(5) the location of the recorded information; and

(6) the surveillance department's disposition of the activity.

(c) The surveillance department employees shall record by camera and log the following events when they are known to occur on the property:

(1) Any activity by players and employees, alone or in concert, that could constitute cheating or stealing;

(2) any activity that could otherwise be criminal;

(3) any procedural violation by an employee;

(4) the detention of persons;

(5) the treatment of disorderly individuals;

(6) emergency activities capable of being observed by the surveillance system;

(7) the presence of persons on the involuntary exclusion list;

(8) the presence of persons on the self-exclusion list;

- (9) arrests and evictions;
 - (10) the treatment of ill or injured patrons;
 - (11) the on-site maintenance and repair of any gaming or money handling equipment; and
 - (12) any jackpot winning of \$1,200 or more.
- (d) Surveillance department employees shall record by camera the movement of the following on the gaming facility floor:
- (1) Cash;
 - (2) cash equivalents;
 - (3) tokens;
 - (4) cards;
 - (5) chips; or
 - (6) dice.
- (e) The surveillance department employees shall continuously monitor and record by camera the following:
- (1) Soft count procedures;
 - (2) hard count procedures;
 - (3) currency collection;
 - (4) drop bucket collection; and
 - (5) the removal of the daily bank deposit from the gaming facility by armored car officers. (Authorized by and implementing K.S.A. 2009 Supp. 74-8772; effective Sept. 26, 2008; amended April 1, 2011.)

112-106-7. Retention of surveillance recordings. (a) All recordings depicting the detention or questioning of an individual suspected of procedural errors, regulatory violations, or criminal activity shall be copied and provided to law enforcement agents upon request. Each recording shall be retained by the facility manager for at least 60 days.

(b) Each recording not specified in subsection (a) shall be retained for at least 30 days. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective Sept. 26, 2008.)

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 soft-

ware, 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.)

112-107-5. 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 $\frac{1}{8}$ inch per foot, unless another scale is approved by the executive director, of the following:

(1) Each EGM area on the gaming floor and each EGM location within each EGM area. EGM locations shall be identified by number;

(2) the cage and any satellite cage, including each cage window and window number;

(3) each count room and any trolley storage area;

(4) each automated bill validator, gaming ticket redemption machine, coupon redemption machine, and jackpot payout machine;

(5) each automated teller machine;

(6) each area designated for the storage or repair of EGMs;

(7) the location of each vault and armored car bay; and

(8) any additional documentation requested by the executive director relating to the floor plan for the gaming floor.

(b) A gaming facility manager shall not commence electronic gaming operations until the floor plan depicting the facility manager's gaming floor and all restricted areas servicing the electronic gaming operation has been approved in writing by the executive director.

(c) A gaming facility manager shall not change the number, configuration, or location of EGMs on the floor plan approved under subsection (b) without the prior written approval of the executive director. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8752 and 74-8772; effective April 24, 2009.)

112-107-9. Testing and software installation on the live gaming floor. (a) Each facility manager shall notify the executive director in

writing at least 72 hours before testing any EGMs, associated equipment, and displays on a gaming floor during the facility manager's gaming hours. The notification shall include the following:

(1) A detailed narrative description of the type of testing to be conducted, including the reason for the testing, a list of individuals conducting the testing, and the facility manager's procedures for conducting the testing;

(2) the date, time, and approximate duration of the testing;

(3) the model, EGM location number, and asset number of the EGM or machines to be tested; and

(4) the location within the gaming facility where the testing shall occur.

(b) Each facility manager shall notify the executive director at least 72 hours before installing any new software or installing any change in previously approved software for the following:

(1) Automated gaming ticket and coupon redemption machines;

(2) wide-area progressive systems;

(3) electronic gaming monitoring systems;

(4) casino management systems;

(5) player tracking systems;

(6) external bonusing systems, as specified in K.A.R. 112-107-26;

(7) cashless funds transfer systems;

(8) server-supported electronic gaming systems;

(9) server-based electronic gaming systems; and

(10) automated jackpot payout machines.

(c) The notification required by subsection (b) shall include the following:

(1) A description of the reasons for the new installation or change in previously approved software;

(2) a list of the computer components and the programs or versions to be modified or replaced;

(3) a description of any screens, menus, reports, operating processes, configurable options, or settings that will be affected;

(4) the method to be used to complete the proposed installation;

(5) the date that the proposed modification will be installed and the estimated time for completion;

(6) the name, title, and employer of the persons performing the installation;

(7) a diagrammatic representation of the proposed hardware design change;

(8) restrictions on access to the production code by the person implementing the installation; and

(9) procedures to ensure that user and operator

manuals are updated to reflect changes in policies and procedures resulting from the proposed installation. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8750 and 74-8772; effective April 24, 2009.)

112-107-10. Master list of approved gaming machines. (a) At least 20 days before commencing gaming, each facility manager shall file with the commission, in writing, a complete list of the LFGs and gaming equipment possessed by the facility manager on its gaming floor, in restricted areas off the gaming floor but within the gaming facility as approved by the commission under K.A.R. 112-104-26, and in storage locations in this state off the premises of the gaming facility as approved by the commission under K.A.R. 112-107-6. The list shall be titled as a master list of approved gaming machines.

(b) The master list of approved LFGs and gaming equipment shall contain the following information that, for those LFGs and the gaming equipment located on the gaming floor, shall be presented for each LFG and gaming equipment in consecutive order by the LFG or gaming equipment location number:

- (1) The date the list was prepared;
- (2) a description of each LFG and all gaming equipment, using the following:
 - (A) Asset number and model and manufacturer's serial number;
 - (B) computer program number and version;
 - (C) denomination, if configured for multiple denominations, and a list of the denominations;
 - (D) manufacturer and machine type, noting cabinet type;
 - (E) if an LFG, specification of whether the LFG is a progressive or a wide-area progressive LFG;
 - (F) an indication as to whether the LFG or gaming equipment is configured to communicate with a cashless funds transfer system;
 - (G) an indication as to whether the LFG or gaming equipment is configured to communicate with a gaming ticket system;
 - (H) designation of which specific surveillance video system cameras will be able to view that LFG or gaming equipment; and
 - (I) commission certificate number;
- (3) for those LFGs or gaming equipment located off the gaming floor, an indication as to whether the LFG or gaming equipment is in a restricted area off the gaming floor but within the gaming facility under K.A.R. 112-104-26 or is in a

commission-approved storage location in this state off the premises of the gaming facility under K.A.R. 112-107-6; and

(4) any additional relevant information requested by the commission.

(c) If an LFG or gaming equipment has been placed in an authorized location on the gaming floor or is stored in a restricted area off the gaming floor but within the gaming facility as approved by the commission under K.A.R. 112-104-26, then all subsequent movements of that LFG or gaming equipment within the gaming facility shall be recorded by an LFG department member in a gaming equipment movement log, which shall include the following:

- (1) The asset number and model and the manufacturer's serial number of the moved LFG or gaming equipment;
- (2) the date and time of movement;
- (3) the location from which the LFG or gaming equipment was moved;
- (4) the location to which the LFG or gaming equipment was moved;
- (5) the date and time of any required notice to the Kansas lottery in connection with the activation or disabling of the LFG in the central computer system;
- (6) the signature of the LFG shift manager and the commission's electronic gaming inspector verifying the movement of the LFG or gaming equipment in compliance with this regulation; and
- (7) any other relevant information the commission may require.

(d) Before moving an LFG or any gaming equipment that has been placed in an authorized location on the gaming floor, the facility manager shall remove the bill validator canister drop box and transport the drop box to the count room in accordance with the procedures in K.A.R. 112-104-18.

(e) The facility manager shall daily submit documentation summarizing the movement of LFGs and gaming equipment within a gaming facility to the commission, in writing or in an electronic format approved by the commission.

(f) On the first Tuesday of each month following the initial filing of a master list of approved LFGs or gaming equipment, a facility manager shall file with the commission, in writing or in an electronic format approved by the commission, an updated master list of approved LFGs or gaming equipment containing the information required in subsection (b).

(g) Each gaming supplier and each regulatory or law enforcement agency that possesses LFGs shall file with the commission, in writing or in an electronic format approved by the commission, a complete list of the LFGs possessed by the entity. The list shall be titled as a master list of approved gaming machines and shall be filed within three business days of the initial receipt of the LFGs. Each list shall contain the following information:

- (1) The date on which the list was prepared; and
- (2) a description of each LFG by the following:
 - (A) Model and manufacturer's serial number;
 - (B) manufacturer and machine type, noting cabinet type; and
 - (C) specification of whether the LFG is a progressive or a wide-area progressive LFG.

(h) On the first Tuesday of each month following the initial filing of a master list of approved LFGs or gaming equipment, those persons specified in subsection (f) shall file with the commission, in writing or in an electronic format approved by the commission, an updated master list of approved LFGs or gaming equipment containing the information required in subsection (g).

(i) A computer system designed to meet the requirements of this regulation may be approved by the executive director. (Authorized by K.S.A. 2010 Supp. 74-8772; implementing K.S.A. 2010 Supp. 74-8750 and 74-8772; effective April 24, 2009; amended April 1, 2011.)

112-107-11. Notice to Kansas lottery of EGM movement. Each facility manager shall obtain authorization from the executive director and the Kansas lottery's executive director before doing any of the following: (a) Placing an EGM on the gaming floor;

(b) moving an EGM to a different location on the gaming floor; or

(c) removing an EGM from the gaming floor. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8749, 74-8750, and 74-8772; effective April 24, 2009.)

112-107-13. Commencement of electronic gaming operations. (a) Each facility manager shall demonstrate that the facility manager has met all of the following conditions before commencing electronic gaming at a gaming facility:

(1) The gaming facility, including the gaming floor and restricted areas servicing the electronic gaming operation, meets all the applicable requirements of the act, this article, and article 110.

(2) Each EGM and the associated equipment installed in the gaming facility and utilized in the conduct of EGM operations have been tested and approved by the commission in compliance with the act, this article, and article 110.

(3) The gaming floor plan required under K.A.R. 112-107-7(a) has been approved by the executive director in compliance with the act, this article, and article 110.

(4) The facility manager's internal control system has been approved by the commission in compliance with the act, this article, K.A.R. 112-104-1, and article 110.

(5) The facility manager is prepared to 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 im-

plementing 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 de-

partment 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.

(1) 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 received, and the signature of any individual who examined the coupons.

(3) All unissued coupons shall be stored in the cage, controlled by a cage department supervisor.

(4) A representative from the internal audit department shall prepare a monthly inventory of unissued coupons. Any deviations between the coupon inventory and the coupon control ledger shall be reported to the controller and the director of internal audit.

(5) A representative of the facility manager shall estimate the number of coupons needed by shift each day. An accounting department employee

shall obtain the quantity of coupons to be issued. If a date indicating when the coupon becomes invalid is not preprinted on the coupon, the accounting department employee shall affix a stamp indicating the date the coupon becomes invalid. The following, at a minimum, shall be recorded in the coupon control ledger:

- (A) The date the coupons were issued;
- (B) the type of coupons issued;
- (C) the beginning serial number of the coupons issued;
- (D) the ending serial number of the coupons issued;
- (E) the quantity issued and the quantity remaining; and
- (F) the signatures of the accounting department employee issuing the coupons and any other department's employee receiving the coupons.

(6) The facility manager shall require unused coupons obtained from the accounting department employee to be stored in a locked cabinet until the coupons are distributed to patrons. All coupons remaining unused at the end of a shift shall be either returned to the cage department for receipt and redistribution or kept for use by the following shift if accountability between shifts is maintained. All expired coupons shall be returned to the cage department on a daily basis. Any coupons that are not used by the expiration date indicated on the coupons shall be voided when returned to the cage department.

(7) Documentation shall be prepared by a representative of the facility manager for the distribution of coupons to patrons. The documentation shall include the following information, at a minimum:

- (A) The date and time or the shift of preparation;
- (B) the type of coupons used;
- (C) the beginning serial number of the coupons used;
- (D) the ending serial number of the coupons used;
- (E) the total number of coupons used;
- (F) the total number of coupons remaining for use by the next shift or returned to the accounting department; and
- (G) the signatures of the facility manager's representatives who distributed the coupons.

(8) The coupons shall be redeemed in the following manner:

(A) Coupons redeemable for cash or tokens shall be redeemed only by change persons or at cashiers' booths, the cage, or at any other loca-

tion 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 back-up EGM computer system may consist of either of the following:

(1) A mirrored backup system that duplicates the production system by recording all slot-related operations on a real-time basis and is designed to become the production system whenever needed; or

(2) a periodic backup system that consists of regularly scheduled recording of selected data, which may include a complete image of the production system or any portion of the system.

(c) At a minimum, each facility manager requesting authorization to allow a backup EGM computer system to reside outside the gaming facility shall certify that both of the following conditions are met:

(1) Communications between the remote computer and the facility manager's EGM computer system occur using a dedicated and secure communication medium, which may include a leased line.

(2) The remote computer automatically performs the following functions:

(A) Generates daily monitoring logs and real-time alert messages to inform the facility manager and host entity of any system performance problems and hardware problems;

(B) generates daily monitoring logs and real-time alert messages to inform the facility manager of any software errors;

(C) generates daily monitoring logs to inform the facility manager of any unsuccessful attempts by a device, person, or process to obtain computer access;

(D) authenticates the identity of every device, person, and process from which communications are received before granting computer access to the device, person, or process;

(E) ensures that data sent through a transmission is completely and accurately received; and

(F) detects the presence of corrupt or lost data and, as necessary, rejects the transmission.

(d) Unless a remote computer is used exclusively to maintain the EGM computer system of the facility manager, the system shall be partitioned in a manner approved by the executive director and shall include the following:

(1) A partition manager that meets the following requirements:

(A) The partition manager shall be comprised of hardware or software, or both, and perform all partition management tasks for a remote computer, including creating the partitions and allocating system resources to each partition;

(B) the facility manager and host entity shall jointly designate and identify the security officer who will be responsible for administering the partition manager and maintaining access codes to the partition manager. The security officer shall be an employee of the facility manager or host entity and shall be licensed as a level I employee;

(C) special rights and privileges in the partition manager, including the administrator, shall be restricted to the management information systems director or security officer of the facility manager or host entity, who shall be licensed as level I employees;

(D) access to the partition manager shall be limited to employees of the management information systems departments of the facility manager and host entity; and

(E) software-based partition managers contained in a remote computer shall be functionally limited to performing partition management tasks

for the remote computer, while partition managers using hardware and software that are not part of a remote computer may be utilized to perform other functions for a remote computer that are approved by the executive director;

(2) a separate partition established for the facility manager's EGM computer system that meets the following requirements:

(A) The partition shall be limited to maintaining the software and data of the facility manager for which the partition has been established;

(B) the security officer of the facility manager for which the partition has been established shall be licensed as a level I employee and shall be responsible for maintenance of access codes to the partition; and

(C) special rights and privileges in the partition, including the administrator, shall be restricted to the security officer and the management information systems director of the facility manager for which the partition has been established; and

(3) separate and distinct operating system software, application software, and computer access controls for the partition manager and each separate partition.

(e) Any facility manager may be permitted by the executive director to establish a partition within a computer that contains its EGM computer system for its affiliate, intermediary, subsidiary, or holding company if all of the following requirements are met:

(1) A partition manager comprised of hardware or software, or both, shall be utilized to perform all partition management tasks, including creating the partitions and allocating system resources to each partition.

(2) A security officer shall be designated within the management information systems department of the facility manager to be responsible for administering the partition manager and maintaining access codes to the partition manager. Special rights and privileges in the partition manager, including the administrator, shall be restricted to the security officer and the management information systems director of the facility manager.

(3) Special rights and privileges in any partition that has been established for the benefit of an affiliate, intermediary, subsidiary, or holding company shall be restricted to the security officer and information technology director of the affiliate, intermediary, subsidiary, or holding company.

(f) Any facility manager may be permitted by the executive director to maintain backup or du-

plicate 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 win-

ning 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 elec-

tronic gaming system agreement or by a dedicated surveillance system maintained by the wide-area progressive system manager. The surveillance plan shall be approved by the executive director;

(3) be accessible only through a locked door. The door shall be alarmed in a manner that audibly signals the surveillance monitoring room for the surveillance system elected under paragraph (1)(2); and

(4) have a computer monitoring room entry log. The log shall meet the following requirements:

(A) Be kept in the computer monitoring room;
(B) be maintained in a book with bound, numbered pages that cannot be readily removed or an electronic log approved by the executive director; and

(C) be signed by each person entering the 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 sup-

port 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 required to perform technical support from a remote location. All system access afforded pursuant to this regulation shall meet the following requirements:

(A) Be restricted in a manner that requires the facility manager's management information systems department to receive prior notice from the gaming supplier of its intent to remotely access a designated system;

(B) require the facility manager to take affirmative steps, for each instance of access, to activate the gaming supplier's access privileges; and

(C) be designed to appropriately limit the ability of any person authorized under this regulation to deliberately or inadvertently interfere with the normal operation of the system or its data.

(3) A separate log shall be maintained by both the gaming supplier and the facility manager's management information systems department. Each log shall contain, at a minimum, the following information:

(A) The system accessed, including manufacturer, and version number;

(B) the type of connection;

(C) the name and license number of the employee remotely accessing the system;

(D) the name and license number of the employee in the management information systems department activating the gaming supplier's access to the system;

(E) the date, time, and duration of the connection;

(F) the reason for the remote access, including a description of the symptoms or malfunction prompting the need for remote access to the system; and

(G) any action taken or further action required.

(4) All communications between the gaming supplier and any of the systems identified in subsection (a) shall occur using a dedicated and secure communication facility which may consist of a leased line approved in writing by the executive director.

(b) Each modification of, or remedial action taken with respect to, an approved system shall be processed and approved by the commission either in accordance with the emergency modification provisions of K.A.R. 112-107-3(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 systemwide reliability of data. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective April 24, 2009.)

112-107-32. EGM destruction procedures. (a) Each facility manager shall establish a comprehensive system of internal controls for the EGM destruction procedures required by this regulation. The internal controls shall be submitted to and approved by the commission under K.A.R. 112-104-1.

(b) The facility manager shall submit a request in writing with an attached approval letter from the Kansas lottery requesting the destruction of an EGM. The notice shall contain the asset number of each EGM that is requested to be destroyed and shall be submitted at least 14 days in advance of the requested destruction date.

(c) When destroying an EGM, the critical program storage media (CPSM) and component parts shall be removed from the EGM before destruction of the cabinet. For the purposes of this

regulation, a component part shall mean any sub-assembly or essential part as described in K.S.A. 21-4302(d)(1)(C), and amendments thereto, and shall include any equipment necessary for any of the following operations by the EGM:

- (1) The acceptance of currency, tickets, coupons, or tokens;
- (2) the discharge of currency, tickets, coupons, or tokens;
- (3) the determination or display of the outcome of the game;
- (4) recordkeeping; and
- (5) security.

(d) The CPSM and component parts may be destroyed or placed into the controlled inventory of the EGM department. All destroyed CPSM and component parts shall be destroyed separately from the EGM cabinets.

(e) The destruction of any EGMs, CPSM, and component parts shall be witnessed by an agent of the commission. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8750 and 74-8772; effective April 24, 2009.)

112-107-34. Waivers. (a) The requirements in this article or article 110 for an EGM may be waived by the commission upon the commission's determination that the EGM, associated equipment, or modification as submitted by the facility manager meets the operational integrity requirements of the act, this article, and article 110.

(b) Any gaming supplier may submit a written request to the commission for a waiver for one or more of the requirements in this article or article 110. The request shall include supporting documentation demonstrating how the EGM, associated equipment, or modification for which the waiver has been requested meets the operational integrity requirements of the act, this article, and article 110. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective April 24, 2009.)

Article 108.—TABLE GAMES

112-108-1. Definitions. The following words and terms, when used in this article, shall have the following meanings unless the context clearly indicates otherwise: (a) "Bad beat" means a jackpot prize that is paid in poker when a sufficiently strong hand is shown face down and loses to an even stronger hand held by another player.

(b) "Boxperson" means an individual who supervises dice games, including craps, guards the

money and chips at a long table, issues chips, and settles conflicts about the plays.

(c) "Burning cards" means a process, performed by the dealer, in which one or more cards are removed from the top of the deck of cards and placed in the discard pile, after the cards have been cut.

(d) "Coloring up" means exchanging lower denomination chips for higher denomination chips.

(e) "Counterfeit chip" means any chip or chip-like objects that have not been approved pursuant to this article, including objects referred to as "slugs," but not coins of the United States or other nations.

(f) "Day" means calendar day regardless of whether the day falls on a weekend or holiday.

(g) "Non-value chips" means chips without a value impressed, engraved, or imprinted on them.

(h) "Pai gow" means a double-hand poker variation based on the Chinese dominos game of Pai Gow.

(i) "Patron" means any person present at a gaming facility who is not employed by the facility manager, the Kansas lottery, or the commission and is not on the premises as a vendor of the facility manager.

(j) "Pit area" means the immediate areas within a gaming facility where one or more table games are open for play.

(k) "Promotional coupon" means any instrument offering any person something of value issued by a facility manager to promote the lottery gaming facility or ancillary facility or for use in or related to certified gambling games at a facility manager's gaming establishment.

(l) "Promotional game" means a drawing, event, contest, or game in which patrons can, without giving consideration, participate or compete for the chance to win a prize or prizes of different values.

(m) "Promotional giveaway" means a promotional gift or item given by a facility manager to any person meeting the facility manager's promotional criteria, for which the person provides no consideration. No chance or skill is involved in the awarding of the promotional gift or item, and all persons meeting the facility manager's promotional criteria receive the same promotional gift or item.

(n) "Rake" means a commission charged by the house for maintaining or dealing a game, including poker.

(o) "Special hand" means a secondary jackpot paid on a poker hand that does not qualify for the bad beat.

(p) "Table game" means any lottery facility game other than a game played on an electronic gaming machine.

(q) "Table game mechanism" means a component that is critical to the operation of a table game, including a roulette wheel and an electronic add-on for the placement of wagers.

(r) "Value chips" means chips with a value impressed, engraved, or imprinted on the chips. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-2. Consistency with the Kansas lottery's rules. Each facility manager shall conduct each lottery facility game in a manner 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, carrying on, operating, or dealing any cheating or thieving game or device on the premises; and

(5) permitting any gambling device that tends to alter the normal random selection of criteria that determines the results of the game or deceives the public in any way to remain in or upon any gaming facility, if the facility manager was aware of the device.

(c) Each violation of this regulation shall be reported within one hour to a commission agent.

(d) A facility manager shall not allow a patron to possess any calculator, computer, or other electronic, electrical, or mechanical device at any table game that meets any of the following conditions:

(1) Assists in projecting the outcome of a game;

(2) keeps track of cards that have been dealt;

(3) keeps track of changing probabilities; or

(4) keeps track of playing strategies being utilized, except as permitted by the commission.

(e) A person who, without the assistance of another person or without the use of a physical aid or device of any kind, uses the person's own ability to keep track of the value of cards played and uses predictions formed as a result of the tracking information in their playing and betting strategy shall not be considered to be in violation of

these regulations. Any facility manager may make its own determination of whether the behavior is disruptive to gaming. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-6. Table game internal controls.

(a) Each facility manager shall establish a system of internal controls for the security and operation of table games as provided under this article. The internal controls for table games shall be submitted to the commission for approval under K.A.R. 112-104-1 and shall address the following:

(1) Object of the game and method of play, including what constitutes win, loss, or tie bets;

(2) physical characteristics of the game, gaming equipment, and gaming table;

(3) procedures for opening and closing of the gaming table;

(4) wagers and payout odds for each type of available wager, including the following:

(A) A description of the permissible wagers and payout odds;

(B) any minimum or maximum wagers, which shall be posted on a sign at each table; and

(C) any maximum table payouts, if any, which shall be posted at each table and shall not be less than the maximum bet times the maximum odds;

(5) for each game that uses any of the following, the applicable inspection procedures:

(A) Cards;

(B) dice;

(C) wheels and balls; or

(D) manual and electronic devices used to operate, display the outcome, or monitor live games;

(6) for each game that uses cards, a description of the following:

(A) Shuffling procedures;

(B) card cutting procedures;

(C) procedures for dealing and taking cards; and

(D) burning cards;

(7) procedures for the collection of bets and payouts including requirements for internal revenue service purposes;

(8) procedures for handling suspected cheating or irregularities and immediate notification of commission agent on duty;

(9) procedures for dealers being relieved;

(10) procedures for immediate notification to the commission agent on duty when equipment is defective or malfunctioning; and

(11) procedures to describe irregularities of the game, including dice off the table and soiled cards.

(b) Each facility manager that provides table games shall include a table game department in the internal controls. That department shall be supervised by a person located at the gaming facility who functions as the table game director. The department shall be mandatory and shall cooperate with yet perform independently of other mandatory departments listed under K.A.R. 112-104-2. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-7. Publication of rules and payoff schedules for all permitted games. Each facility manager shall provide, free of charge and within one hour, a copy of the rules and accurate payoff schedules for any table game if requested by a patron. Each payoff schedule shall accurately state actual payoffs applicable to a particular game or device. No payoff schedule shall be worded in a manner that misleads the public. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-8. Payout for progressive table games. (a) Each table game that includes progressive jackpots shall have a progressive meter visible to patrons. If any part of the distribution to the progressive jackpots is being used to fund a secondary jackpot, visible signage informing players of this supplemental distribution shall be placed in the immediate area of the table. The existence of progressive jackpots and the distributions to those jackpots shall be set forth in the "rules of the game" within a facility manager's internal controls for each game having a progressive jackpot. Each table game not meeting this distribution requirement shall be deemed an unauthorized gambling game.

(b) At least five days before the cancellation of any table game that includes a progressive jackpot that has not been awarded, the facility manager shall submit a plan for disbursement of that jackpot for approval by the executive director. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-9. Authorized table gaming suppliers. Chips, dice, and playing cards for use in table games may be purchased only from a permitted or certified gaming supplier. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-10. Chip specifications. (a) Each value chip issued by a facility manager shall have the following characteristics:

- (1) Be round;
- (2) have clearly and permanently impressed, engraved, or imprinted on it the name of the facility manager and the specific value of the chip;
- (3) have, at least on one side of the chip, the name of the city or other locality and the state in which the gaming facility is located and either the manufacturer's name or a distinctive logo or other mark identifying the manufacturer;
- (4) have its center portion impressed, engraved, or imprinted with the value of the chip and the name of the facility manager that is issuing the chip;
- (5) utilize a different center shape for each denomination;
- (6) be designed so that the specific denomination of a chip can be determined on surveillance camera monitors when placed in a stack of chips of other denominations; and
- (7) be designed, manufactured, and constructed so as to prevent the counterfeiting of value chips.

(b) Unless otherwise authorized by the executive director, value chips may be issued by facility managers in denominations of \$1, \$2.50, \$5, \$20, \$25, \$100, \$500, \$1,000, \$5,000, and \$10,000. Each facility manager shall have the discretion to determine the denominations to be utilized at its gaming facility and the amount of each denomination necessary for the conduct of gaming operations.

(c) Unless otherwise authorized by the executive director, value chips worth less than \$500 shall have a diameter of 39 millimeters, and value chips worth equal to or greater than \$500 shall have a diameter of 43 millimeters.

(d) Each denomination of value chip shall have a different primary color from every other denomination of value chip. Unless otherwise approved by the executive director, value chips shall have the colors specified in this subsection when the chips are viewed both in daylight and under incandescent light. In conjunction with these primary colors, each facility manager shall utilize contrasting secondary colors for the edge spots on each denomination of value chip. Unless otherwise approved by the executive director, no facility manager shall use a secondary color on a specific denomination of chip identical to the secondary color used by another facility manager in Kansas on that same denomination of value chip. The primary color to be utilized by each facility manager for each denomination of value chip shall be as follows:

- (1) For \$1, white;
- (2) for \$2.50, pink;

- (3) for \$5, red;
- (4) for \$20, yellow;
- (5) for \$25, green;
- (6) for \$100, black;
- (7) for \$500, purple;
- (8) for \$1,000, fire orange;
- (9) for \$5,000, grey; and
- (10) for \$10,000, burgundy.

(e)(1) Each non-value chip utilized by a facility manager shall be issued solely for roulette. Each non-value chip at each roulette table shall meet the following conditions:

(A) Have the name of the facility manager issuing it impressed into its center;

(B) contain a design, insert, or symbol differentiating it from the non-value chips being used at every other roulette table in the gaming facility;

(C) have "Roulette" impressed on it; and

(D) be designed, manufactured, and constructed so as to prevent counterfeiting;

(2) Non-value chips issued at a roulette table shall be used only for gaming at that table and shall not be redeemed or exchanged at any other location in the gaming facility. When so presented, the dealer at the issuing table shall exchange these chips for an equivalent amount of value chips.

(f) No facility manager or its employees shall allow any patron to remove non-value chips from the table from which the chips were issued.

(g) No person at a roulette table shall be issued or permitted to game with non-value chips that are identical in color and design to value chips or to non-value chips being used by another person at the same table. When a patron purchases non-value chips, a non-value chip of the same color shall be placed in a slot or receptacle attached to the outer rim of the roulette wheel. At that time, a marker denoting the value of a stack of 20 chips of that color shall be placed in the slot or receptacle.

(h) Each facility manager shall have the discretion to permit, limit, or prohibit the use of value chips in gaming at roulette. Each facility manager shall be responsible for keeping an accurate account of the wagers being made at roulette with value chips so that the wagers made by one player are not confused with those made by another player at the table. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-11. Submission of chips for review and approval. (a) Each facility manager

shall submit a sample of each denomination of value chips and non-value chips to the executive director for approval. No facility manager shall utilize these chips for gaming purposes until approved in writing by the executive director.

(b) In requesting approval of any chips, a facility manager shall submit to the commission a detailed schematic of its proposed chips and a sample chip. The detailed schematic shall show the front, back, and edge of each denomination of value chip and each non-value chip and the design and wording to be contained on the chip. If the design schematics or chip is approved by the executive director, no value chip or non-value chip shall be issued or utilized unless a sample of each denomination of value chip and each color of non-value chip is also submitted to and approved by the executive director.

(c) The facility manager shall provide the name and address of the chip manufacturer to the commission.

(d) No facility manager or other person licensed by the commission shall manufacture for, sell to, distribute to, or use in any gaming facility outside of Kansas any value chips or non-value chips having the same design as that approved for use in Kansas. (Authorized by K.S.A. 2008 Supp. 74-8772; implementing K.S.A. 2008 Supp. 74-8752 and 74-8772; effective Jan. 8, 2010.)

112-108-12. Primary, secondary, and reserve sets of gaming chips. Unless otherwise authorized by the executive director, each facility manager shall have a primary set of value chips, a separate secondary set of value chips, a primary set of non-value chips, and a non-value chip reserve, which shall conform to the color and design specifications set forth in K.A.R. 112-108-10. An approved secondary set of value chips and reserve non-value chips shall be placed into active play when the primary set of value chips or non-value chips is removed. (a) The secondary set of value chips shall have different secondary colors than the primary set and shall be required for all denominations.

(b) Each facility manager shall have a non-value chip reserve for each color utilized in the gaming facility with a design insert or symbol different from those non-value chips comprising the primary set.

(c) The facility manager shall remove the primary set of gaming chips from active play if at least one of the following conditions is met:

(1) A determination is made by the facility manager that the gaming facility is receiving a significant number of counterfeit chips.

(2) Any other impropriety or defect in the utilization of the primary set of chips makes removal of the primary set necessary.

(3) The executive director orders the removal because of security or integrity.

(d) If the primary set of chips is removed from active play, the facility manager shall immediately notify a representative of the commission of the reason for this occurrence. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-13. Exchange of value chips or non-value chips. (a) Chips shall be issued to a person only at the request of that person and shall not be given as change in any other transaction. Chips shall be issued to gaming facility patrons at cashiers' cages or at the live table games. Chips may be redeemed at cashiers' cages.

(b) Chips shall be redeemed only by a facility manager for its patrons and shall not be knowingly redeemed from a source other than a patron. Employees of the facility manager may redeem chips they have received as gratuities as allowed under these regulations.

(c) Each facility manager shall redeem its own chips by cash or by check dated the day of the redemption on an account of the facility manager as requested by the patron, except when the chips were obtained or used unlawfully.

(d) Any facility manager may demand the redemption of its chips from any person in possession of them. That person shall redeem the chips upon presentation of an equivalent amount of cash by the facility manager.

(e) No facility manager shall knowingly accept, exchange, use, or redeem gaming chips issued by another facility manager.

(f) Each facility manager shall cause to be posted and remain posted, in a prominent place on the front of a cashier's cage, a sign that reads as follows: "Gaming chips issued by another facility manager cannot be used, exchanged, or redeemed at this gaming facility." (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-14. Receipt of gaming chips from manufacturer. (a) When chips are received from the manufacturer, the chips shall be opened

and checked by at least two employees, one from the table games department and one from the security department of the facility manager. Any deviation between the invoice accompanying the chips and the actual chips received or any defects found in the chips shall be reported to a security agent of the commission. A security agent of the commission shall be notified by both the gaming supplier and the facility manager of the time of delivery of any chips to the facility manager.

(b) After checking the chips received, the facility manager shall report in a chip inventory ledger each denomination of the chips received, the number of each denomination of chips received, the number and description of all non-value chips received, the date of receipt, and the signature of the individuals who checked the chips. Chips shall be divided into the following categories:

(1) Primary chips for current use;

(2) reserve chips that may be placed into play as the need arises; and

(3) secondary chips, both value chips and non-value chips, that are held to replace the primary set when needed.

(c) If any of the chips received are to be held in reserve and not utilized either at the table games or at a cashier's cage, the chips shall be stored in a separate, locked compartment either in the vault or in a cashier's cage and shall be recorded in the chip inventory ledger as reserve chips.

(d) All chips received that are part of the facility manager's secondary set of chips shall be recorded in the chip inventory ledger as such and shall be stored in a locked compartment in the gaming facility vault separate from the reserve chips. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-15. Inventory of chips. (a) Chips shall be taken from or returned to either the reserve chip inventory or the secondary set of chips in the presence of at least two individuals, one from the table games department and one from the security department of the facility manager. The denominations, number, and amount of chips taken or returned shall be recorded in the chip inventory ledger, together with the date and signatures of the two individuals carrying out this process.

(b) The facility manager's accounting department shall monthly compute and record the unredeemed liability for each denomination of chips, take an inventory of chips in circulation, and record the result of this inventory in the chip inven-

tory 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 car-

ried 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 facility from a licensed gaming supplier, all of the following requirements shall be met:

(1) The decks shall be inspected for proper quantity and any obvious damage by at least two employees, one of whom shall be from the table games department and the other from the security department or accounting department.

(2) The decks shall be recorded in the card inventory ledgers by a member of the security or accounting department and a member of the table games department. If any discrepancies in the invoice or packing list or any defects are found, the discrepancies shall be reported to a commission agent on duty within 24 hours.

(3) The decks shall be placed for storage in a primary or secondary storage area by at least two employees, one of whom shall be from the table games department and the other from the security department or accounting department. The primary card storage area shall be located in a secure place, the location and physical characteristics of which shall be documented in the internal controls and approved by the commission. Secondary storage areas, if needed, shall be used for the storage of surplus decks. Decks maintained in any secondary storage area shall be transferred to the primary card storage area before being distributed to the pit area or poker tables. All secondary storage areas shall be located in secure areas, the location and physical characteristics of which shall be documented in the internal controls and approved by the commission.

(d) Each primary card storage area and each secondary card storage areas shall have two separate locks. The security department shall maintain one key to each storage area, and the table games department shall maintain the other key. No person employed by the table games department other than the pit manager, poker room manager, or the supervisor shall have access to the table games department key for the primary and secondary card storage areas.

(e) Immediately before the commencement of each gaming day and at other times as may be necessary, the pit manager, poker room manager, or the supervisor, in the presence of a security department employee and after notification to surveillance, shall remove the decks of table game cards or poker cards from the primary card storage area needed for that gaming day.

(f) All cards transported to a pit or the poker room shall first be recorded on the card inventory ledger. Both the authorized table games department employee and the security department employee shall sign to verify the information.

(g) Once the cards are removed from the primary card storage area, the pit manager, poker room manager, or the supervisor, in the presence of a security department employee, shall take the decks to the pit area or poker room and distribute the decks to the floor supervisors for distribution to the dealer at each table. The poker room manager, pit manager, or the supervisor shall place extra decks into a single locked compartment of a poker room or pit area stand. All authority shall be limited to the supervisor's or manager's respective area of duty. The poker room supervisor, pit area supervisor, or an employee in a higher position shall have access to the extra decks of cards to be used for that gaming day.

(h) Each movement of decks after delivery to the poker room or pit area shall be by a poker room manager, pit manager, or an employee in a higher position and shall require a security escort after notifying surveillance. The procedures for transporting used decks shall include the following:

- (1) A requirement that used decks be transported by security;
- (2) a requirement that the surveillance department be notified before movement of the decks;
- (3) specifications on the time that the procedures will be performed;
- (4) specifications on the location to which the decks will be taken;
- (5) specifications on the keys needed;
- (6) specifications on the employees who are responsible;
- (7) a requirement for updating inventory ledgers; and
- (8) any other applicable security measures that the facility manager deems appropriate.

(i) Before being placed into play, each deck shall be inspected by the dealer, with the inspection verified by a floor supervisor or the floor supervisor's supervisor. Card inspection at the gaming table shall require the dealer to sort each deck into sequence and into suit to ensure that all cards are in the deck. The dealer shall also check each card to ensure that there is no indication of tampering, flaws, scratches, marks, or other defects that might affect the integrity of the game.

(1) If, after checking the cards, the dealer finds that a card is unsuitable for use, a floor supervisor or an employee in a higher position shall either bring a replacement card from the replacement deck or replace the entire deck.

(2) A commission security agent on duty shall be notified immediately of the removal, including

the card manufacturer's name, and the time of discovery and the location of where the unsuitable card was discovered. Cards may also be removed at the direction of the commission security agent on duty.

(3) Based upon the agent's discretion and circumstances as listed in subsection (t), all decks being removed from play shall be counted at the table to ensure that no cards are missing.

(4) The unsuitable cards shall be placed in a transparent sealed envelope or container, identified by the table number, date, and time, and shall be signed by the dealer and floor supervisor assigned to that table. The floor supervisor or an employee in a higher position shall maintain the envelope or container in a secure place within the enclosed and encircled area until collected by a facility manager's security department employee.

(5) Cards being removed from play shall be inspected by a member of the facility's security department within 48 hours of their removal.

(j) If an automated deck-checking device is used, the facility manager shall include the following procedures:

(1) Before the initial use of the automated deck-checking device, the critical program storage media and the camera software shall be verified and sealed by a commission security agent.

(2) The dealer shall complete the inspection of the cards. The dealer inspection shall ensure that the back of the cards are the correct color and free of any visible flaws.

(3) The automated deck-checking device shall be maintained in the enclosed and encircled area.

(4) The automated deck-checking device shall not be used in the card storage room.

(5) The automated deck-checking device shall be inspected on a weekly basis with decks that have preidentified missing cards from each suit. The devices shall properly identify each missing card in these decks.

(k) All envelopes and containers used to hold or transport cards collected by security shall be transparent.

(1) The envelopes or containers and the method used to seal them shall be designed or constructed so that any tampering is evident.

(2) The envelopes or containers and seals shall be approved by the executive director.

(1) If any cards have been opened and placed on a gaming table, those cards shall be changed at least once every 24 hours. In addition, the following requirements shall be met:

(1) All cards opened for use on a traditional baccarat table shall be changed upon the completion of each shoe.

(2) All cards opened for use on any table game in which the cards are handled by the players shall be changed at least every six hours.

(3) All cards opened for use on any table game and dealt from the dealer's hand or held by players shall be changed at least every four hours.

(4) If any cards have been opened and placed on a poker table, those cards shall be changed at least once every six hours.

(m) Each card damaged during the course of play shall be replaced by the dealer, who shall request a floor supervisor or an employee in a higher position to bring a replacement card from the enclosed and encircled area.

(1) The damaged cards shall be placed in a sealed envelope, identified by table number, date, and time, and be signed by the dealer and the floor supervisor or the supervisor's supervisor who brought the replacement cards to the table.

(2) The floor supervisor or an employee in a higher position shall maintain the envelope or container in a secure place within the enclosed and encircled area until collected by a security department employee.

(n)(1) The floor supervisor or an employee in a higher position shall collect all used cards either at the end of the gaming day or at least once each gaming day at the same time as designated by the facility manager and documented in the internal controls approved by the commission. A facility manager may choose to collect all used cards at other times as may be necessary.

(2) Used cards shall be counted and placed in a sealed envelope or container. A label shall be attached to each envelope or container that shall identify the table number, date and time and shall be signed by the dealer and floor supervisor assigned to the table. The floor supervisor or an employee in a higher position shall maintain the envelopes or containers in a secure place within the enclosed or encircled area until collected by a facility manager security department employee.

(o) The facility manager shall remove any cards from use whenever there is indication of tampering, flaws, scratches, marks, or other defects that might affect the integrity or fairness of the game, or at the request of the commission security agent on duty.

(p) Each extra deck with a broken seal shall be placed in a sealed envelope or container with a

label attached to each envelope or container. The label shall identify the date and time the envelope was sealed and shall be signed by the floor supervisor and the pit manager. If the pit manager is not available to sign the label, then the floor supervisor and the floor supervisor's supervisor shall sign the label.

(q) At least once each gaming day at the time as designated by the facility manager in the internal controls, a facility manager security department employee shall collect, sign, and return to the security department all envelopes or containers containing the following:

(1) Damaged cards;

(2) cards used during the gaming day; and

(3) all other decks with broken seals.

(r) Each poker room supervisor shall maintain in the poker room stand a specified number of replacement decks for replacing unsuitable cards. The poker room supervisor or an employee in a higher position shall have access to the replacement decks that are kept in a single locked compartment. The poker room supervisor or an employee in a higher position shall keep a record of all cards removed from the replacement decks. The record shall include the time, date, color, value, suit, reason for replacement, and name of the individual who replaced the cards. The replacement decks shall be reconciled to the record at least weekly. Once a replacement deck has been depleted to the point that the deck is no longer useful, the remaining cards in the replacement deck shall be picked up by security and destroyed or cancelled.

(s) At least once each gaming day as designated by the facility manager in the internal controls, a pit manager or the pit manager's supervisor may collect all extra decks of cards. If collected, all sealed decks shall be cancelled, destroyed, or returned to an approved storage area.

(t) When the envelopes or containers of used cards and reserve cards with broken seals are returned to the security department, the used cards and reserve cards shall be inspected within 48 hours by a member of the facility manager's security department who has been trained in proper card inspection procedures. The cards shall be inspected for tampering, marks, alterations, missing or additional cards, or anything that might indicate unfair play.

(1) With the exception of the cards used on a traditional baccarat table, which are changed upon the completion of each shoe, all cards used

in table games in which the cards are handled by the player shall be inspected.

(2) In other table games, if fewer than 300 decks are used in the gaming day, at least 10 percent of those decks shall be selected at random to be inspected. If 300 or more decks are used that gaming day, at least five percent of those decks but no fewer than 30 decks shall be selected at random to be inspected.

(3) The facility manager shall also inspect the following:

(A) Any cards removed from play as stated in paragraph (i)(3) based upon the agent's discretion and circumstances as listed in subsection (t);

(B) any cards that the facility manager has removed for indication of tampering; and

(C) all cards used for poker.

(4) The procedures for inspecting all decks required to be inspected under this subsection shall, at a minimum, include the following:

(A) The sorting of cards sequentially by suit;

(B) the inspection of the backs of the cards with an ultraviolet light;

(C) the inspection of the sides of the cards for crimps, bends, cuts, and shaving;

(D) the inspection of the front and back of all poker cards for consistent shading and coloring;

(E) the positions authorized by job description to conduct the inspection;

(F) surveillance notification before inspecting the cards;

(G) time and location the inspection will be conducted;

(H) minimum training requirements of persons assigned to conduct the inspections;

(I) each type of inspection to be conducted and how each inspection will be performed, including the use of any special equipment;

(J) any other applicable security measures;

(K) immediate notification of the commission security agent on duty and the completion of an incident report describing any flawed, marked, suspects, or missing cards that are noted; and

(L) reconciliation by an employee of the facility manager security department of the number of cards received with the number of cards destroyed or cancelled and any cards still pending destruction or cancellation. Each discrepancy shall be reported to the commission security agent on duty immediately.

(5) If, during the inspection procedures required in paragraph (t)(4), one or more poker cards in a deck are determined to be unsuitable

for continued use, those cards shall be placed in a sealed envelope or container, and a three-part card discrepancy report shall be completed in accordance with paragraph (t)(10).

(6) Upon completion of the inspection procedures required in paragraph (t)(4), each deck of poker cards that is determined suitable for continued use shall be placed in sequential order, repackaged, and returned to the primary or poker card storage area for subsequent use.

(7) The facility manager shall develop internal control procedures for returning the repackaged cards to the storage area.

(8) The individuals performing the inspection shall complete a work order form that details the procedures performed and list the tables from which the cards were removed and the results of the inspection. Each individual shall sign the form upon completion of the inspection procedures.

(9) The facility manager shall submit the training procedures for those employees performing the inspection, which shall be documented in the internal controls and approved by the commission.

(10) Evidence of tampering, marks, alterations, missing or additional cards, or anything that might indicate unfair play shall be reported upon discovery to the commission staff by the completion and delivery of a card discrepancy report.

(A) The report shall accompany the cards when delivered to the commission.

(B) The cards shall be retained for further inspection by the commission.

(C) The commission agent receiving the report shall sign the card discrepancy report and retain the original at the commission office.

(u) The facility manager shall submit to the commission for approval internal controls procedures for the following:

(1) A card inventory system that shall include, at a minimum, documentation of the following:

(A) The balance of decks on hand;

(B) the decks removed from storage;

(C) the decks returned to storage or received from the manufacturer;

(D) the date of the transaction; and

(E) the signature of each individual involved;

(2) a verification on a daily basis of the number of decks distributed, the decks destroyed or cancelled, and the decks returned to the storage area; and

(3) a physical inventory of the decks at least once every three months, according to the following requirements:

(A) This inventory shall be performed by an employee from the internal audit department, a supervisor from the cage, or a supervisor from the accounting department and shall be verified to the balance of decks on hand required in paragraph (u)(1)(A);

(B) the employees conducting this inventory shall make an entry and sign the card inventory ledger in a manner that clearly distinguishes this count as the quarterly inventory; and

(C) each discrepancy shall be reported upon discovery to the commission security agent on duty.

(v) If cards in an envelope or container are inspected and found to be without any indication of tampering marks, alterations, missing or additional cards, or anything that might indicate unfair play, those cards shall be destroyed or cancelled. Once released by the commission agent on duty, the cards submitted as evidence shall immediately be destroyed or cancelled according to the following:

(1) Destruction shall occur by shredding or other method documented in the internal controls and approved by the commission.

(2) Cancellation shall occur by drilling a circular hole of at least $\frac{1}{4}$ of an inch in diameter through the center of each card in the deck or by cutting at least $\frac{1}{4}$ of an inch off one corner from each card in the deck or other method documented in the internal controls and approved by the commission.

(3) The destruction and cancellation of cards shall take place in a secure place, the location and physical characteristics of which shall be documented in the internal controls approved by the commission, and shall be performed by a member of the facility manager security department specifically trained in proper procedures.

(4) Card cancellation and destruction record shall be maintained indicating the date and time of cancellation or destruction, quantity of cards to be cancelled or destroyed, and the name of each individual responsible for cancellation or destruction.

(w) Procedures for canceling or destroying cards shall include the following maintenance:

(1) Notation of the positions authorized by job description to cancel or destroy cards;

(2) notation of surveillance notification before cancellation or destruction of the cards;

(3) notation of time and location the cancellation or destruction will be conducted;

(4) notation of the manner in which cancellation

or destruction will be accomplished, including the use of any special equipment;

(5) any other applicable security measures; and

(6) immediate notification of a commission security agent on duty and the completion of a card and dice discrepancy report regarding any flawed, marked, or suspicious cards that are noted during the cancellation or destruction process. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-22. Dice specifications. (a) Except as provided in subsection (b), each die used in gaming shall meet the following requirements:

(1) Be formed in the shape of a cube with a size no smaller than .750 inch on each side and not any larger than .775 inch on each side;

(2) be transparent and made exclusively of cellulose except for the spots, name, or trade name of the facility manager and serial numbers or letters contained on the die;

(3) have the surface of each of its sides flat and the spots contained in each side flush with the area surrounding them;

(4) have all edges and corners square and forming 90-degree angles;

(5) have the texture and finish of each side exactly identical to the texture and finish of all other sides;

(6) have its weight equally distributed throughout the cube, with no side of the cube heavier or lighter than any other side of the cube;

(7) have its six sides bearing white circular spots from one to six respectively, with the diameter of each spot equal to the diameter of every other spot on the die;

(8) have spots arranged so that the side containing one spot is directly opposite the side containing six spots, the side containing two spots is directly opposite the side containing five spots, and the side containing three spots is directly opposite the side containing four spots. Each spot shall be placed on the die by drilling into the surface of the cube and filling the drilled-out portion with a compound that is equal in weight to the weight of the cellulose drilled out and that forms a permanent bond with the cellulose cube. Each spot shall extend into the cube exactly the same distance as every other spot extends into the cube to an accuracy tolerance of .0004 inch; and

(9) have the name or trade name of the facility manager in which the die is being used imprinted or impressed on the die.

(b) Each die used in gaming at pai gow shall meet the requirements of subsection (a), except as follows:

(1) Each die shall be formed in the shape of a cube not larger than .8 inch on each side.

(2) Instead of the name or trade name of the facility manager, an identifying mark or logo may be approved by the executive director to be imprinted or impressed on each die.

(3) The spots on each die shall not be required to be equal in diameter.

(4) Edges and corners may be beveled if the beveling is similar on each edge and each corner.

(5) Tolerances required by paragraph (a)(8) as applied to pai gow dice shall require accuracy of only .004 inch.

(c) A picture and sample of the die shall be submitted to the executive director for approval before being placed into play. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-23. Dice; receipt, storage, inspections, and removal from use. (a) Each facility manager shall ensure that all of the following requirements are met each time dice are received for use in the gaming facility:

(1) The packages shall be inspected for proper quantity and any obvious damage by at least two employees, one of whom shall be from the table games department and the other from the security department or accounting department.

(2) The dice shall be recorded in the dice inventory ledgers by a member of the security or accounting department. Any discrepancies in the invoice or packing list or any defects found shall be reported upon discovery to a commission security agent on duty.

(3) The boxes shall be placed for storage in a primary or secondary storage area by at least two employees, one of whom shall be from the table games department and the other from the security department or accounting department. The primary storage area shall be located in a secure place, the location and physical characteristics of which shall be approved by the commission. Secondary storage areas, if needed, shall be used for the storage of surplus dice. Dice maintained in secondary storage areas shall be transferred to the primary storage area before being distributed to the pits or tables. All secondary storage areas shall be located in secure areas, the location and physical characteristics of which shall be approved by the commission.

(b) Each primary storage area and each secondary storage area shall have two separate locks. The security department shall maintain one key, and the table games department shall maintain the other key. No person working in the table games department that is an employee in a lower position than the pit manager or poker room manager may have access to the table games department key for the primary and secondary storage areas.

(c) A facility manager shall ensure that each dice storage area contains an inventory ledger and that its employees update the ledger when dice are added or removed from that storage area.

(d) Before the commencement of each gaming day and at other times as may be necessary, the pit manager, poker room manager, or the supervisor, in the presence of a security department employee and after notification to surveillance, shall remove the appropriate number of dice from the primary storage area for that gaming day.

(e) Before being transported to a pit, all dice shall be recorded on the dice inventory ledger. Both the authorized table games department employee and security department employee shall sign verifying the information.

(f) Once the dice are removed from the primary storage area, the pit manager, poker room manager, or the supervisor, in the presence of a security department employee, shall take the dice to the pits and distribute the dice to the floor supervisors or directly to the boxperson.

(1) At the time of receipt of any dice, a boxperson at each craps table shall, in the presence of the floor supervisor, inspect each die with a micrometer or any other instrument approved by the commission that performs the same function, a balancing caliper, a steel set square, and a magnet. These instruments shall be kept in a compartment at each craps table or pit stand and shall be at all times readily available for use by the commission upon request. The boxperson shall also check the dice to ensure that there is no indication of tampering, flaws, scratches, marks, or other defects that might affect the play of the game. The inspection shall be performed on a flat surface, which allows the dice inspection to be observed by surveillance and by any person near the pit stand.

(2) Following this inspection, the boxperson shall in the presence of the floor supervisor place the dice in a cup on the table for use in gaming. The dice shall never be left unattended while the dice are at the table.

(3) The pit manager shall place extra dice in a single locked compartment in the pit stand. The floor supervisor or an employee in a higher position shall have access to the extra dice to be used for that gaming day.

(4) Any movement of dice after being delivered to the pit shall be made by a pit manager or an employee in a higher position and require a security escort after notifying surveillance. Procedures for the pickup of used dice, including obtaining keys, assigning individuals responsible, and updating inventory ledgers, shall include the following:

(A) Transportation of used dice by security;

(B) surveillance notification before movement of the dice;

(C) time the procedures will be performed;

(D) location where the dice will be taken; and

(E) any other applicable security measures.

(5) No dice taken from the reserve shall be used for gaming until the dice have been inspected in accordance with this regulation.

(g) The facility manager shall remove any dice from use if there is any indication of tampering, flaws, or other defects that might affect the integrity or fairness of the game, or at the request of the commission agent on duty.

(h) At the end of each gaming day or at any other times as may be necessary, a floor supervisor, other than the person who originally inspected the dice, shall visually inspect each die for evidence of tampering. Any evidence of tampering shall be immediately reported to the commission security agent on duty by the completion and delivery of an approved dice discrepancy report.

(1) Each die showing evidence of tampering shall be placed in a sealed envelope or container.

(A) All envelopes and containers used to hold or transport dice collected by security shall be transparent.

(B) A label shall be attached to each envelope or container that identifies the table number, date, and time and shall be signed by the boxperson and floor supervisor.

(C) The envelopes or containers and the method used to seal the dice shall be designed or constructed so that any tampering is evident.

(D) The security department employee receiving the die shall sign the original, duplicate, and triplicate copy of the dice discrepancy report and retain the original at the security office. The duplicate copy shall be delivered to the commission, and the triplicate copy shall be returned to the pit and maintained in a secure place within

the pit until collection by a security department employee.

(2) The procedures for inspecting dice under this subsection shall include the following information:

(A) A listing of the positions authorized by job description to conduct the inspection;

(B) a direction that surveillance personnel shall be notified before inspecting the dice;

(C) detail about the time and location the inspection will be conducted;

(D) a listing of the minimum training requirements of persons assigned to conduct the inspections;

(E) a description of the inspections that will be conducted and how they will be performed, including the use of any special equipment;

(F) any other applicable security measures;

(G) a requirement for immediate notification of the commission security agent on duty and the completion of an incident report describing any flawed, marked, suspect, or missing dice that are noted; and

(H) a requirement for reconciliation by the security department employee of the number of dice received with the number of dice destroyed or cancelled and any dice still pending destruction or cancellation. Each discrepancy shall be reported to the commission security agent within two hours.

(3) All other dice shall be put into envelopes or containers at the end of each gaming day.

(A) A label shall be attached to each envelope or container that identifies the table number, date, and time and is signed by the boxperson and floor supervisor.

(B) The envelope or container shall be appropriately sealed and maintained in a secure place within the pit until collection by a security department employee.

(i) All extra dice in dice reserve that are to be destroyed or cancelled shall be placed in a sealed envelope or container, with a label attached to each envelope or container that identifies the date and time and is signed by the pit manager.

(j) A security department employee shall collect and sign all envelopes or containers of used dice and any dice in dice reserve that are to be destroyed or cancelled and shall transport the envelopes or containers to the security department for cancellation or destruction. This collection shall occur at the end of each approved gaming day and at any other times as may be necessary. The

security department employee shall also collect all triplicate copies of dice discrepancy reports, if any. No dice that have been placed in a cup for use in gaming shall remain on a table for more than 24 hours.

(k) A pit manager or supervisor of the pit manager may collect all extra dice in dice reserve at the end of each gaming day or at least once each gaming day as designated by the facility manager and approved by the commission, and at any other times as may be necessary.

(1) If collected, dice shall be returned to the primary storage area.

(2) If not collected, all dice in dice reserve shall be reinspected before use for gaming.

(l) The facility manager's internal control system shall include approval procedures for the following:

(1) A dice inventory system that shall include, at a minimum, documenting the following:

(A) The balance of dice on hand;

(B) the dice removed from storage;

(C) the dice returned to storage or received from the manufacturer;

(D) the date of the transaction; and

(E) the signature of each individual involved;

(2) a reconciliation on a daily basis of the dice distributed, the dice destroyed and cancelled, the dice returned to the primary storage area and, if any, the dice in dice reserve; and

(3) a physical inventory of the dice performed at least once every three months and meeting the following requirements:

(A) This inventory shall be performed by an employee from the internal audit department or a supervisor from the cashier's cage, or accounting department and shall be verified to the balance of dice on hand required in paragraph (l)(1)(A);

(B) each discrepancy shall immediately be reported to the commission agent on duty; and

(C) the employees conducting this inventory shall make an entry and sign the dice inventory ledger in a manner that clearly distinguishes this count as the quarterly inventory.

(m)(1) Cancellation shall occur by drilling a circular hole of at least $\frac{3}{16}$ of an inch in diameter through the center of each die or any other method approved by the commission.

(2) Destruction shall occur by shredding or any other method approved by the commission.

(3) The destruction and cancellation of dice shall take place in a secure place, the location and physical characteristics of which shall be approved by the commission.

(4) Dice cancellation and destruction record shall be maintained indicating the date and time of cancellation or destruction, quantity of dice to be cancelled or destroyed, and the individuals responsible for cancellation or destruction.

(5) Procedures for cancelling or destroying dice shall include the following:

(A) The positions authorized by job description to cancel or destroy dice;

(B) surveillance notification before cancellation or destruction of the dice;

(C) time and location the cancellation or destruction will be conducted;

(D) specifically how cancellation or destruction will be accomplished, including the use of any special equipment; and

(E) other applicable security measures.

(6) Each facility manager shall notify the commission security agent of any flawed, marked, or suspect dice that are discovered during the cancellation or destruction process.

(n) Evidence of tampering, marks, alterations, missing or additional dice or anything that might indicate unfair play discovered shall be reported to the commission by the completion and delivery of a dice discrepancy report.

(1) The report shall accompany the dice when delivered to the commission security agent on duty.

(2) The dice shall be retained for further inspection by the commission security agent on duty.

(3) The commission agent receiving the report shall sign the dice discrepancy report and retain the original at the commission office. (Authorized by and implementing K.S.A. 2010 Supp. 74-8772; effective Jan. 8, 2010; amended Dec. 9, 2011.)

112-108-24. Mandatory table game count procedure. Each facility manager shall report to the commission the times when drop boxes will be removed and the contents counted. All drop boxes shall be removed and counted at the times previously reported to the commission. The removal and counting of contents at other than the designated times shall be prohibited, unless the facility manager provides advance written notice to the commission's security staff on site of a change in times or the commission requires a change of authorized times. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-25. Handling of cash at gaming tables. (a) Whenever cash is presented by a pa-

tron 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 gam-

bling 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 ap-

plicable 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 dis-

posal 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 du-

plicate 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 box-person and witnessed by a table games supervisor and security department employee in full view of

surveillance. After verifying the chips against the amounts listed on the fill slip, the table games supervisor and dealer or boxperson shall sign the fill slips. The table games supervisor and security department employee shall observe the dealer or boxperson place the chips in the rack and deposit the fill slips in the table drop box. A security department employee shall not leave the table until the chips have been placed in the racks and the fill slips have been dropped. A security department employee shall return a copy of the fill slip to the cashier.

(l) The copies of the fill slips shall be reconciled by accounting at least once daily. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-32. Procedures for automated filling of chips. (a) The table games supervisor or table games manager shall determine whether a fill is necessary and initiate the request for fill process. If a request for fill slip is used, procedures for distribution of the slip shall be included in the internal controls.

(b) The table games manager or the pit clerk shall enter a request for fill into the computer, including the following information:

- (1) The amount by denomination;
- (2) the total amount;
- (3) the game or table number and pit;
- (4) the dates and time; and
- (5) the required signatures.

(c) A two-part computer-generated fill slip shall be used to record the transfer of chips from the cashier's cage to a gaming table. The fill slips shall be numbered by the computer in a manner that ensures that every fill in a given calendar year has a unique sequential number.

(d) Two copies of the computerized fill slips shall be printed simultaneously, and a record of the transaction shall be stored within the computer database.

(e) If a computerized fill slip needs to be voided, the cage cashier shall write "VOID" across the original and all copies of the fill slip and an explanation of why the void was necessary. Both a cashier's cage employee and either a security department employee or another level II employee independent of the transaction shall sign the voided fill slip. The voided fill slips shall be submitted to the accounting department for retention and accountability. The transaction shall be properly voided in the computer database.

(f) A two-part fill slip shall be printed in the cashier's cage containing the information required in subsection (b). A security department employee shall verify the chip totals with the fill slip. A cashier's cage employee shall present the ordered chips to a security department employee in a clear chip carrier. Once verified, both a cashier's cage employee and security department employee shall sign the fill slip.

(g) After notifying surveillance, a security department employee shall take the chips and the fill slips to the indicated table. Only a security department employee shall transport fills. The chips shall be counted by the dealer or boxperson and witnessed by a table games supervisor and security department employee in full view of surveillance. After verifying the chips to the amounts listed on the fill slip, the table games supervisor and a dealer or boxperson shall sign the fill slips. The table games supervisor and security department employee shall observe the dealer or boxperson place the chips in the rack and deposit the fill slip in the table drop box. A security department employee shall not leave the table until the chips have been placed in the racks and the fill slip has been dropped. A security department employee shall return a copy of the fill slip to the cashier's cage.

(h) The main bank cashier shall run an adding machine tape on the fill slips and verify the total to the amount in the automated accounting system. All fill paperwork shall be forwarded to accounting.

(i) The ability to input data into the gaming facility computer system from the pit shall be restricted to table game managers and pit clerks. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-33. Procedures for recording manual table credits. (a) Three-part manual credit slips shall be used to record the transfer of chips from a gaming table to the cage. The credit slips shall be sequentially numbered by the vendor. The alphabet shall not be required to be used if the numerical series is not repeated during the calendar year. Chips shall not be transported unless accompanied by a credit slip.

(b) The inventory of nonissued credit slips shall be maintained by the facility manager's accounting or security department. The accounting department shall be responsible for the initial receipt of manual credit slips.

(c) If a table game supervisor or table game manager determines that a table credit is required, a three-part order for credit shall be completed in ink by entering the following information:

- (1) The amount by denomination of chips needed;
- (2) the total amount;
- (3) the game or table number and pit;
- (4) the date and time; and
- (5) the signature of the manager or supervisor.

(d) The table game supervisor or the table game manager shall keep one copy of the order for credit on the table and take the other copy of the order for credit to the pit stand. The pit stand employee shall record that copy in the pit paperwork log and then return the copy to the table. The table game manager shall give a copy of the order for credit to a security department employee, who shall take it to the cashier's cage, where the cashier shall prepare a three-part credit slip in ink by entering the following:

- (1) The chip denomination;
- (2) total amount;
- (3) game or table number; and
- (4) time and date.

(e) The security department employee shall take the credit slip to the gaming table. A copy of the order for credit shall be retained at the cage.

(f) The dealer or boxperson shall count the chips in full view of a security department employee and either the table game supervisor or an employee in a higher position. The count shall be conducted in full view of cameras connected to the surveillance department.

(g) The dealer or boxperson and the table game supervisor shall verify the chips against the credit slip, and the credit slip against the order for credit. The dealer or boxperson and the table game supervisor shall sign the credit slip and the order for credit. The security department employee shall verify the chips against the order for credit, sign the order for credit and the credit slip, and receive the chips in a clear chip carrier. The security department employee shall carry the chips and the credit slip back to the cashier's cage. A copy of the order for credit shall be retained at the table until a copy of the credit slip is returned.

(h) The cashier's cage employee shall receive the credit slips and the chips from the security department employee and verify that the chips match the order for credit and credit slip. The cashier's cage employee shall then sign the credit slips and the order for credit. The cashier's cage employee shall time-and date-stamp the credit

slips. Unless otherwise approved by the commission, a copy shall remain unbroken in the locked form dispensing machine. The order for credit shall be attached to a copy of the credit slip and be retained by the cashier's cage.

(i) The copy of the credit slip issued by the cashier's cage shall be taken back to the table by the security department employee. The table game supervisor and the dealer or boxperson shall compare the copy of the credit slip to the order for credit. The table game supervisor shall observe the dealer or boxperson deposit the order for credit slip and the credit slip in the table drop box.

(j) The copies of the credit slips, with the copies of the order for credit attached, shall be transferred to the main bank. The main bank cashier shall run a tape on the credit slips and verify the total against the amount in the automated accounting system.

(k) The locked copies of the manual credit slips shall be removed from the machines by the accounting department.

(l) If a credit slip needs to be voided, the cage cashier shall write "VOID" and an explanation of why the void was necessary across the original and all copies of the credit slip. Both the cashier's cage employee and either a security department employee or another level II employee independent of the transaction shall sign the voided credit slip. The voided credit slips shall be subsequently transferred to the accounting department and retained.

(m) Corrections on manual table fill or credit shall be made by crossing out the error, entering the correct information, and then obtaining the initials and commission license numbers of at least two cashier's cage employees.

(n) Each accounting employee who makes corrections shall initial and note that employee's commission license number on the request. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-34. Automated table credits. (a) Two-part computer-generated credit slips shall be used to record the transfer of chips from a gaming table to the cashier's cage. The credit slips shall be sequentially numbered by the computer system, ensuring that each credit in a given calendar year is assigned a unique number. Chips shall not be transported unless accompanied by a credit slip.

(b) The table game manager or the pit clerk shall enter a request for credit into the computer, including the following information:

(1) The amount by denomination;
 (2) total amount;
 (3) game or table number and pit;
 (4) dates and time; and
 (5) required signatures.
 (c) A security department employee shall obtain the credit slip and chip carrier from the cage and proceed to the pit area.

(d) The dealer or boxperson shall count the chips in full view of a security department employee and either the table games supervisor or an employee in a higher position. The count shall be conducted in full view of a camera connected to the surveillance department.

(e) The table games supervisor and either a dealer or a boxperson shall verify that the value of the chips in the carrier matches the amount on the credit slip and sign the credit slip. The 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 in-

clude 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 inventory shall be counted and verified by either two poker room supervisors or a poker room supervisor and a dealer. The poker room supervisor shall prepare a new table inventory slip and place the previous inventory slip in the table drop box. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-44. Poker room; drops and counts. The procedures for the collection of poker table drop boxes, token boxes, and the count of the contents of these boxes shall meet the requirements of the internal control standards applicable to the table game drop boxes in K.A.R. 112-108-48. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-45. Bad beat and special hand. (a) If the facility manager offers a bad beat or special hand, all funds collected for the jackpot shall be used to fund the primary, secondary, and tertiary jackpots and be available for poker players to win. The percentage of the funds attributable to each jackpot shall be included in the rules of the game in the facility manager's internal control standards.

(b) When a patron wins a bad beat or special hand, the following information shall be recorded on the bad beat payout documentation, and copies of the internal revenue service forms, if applicable, shall be attached:

(1) A description of the cards that comprised the winning poker hand for that game;

(2) a description of the cards that comprised the winning bad beat hand;

(3) the name of the person that had the winning poker hand for that game;

(4) the name of the person that had the winning bad beat hand;

(5) the names of the other players in the game; and

(6) the amount won by each person.

(c) Surveillance staff shall be notified and shall visually verify all winning hands when a bad beat or special hand is won. The verification by surveillance shall be documented in the surveillance log.

(d) The amount of primary bad beat and any special hand shall be prominently displayed at all times in the poker room, and the amount displayed

shall be promptly updated at least once each gaming day by adding the correct percentage of funds that were collected from the previous gaming day. If the bad beat is won and the amount displayed has not yet been updated, the poker room supervisor shall contact accounting and update the bad beat amount before paying the winners. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-46. Gaming table drop device characteristics. (a) Each gaming table in the gaming facility shall have an attached drop device for the following items:

(1) Deposited currency;

(2) copies of table transaction documents; and

(3) mutilated chips.

(b) Each gaming table drop device shall have the following features:

(1) A lock that secures the drop device to the gaming table;

(2) a lock that secures the contents of the drop device from being removed without authorization;

(3) a slot opening or mechanism through which all currency, documents, and mutilated chips shall be inserted;

(4) a mechanical device that shall automatically close and lock the slot opening upon removal of the drop device from the gaming table; and

(5) a marking that is permanently imprinted and clearly visible and that identifies the game and table number to which it is attached. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-47. Emergency gaming table drop devices; drop procedures. (a) The facility manager shall maintain emergency gaming table drop devices with the same physical characteristics as those specified in K.A.R. 112-108-46, except for the game and table number markings.

The emergency drop device shall be permanently marked with the word "EMERGENCY" and shall have an area for the temporary marking of the game and table number.

(b) Emergency drop devices shall be maintained in the soft count room or in a secured area as approved by the commission. The storage location, controls, and authorized access shall be described in the internal control system.

(c) At least two individuals shall be responsible for performing the emergency drop. One individual shall be a security department employee, and

one individual shall be a level I or level II employee independent of the table games department. The table games department shall notify the commission security agent on duty that an emergency drop is needed. Security staff shall notify surveillance that an emergency drop is needed.

(d) The internal control procedures for emergency drop devices shall include the following items:

(1) Procedures for retrieval of the emergency drop device;

(2) the process for obtaining drop device release keys;

(3) procedures for removal of the drop device; and

(4) the location and safekeeping of the replaced drop device.

(e) All contents removed during the emergency drop shall be counted and included in the next count. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-48. Procedures for the collection and transportation of drop devices. (a) Each facility manager shall submit the current drop schedule to the commission's security agent showing the times and days when the drop devices will be removed from the gaming tables. At a minimum, the gaming table drop devices shall be dropped at the end of each gaming day.

(b) Each facility manager shall be allowed to conduct drops while patrons are present in accordance with commission-approved drop procedures.

(c) The internal control system shall state which job titles will participate in each drop ensuring that there are at least two employees, one of whom shall be a security employee. The actual removal of the drop devices from the gaming tables shall be performed by an employee independent of the table games department.

(d) The collection and transportation of gaming table drop devices containing funds shall be conducted using locked storage carts that shall be escorted by a security department employee at all times.

(e) The collection and transportation procedures of each type of drop device shall be described in the internal control system, including alternative procedures for malfunctions, emergencies, and occasions when multiple trips are required to transport the drop devices to the count room.

(f) Access to stored drop devices that contain funds shall be restricted to authorized members of the drop and count teams.

(g) Each drop device collection process, including transportation of drop devices, shall be continuously monitored by surveillance personnel and recorded.

(h) Each drop and count team member, except security department employees, assigned to the collection of drop devices shall wear a one-piece, pocketless jumpsuit, or other apparel approved by commission, as supplied by the facility manager. Drop apparel shall be issued immediately before use by the facility manager.

(i) A security department employee shall be present for and observe the entire drop process. All drop devices shall be observed by security staff from the time the drop devices are no longer secured in the gaming device until the drop devices are secured in the respective count rooms.

(j) All drop devices shall be transported to the soft count room. The facility manager shall describe, in the internal control system, security procedures to be used when the empty drop storage carts must be stored elsewhere because of space limitation in the count rooms. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-49. Exchange and storage of foreign chips. (a) Foreign chips shall mean chips that are not authorized for use at a specific gaming facility.

(b) Foreign chips inadvertently received in the rake shall be recorded as drop for adjusted gross receipt purposes.

(c) Foreign chips shall be separated from the facility manager's chips and stored in a locked compartment in the main bank or vault.

(d) The internal control system shall describe procedures for the storage of and accountability concerning foreign chips.

(e) Facility managers exchanging foreign chips with other gaming facilities shall ensure that each employee performing the exchange is independent of the transaction.

(f) Foreign chips shall be exchanged only for an equal value of the facility manager's chips, a check, or cash.

(g) Each facility manager shall maintain documentation of the exchange of foreign chips. The documentation shall include the signatures of all the individuals involved in the exchange and an

inventory of all the items exchanged. (Authorized by and implementing K.S.A. 2008 Supp. 74-8772; effective Jan. 8, 2010.)

112-108-50. Procedures for monitoring and reviewing game operations. (a) Each facility manager shall establish procedures for monitoring and reviewing daily table games transactions for the following activities:

- (1) Table games;
- (2) gaming facility cashiering;
- (3) currency transaction reporting;
- (4) sensitive key access; and
- (5) reconciliation of numerical sequence of forms used, matching and reviewing all copies of forms, matching computer monitoring system 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 semi-annual basis, except for the annual cash count. If a procedure does not apply to the operations of the facility manager, this fact shall be noted in the audit report.

(b) Table game audit procedures, which shall be performed by a member of the facility's audit department, shall include the following requirements:

(1) Five table openings and five table closings shall be observed for compliance with the commission-approved internal controls and this article. The related documentation shall be reviewed for accuracy and required information.

(2) A total of 10 table fills and three table credits shall be observed. The observations shall occur over at least three different gaming days. If a member of the facility's audit department is unable to observe three credit fills, the staff member shall verify procedures through interview.

(3) Table game drop and collection procedures as defined in the commission-approved internal controls and this article shall be observed and reviewed for two gaming days with one day being a 24-hour gaming day or a weekend day.

(4) Soft count procedures for table games and poker drops shall be observed and reviewed as defined in the commission-approved internal controls and this article, including the subsequent transfer of funds to the main bank or vault.

(5) Dice inspection procedures shall be observed and reviewed as outlined in the commission-approved internal controls and this article.

(6) Card inspection procedures shall be observed and reviewed as defined in the commission-approved internal controls and this article.

(7) Card and dice inventory control procedures shall be reviewed and verified.

(8) Statistical reports for table game drop, win, and win-to-drop percentages shall be reviewed to determine if fluctuations in excess of three percent from the base level are investigated.

(9) Supervision in the pits shall be verified as required by the commission-approved internal controls and this article.

(10) Dealer tip collection, count verification, and recording procedures shall be observed.

(11) Table game operations shall be observed to ensure compliance with the commission-approved internal controls and this article pertaining to table games, including poker. This observation shall include a representative sample of all table games over a two-day observation period.

(c) Gaming facility cashing 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”;

(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 nonalphanumeric 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 non-volatile memory, which shall be displayed upon demand:

(A) The number of progressive jackpots won on each progressive meter if the progressive display has more than one winning amount;

(B) the cumulative amounts paid on each progressive meter if the progressive display has more than one winning amount;

(C) the maximum amount of the progressive payout for each meter displayed;

(D) the minimum amount or reset amount of the progressive payout for each meter displayed; and

(E) the rate of progression for each meter.

(7) Waivers may be granted by the Kansas lottery to ensure that individual EGMs and multiple EGMs linked to a progressive controller meet the requirements of this regulation. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749 and 74-8772; effective May 1, 2009.)

112-110-12. Central computer system; additional functionality. (a) Each CCS shall be able to support ticket in-ticket out (TITO) processes.

(b) Any CCS may perform the following:

(1) Downloading operating and game software to EGMs that use electronic storage media on which the operation software for all games resides or at a minimum approving, auditing, and verifying the downloading of software to EGMs;

(2) allowing gaming software to be driven by down-line loading on the communications line. Gaming software may be either solicited by the EGM or unsolicited; and

(3) allowing gaming software to be downloaded in a modular fashion with only the modules requiring a change being downloaded. Downloading shall not preclude continuous operation of the EGM network. The CCS provider shall detail for the Kansas lottery and the commission any particular download features of the software, including downloading in the background, eavesdropping, and compression. (Authorized by K.S.A. 2007 Supp. 74-8772; implementing K.S.A. 2007 Supp. 74-8749 and 74-8772; effective May 1, 2009.)

112-110-13. Central computer system; acceptance testing. (a) Each CCS supplier shall make that provider's system available for independent acceptance and compatibility testing.

(b) If a CCS fails the acceptance testing, the CCS supplier shall make all necessary modifications required for acceptance by the Kansas lottery and the commission within the time frame specified by the Kansas lottery and the commission.

(c) Each CCS supplier shall provide at least one test system, including all hardware and software, to the commission or its independent testing laboratory for the duration of the contract. The test system shall include any third-party software and licenses used by the system. The test system shall use the identical software that exists on the pro-

duction 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 sub-

ject 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.)

112-112-2. Definition. As used within this article, "facility manager" shall mean any lottery gaming facility manager, racetrack gaming facility manager, racetrack facility manager, or fair association. (Authorized by K.S.A. 2007 Supp. 74-8772 and K.S.A. 74-8804; implementing K.S.A. 2007 Supp. 74-8772 and K.S.A. 74-8825; effective Sept. 26, 2008.)

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 infor-

mation 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.)

112-112-5. Requirements for placement on the self-exclusion list. (a) Any person may seek placement on the self-exclusion list by performing the following:

(1) Requesting an application in person from commission staff at any gaming facility, parimutuel licensee location, or fair association race meet or at the commission's Topeka office during regular business hours; and

(2) completing and executing the application with a commission staff person.

(b) If the person is unable to appear in person at a gaming facility, parimutuel licensee location, or fair association race meet or at the Topeka office, the person may contact the commission's Topeka office during regular business hours so that other arrangements can be made.

(c) Each completed application shall be a closed record pursuant to K.S.A. 45-221(a)(30) and amendments thereto.

(d)(1) Each application shall contain a statement that the applicant will refrain from visiting gaming facilities, parimutuel licensee locations, and fair association race meets in Kansas. Each person seeking placement on the self-exclusion list shall also acknowledge on the application that by being placed on the list, that person may be subject to a charge of trespass pursuant to K.S.A. 21-3721, and amendments thereto, if that person is discovered at a gaming facility, parimutuel licensee location, or fair association race meet by any agent or employee of the commission or by facility manager staff.

(2) The applicant shall acknowledge that the applicant's request to be placed on the self-exclusion list could result in being denied service or access to gaming and entertainment facilities in other jurisdictions. Furthermore, the applicant shall acknowledge that the commission and all facility managers will prohibit the applicant from entering the premises of all gaming facilities, parimutuel licensee locations, and fair association race meets.

(e)(1) As a part of the application, each applicant shall agree that facility managers and their

employees have the right to communicate information in the application to entities affiliated with the facility manager that have a need to know the information for the purpose of complying with this article.

(2) Each facility manager shall be responsible for maintaining the confidentiality of the information provided in the application and shall use the information exclusively to deny persons on the self-exclusion list access to facilities under the control of the facility manager and its affiliates.

(f) An applicant's failure to provide any information or to complete any forms provided by the commission may result in a denial of a request for placement on the self-exclusion list.

(g) Self-exclusion list application forms shall include at a minimum a waiver of liability of the commission and its agents, the Kansas lottery and its agents, the state of Kansas, any person licensed pursuant to the Kansas expanded lottery act or parimutuel racing act, and any other person deemed necessary by the commission for any claims or damages that arise out of or relate to the self-exclusion list or its use.

(h) Upon an applicant's submission of a completed self-exclusion list application, a notice of placement on the self-exclusion list may be filed by the executive director. Each notice of placement shall be a closed record pursuant to K.S.A. 45-221(a)(30) and amendments thereto, except that the application and notice may be disclosed to facility managers and their agents, employees, and affiliates who have a need to know the information for the purpose of complying with this article.

(i) A copy of the notice of placement on the self-exclusion list shall be delivered by the executive director to the applicant by regular U.S. mail to the home address specified on the application. The applicant shall be deemed to be placed on the self-exclusion list when that person submits the application to the executive director for placement on the self-exclusion list, not at the time the notice is delivered to the applicant.

(j) If the executive director finds that an applicant does not qualify for placement on the self-exclusion list or that the applicant should be allowed to withdraw the application, the applicant shall be notified by the executive director by regular U.S. mail sent to the home address specified on the application. (Authorized by K.S.A. 2007 Supp. 74-8772 and K.S.A. 74-8804; implementing K.S.A. 2007 Supp. 74-8772 and K.S.A. 74-8825; effective Sept. 26, 2008.)

112-112-6. Mandatory surrenders to the state. Each person who has been placed on the self-exclusion list shall surrender to the commission all prizes, jackpots, chips or tokens in play, pay vouchers, coupons, and electronic credits obtained at a facility manager's location after the person's placement on the self-exclusion list. The items surrendered to the commission shall be liquidated or redeemed and shall be transferred to the state's problem gambling and addictions fund. (Authorized by K.S.A. 2007 Supp. 74-8772 and K.S.A. 74-8804; implementing K.S.A. 2007 Supp. 74-8772 and K.S.A. 74-8825; effective Sept. 26, 2008.)

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 confiden-

tial. (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.)

112-112-8. Facility manager conduct regarding self-excluded persons. (a) Each facility manager, including its agents and employees, that identifies a person at the facility manager's location who is suspected of being on the self-exclusion list shall at that time notify or cause to notify the commission agent on duty or the facility manager's senior security officer on duty. Once it is confirmed that the person is on the self-exclusion list and at the facility manager's location, the facility manager shall perform the following:

(1) Remove the self-excluded person from the gaming facility, parimutuel licensee location, or fair meet; and

(2) cooperate with the commission agent on duty with respect to any further actions or investigations.

(b) Each facility manager shall have 30 days from the effective date of this regulation to submit a list of internal controls, which shall be subject to approval by the commission. This list shall specify the following:

(1) The facility manager's plan for removing those persons on the self-exclusion list from mailing lists advertising the facility manager's Kansas operation, including marketing offers, slot club programs, VIP member programs, telemarketing programs, and other marketing promotions. However, this paragraph shall not be construed to prohibit mass mailings to "Resident"; and

(2) the facility manager's plan for denying access by persons on the self-exclusion list to the following:

(A) Check cashing, bank machine, and cash advance privileges;

(B) special club programs, including slot clubs and VIP cards; and

(C) the issuance of credit, if applicable.

(c) Any facility manager and its agents or employees may be disciplined by the commission if any of the following conditions is met:

(1) It can be shown by a preponderance of the evidence that the facility manager or its employees or agents knew or should have known that a person on the self-exclusion list was present at the facility manager's location and the facility manager failed to follow the procedures required by these regulations.

(2) The facility manager or its employees or

agents failed to follow procedures for complying with the regulations relating to self-exclusion.

(3) The facility manager reveals any information regarding self-exclusion that is considered a closed record under these regulations to any party not permitted under this act or these regulations. (Authorized by K.S.A. 2007 Supp. 74-8772 and K.S.A. 74-8804; implementing K.S.A. 2007 Supp. 74-8751, 74-8772 and K.S.A. 74-8825; effective Sept. 26, 2008.)

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 com-

mission shall not be precluded from finding multiple violations within a day of those provisions of the regulations that establish offenses consisting of separate and distinct acts. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective April 17, 2009.)

Article 114.—RULES OF HEARINGS

112-114-1. Definitions. The following terms as used in these regulations shall have the meanings specified in this regulation, unless the context clearly indicates otherwise: (a) “Disciplinary review board” means a board established by the executive director. The board members shall be appointed by the executive director to review certain applications and licensee or certificate holder conduct and to ensure compliance by applicants, licensees, and certificate holders with these regulations, the act, and other laws.

(b) “Hearing body” means the commission, disciplinary review board, or executive director, when each of these is conducting a hearing. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

112-114-2. Report of an alleged violation. (a) Any person may file a report of an alleged violation with any commission office.

(b) Each person reporting an alleged violation shall complete the commission-approved report form available online and in commission offices. Substantially incomplete forms shall not be accepted by commission personnel. (Authorized by and implementing K.S.A. 2008 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

112-114-3. Notice of alleged violation and hearing. (a) If disposition of the allegation raised in a report could result in suspension or revocation, the respondent shall be provided by the commission with reasonable notice of the alleged violation and hearing.

(b) The notice of alleged violation and hearing shall include the following information:

- (1) The time and location of the hearing;
- (2) the identity of the hearing body;
- (3) the case number and the name of the proceeding;
- (4) a statement of the legal authority and a general description of the allegation, including the time of occurrence;
- (5) a statement that a respondent who fails to attend the hearing may be subject to the entry of an

order that is justified by the evidence presented at the hearing; and

(6) a statement that a respondent has the right to appear at the hearing with counsel, the right to produce any evidence and witness on the respondent’s behalf, the right to cross-examine any witness who may testify against the respondent, and the right to examine any evidence that may be produced against the respondent. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

112-114-4. Waiver. Except to the extent precluded by another provision of law, a person may waive any right conferred upon that person by these regulations. (Authorized by and implementing L. 2007, Ch. 110, § 20 and § 41; effective May 1, 2009.)

112-114-5. Informal settlements. Nothing in these regulations shall preclude the informal settlement of matters that could make a hearing unnecessary. (Authorized by and implementing L. 2007, Ch. 110, § 20 and § 41; effective May 1, 2009.)

112-114-6. Participation by and representation of respondents. (a) Whether or not participating in person, any respondent who is a natural person may be represented by an attorney licensed to practice law in the state of Kansas in any evidentiary hearing conducted before the commission or its designated presiding officer or officers. The attorney shall represent the respondent at the respondent’s own expense.

(b) Each for-profit or not-for-profit corporation, unincorporated association, or other respondent who is a non-natural person shall be represented by an attorney licensed to practice law in the state of Kansas in any evidentiary hearing conducted before the commission or its designated presiding officer or officers. The attorney shall represent the respondent at the respondent’s own expense. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

112-114-8. Presiding officer. (a) The presiding officer shall be either of the following:

- (1) The executive director or the chairperson of the commission; or
 - (2) a person designated by the commission.
- (b) For disciplinary review board hearings, if a substitute is required for a presiding officer or other member of the hearing body who is unavail-

able 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. (Authorized by and implementing L. 2007, Ch. 110, § 20 and § 41; effective May 1, 2009.)

112-114-11. Orders. (a) Within 30 days after the hearing, the hearing body shall enter a written order.

(b) Each order shall include a brief statement of the findings of the hearing body and any penalty prescribed. The findings shall be based exclusively upon the evidence of record and on matters officially noticed in the hearing.

(c) For disciplinary review board hearings, the order shall also include a statement that the order is subject to appeal to the commission and the available procedures and time limits for seeking an appeal. The order shall further include a statement that any suspension imposed by the order may be stayed, pending appeal.

(d) For disciplinary review board hearings, the hearing body may impose any penalty authorized by law and may refer the matter to the commission with findings and recommendations for imposition of greater penalties.

(e) Each order shall be effective when rendered.

(f) The presiding officer shall cause copies of the order to be served upon each party to the proceedings. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

112-114-12. Service of order. (a) Service of an order shall be made upon the party and the party's attorney of record, if any.

(b) Service shall be presumed if the presiding officer, or a person directed to make service by the presiding officer, makes a written certificate of service.

(c) Service by mail shall be complete upon mailing.

(d) Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after service of an order is made by mail, three days shall be added to

the prescribed period. (Authorized by and implementing L. 2007, Ch. 110, § 20 and § 41; effective May 1, 2009.)

112-114-14. Appeals of disciplinary review board hearings. (a) Each order entered by the disciplinary review board that imposes suspension or revocation, or any other sanction shall be subject to appeal to the commission.

(b) Each party who wishes to appeal a disciplinary review board order shall file a notice of appeal and brief on forms provided by the commission during regular office hours within 11 days after service of the order from which the party is appealing. If an order is served by mail, the party shall have 14 days within which to file a notice of appeal and brief.

(c) Each notice of appeal and brief shall be completed by the appealing party upon the form available in the commission's licensing office at the gaming facility. Each notice of appeal and brief shall fully state the basis for appeal and identify the issues upon which the party seeks administrative review. Incomplete forms shall not be accepted by commission personnel.

(d) A notice of appeal and brief shall constitute the appealing party's written brief. An opposing party shall be afforded an opportunity to file a brief in response to the appealing party's brief within 14 days following the filing of the appealing party's brief.

(e) Each notice of appeal form shall include a statement that, in reviewing any disciplinary re-

view board's order, the following provisions shall apply:

(1) De novo review may be exercised by the commission, one or more commissioners designated by the commission, or a presiding officer designated by the commission.

(2) The disciplinary review board's order may be affirmed, reversed, remanded for further hearing, or modified by the commission, one or more commissioners designated by the commission, or a presiding officer designated by the commission. A new hearing may also be conducted by the commission, one or more commissioners designated by the commission, or a presiding officer designated by the commission. An occupation license may be suspended or revoked for each violation of the act or these regulations, or both.

(f) Any respondent may be deemed to have timely filed a notice of appeal pursuant to subsection (b) if, after service of the disciplinary review board's order, the respondent performs the following:

(1) Within the appeal time described in subsection (b) of this regulation, files a writing that states an intention to appeal the order and that includes substantially the same information requested in the appeal form available in the commission's licensing office at the gaming facility; and

(2) within a period of time authorized by the disciplinary review board, fully executes and files in the commission's licensing office at the gaming facility the appeal form available in that office. (Authorized by and implementing K.S.A. 2008 Supp. 74-8751 and 74-8772; effective May 1, 2009.)

Agency 115

Kansas Department of Wildlife and Parks

Editor's Note:

The word Tourism was added to this agency's title, Kansas Department of Wildlife, Parks and Tourism, July 1, 2012, when Executive Reorganization Order (ERO) No. 36 transferred the powers, duties, and functions of the Division of Travel and Tourism Development within the Department of Commerce to the Kansas Department of Wildlife and Parks (KDWP). See L. 2012, Ch. 47. On July 1, 2021, ERO No. 48 reversed this transfer removing Tourism from the agency's title and responsibilities and transferring the powers, duties, and functions back to the Division of Tourism within the Department of Commerce. See L. 2021, Ch. 126.

Editor's Note:

The Department of Wildlife and Parks formerly used agency numbers 23 and 33 and currently uses agency number 115. See K.S.A. 32-801 through 32-806.

Editor's Note:

Article 25 regulations are exempt from the publication requirements of K.S.A. 77-415 et seq. These regulations fix the seasons and establish creel, size, and possession limits for fish, and bag and possession limits for game birds, game, and fur-bearing animals. Copies of the regulations may be obtained by contacting the Department: Secretary of Wildlife and Parks, Room 200, 1020 S. Kansas, Topeka, KS 66612-1327 or online at <https://ksoutdoors.com/Services/Law-Enforcement/Regulations>.

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- 115-40. AGRITOURISM.

Article 1.—DEFINITIONS

115-1-1. Definitions. (a) Except as specified in subsection (b), the following definitions shall apply to all of the department's regulations:

(1) "Arrow" means a missile shot from a bow or a crossbow.

(2) "Artificial lure" means a man-made fish-catching device used to mimic a single prey item. Artificial lures may be constructed of 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 water immediately. For the purpose of this paragraph, the length of the fish shall be measured from the tip of the snout to the end of the tail, with the mouth closed and the tail lobes pressed together.

(38) "Moorage site" means a location designated for the fastening or securing of a vessel.

(39) "Nonsport fish" means common carp, silver carp, bighead carp, black carp, grass carp, drum, threadfin and gizzard shad, goldfish, gar, suckers including carpsuckers and buffalo, eel, sturgeon, goldeye, white perch, and bowfin.

(40) "Orthopedic device" means a device that attaches to the body and is required to enable a handicapped person to walk.

(41) "Overflow camping area" means an area in a state park that is separate from the designated overnight camping area and that may be used for a maximum of 24 continuous hours of camping if no alternative camping facilities are available within reasonable driving distances.

(42) "Passage" means an immature raptor on first fall migration still in immature plumage.

(43) "Pen-raised wildlife" means any wildlife raised in captivity.

(44) "Pets" means domesticated wildlife, including dogs and cats.

(45) "Possession limit" means the maximum total number of a species that can be retained per person at any one time.

(46) "Prime camping site" means any site within a state park so designated by posted notice of the secretary and subject to an additional charge.

(47) "Raptors" means members of the order Falconiformes or Strigiformes and specifically falcons, hawks, and owls.

(48) "Raw pelt" means the undressed skin of an animal with its hair, wool, or fur in its natural state, without having undergone any chemical preservation converting the skin to a leather condition.

(49) "Recreational vehicle" means a vehicle or trailer unit that contains sleeping or housekeeping accommodations, or both.

(50) "Running" means the pursuing or chasing of furbearers or rabbits with hounds. This term shall not include the capturing, killing, injuring, or possessing of furbearers or rabbits or having a firearm or other weapon in possession while running, except during established furbearer or rabbit hunting seasons.

(51) "Sanctioned or licensed coyote field trial" means a competitive event that involves only sight or trail hounds and that has been advertised in one of the national foxhound journals at least 30 days before the event.

(52) "Sanctioned or licensed furbearer field trial" means a competitive event in which dogs pursue unrestrained furbearers and that is sanctioned or licensed by any of the national kennel or field dog organizations for the express purpose of improving the quality of the breed through the awarding of points or credits toward specific class championships or other national recognition.

(53) "Seine" means a net with a float line and lead line designed to be pulled through the water for the purpose of catching fish.

(54) "Set line" means a string or cord that is anchored at one point by an anchor weighing at least 25 pounds or is attached to a fixed and immovable stake or object, does not have more than two hooks, and is not associated with a hand-operated mechanical reel.

(55) "Sight hound" means a dog used to pursue furbearers, rabbits, hares, or coyotes by sight.

(56) "Skin and scuba diving" means swimming or diving while equipped with a face mask or goggles, allowing underwater vision and possibly involving an underwater breathing apparatus.

(57) "Snagging" means the hooking of a fish in any part of its anatomy other than the inside of the mouth.

(58) "Speargun" means a device used to propel a spear through the water by mechanical means or compressed gas.

(59) "Sport fish" means northern pike, walleye, saugeye, sauger, yellow perch, striped bass, white

bass, black bass including largemouth, spotted, and smallmouth bass, striped bass hybrid, trout, muskellunge, tiger muskie, channel catfish, blue catfish, flathead catfish, paddlefish, and panfish including bullhead, black and white crappie, bluegill, redear sunfish, green sunfish, warmouth, and rock bass.

(60) "State fishing lake" means a department facility that contains the words "state fishing lake" in the name of the area.

(61) "Tip-up" means an ice fishing device designed to signal the strike of a fish.

(62) "Trail hound" means a dog used to trail furbearers, rabbits, hares, or coyotes by scent.

(63) "Transfer" means either of the following:

(A) To reassign one's license, permit, or other issue of the department to another individual; or

(B) to exchange any license, permit, or other issue of the department between individuals.

(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. 2020 Supp. 32-807; effective Dec. 26, 1989; amended June 8, 1992; amended Sept. 19, 1997; amended Nov. 21, 2003; amended July 22, 2011; amended Nov. 26, 2012; amended Nov. 30, 2015; amended Dec. 25, 2020; amended April 23, 2021.)

Article 2.—FEES, REGISTRATIONS AND OTHER CHARGES

115-2-1. Amount of fees. The following fees and discounts shall be in effect for the following licenses, permits, and other issues of the department: (a) Hunting licenses and permits.

Resident hunting license (valid for one year from date of purchase)	\$25.00
Resident hunting license (valid for five years from date of purchase)	100.00
Resident disabled veteran hunting license (valid for one year from date of purchase, 30 percent or more service-connected disabled)	12.50
Resident senior hunting license (valid for one year from date of purchase, 65 years of age through 74 years of age)	12.50
Resident youth hunting license (one-time purchase, valid from 16 years of age through 20 years of age, expiring at the end of that calendar year)	40.00
Nonresident hunting license (valid for one year from date of purchase)	95.00
Nonresident junior hunting license (under 16 years of age)	40.00
Resident big game hunting permit:	
General resident: either-sex elk permit	300.00
General resident: antlerless-only elk permit	150.00
General resident youth (under 16 years of age): either-sex elk permit	125.00
General resident youth (under 16 years of age): antlerless-only elk permit	50.00
Landowner/tenant: either-sex elk permit	150.00
Landowner/tenant: antlerless-only elk permit	75.00
Hunt-on-your-own-land: either-sex elk permit	150.00
Hunt-on-your-own-land: antlerless-only elk permit	75.00
General resident: deer permit	40.00
General resident youth (under 16 years of age): deer permit	10.00
General resident: antlerless-only deer permit	20.00
General resident youth (under 16 years of age): antlerless-only deer permit	7.50
Landowner/tenant: deer permit	20.00
Hunt-on-your-own-land: deer permit	20.00
Special hunt-on-your-own-land: deer permit	85.00
General resident: antelope permit	50.00
General resident youth (under 16 years of age): antelope permit	10.00
Landowner/tenant: antelope permit	25.00
Antelope preference point service charge	10.00
Any-deer preference point service charge	10.00
Application fee for elk permit	10.00
Wild turkey permit:	
General resident: turkey permit (1-bird limit)	25.00
General resident youth (under 16 years of age): turkey permit (1-bird limit)	5.00
Resident landowner/tenant: turkey permit (1-bird limit)	12.50
Nonresident: fall turkey permit (1-bird limit)	50.00
Nonresident tenant: fall turkey permit (1-bird limit)	25.00

Nonresident: spring turkey permit (1-bird limit).....	60.00	Resident disabled veteran fishing license (valid for one year from date of purchase, 30 percent or more service-connected disabled)	12.50
Nonresident tenant: spring turkey permit (1-bird limit)	30.00	Resident senior fishing license (valid for one year from date of purchase, 65 years of age through 74 years of age)	12.50
Nonresident youth (under 16 years of age): turkey permit (1-bird limit)	10.00	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
Resident: turkey preference point service charge.....	5.00	Nonresident fishing license (valid for one year from date of purchase)	50.00
Wild turkey game tag: Resident: turkey game tag (1-bird limit)	15.00	Resident calendar day fishing license	3.50
Resident youth (under 16 years of age): turkey game tag (1-bird limit).....	5.00	Nonresident calendar day fishing license	7.50
Nonresident: turkey game tag (1-bird limit)	30.00	Three-pole permit (valid for one year from date of purchase).....	6.00
Nonresident youth (under 16 years of age): turkey game tag (1-bird limit)	10.00	Tournament bass pass (valid for one year from date of purchase)	12.00
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	Paddlefish permit (six carcass tags)	10.00
General resident youth (under 16 years of age): turkey permit and game tag combination (2-bird limit)	10.00	Paddlefish permit youth (under 16 years of age) (six carcass tags)	5.00
Resident landowner/tenant: turkey permit and game tag combination (2-bird limit)	17.50	Hand fishing permit	25.00
Nonresident: turkey permit and game tag combination (2-bird limit)	85.00	Lifetime fishing license	500.00
Nonresident tenant: turkey permit and game tag combination (2-bird limit)	42.50	or eight quarterly installment payments of	67.50
Nonresident youth (under 16 years of age): turkey permit and game tag combination (2-bird limit)	20.00	Five-day nonresident fishing license	25.00
Nonresident big game hunting permit: Nonresident hunt-on-your-own-land: deer permit	85.00	Institutional group fishing license	100.00
Nonresident tenant: deer permit	85.00	Special nonprofit group fishing license	50.00
Nonresident: deer permit (antlered deer)	400.00	Trout permit (valid for one year from date of purchase).....	12.00
Nonresident youth (under 16 years of age): deer permit (antlered deer)	75.00	Youth trout permit (under 16 years of age, valid for one year from date of purchase).....	4.50
Nonresident: deer permit (antlerless only)	50.00		
Nonresident: combination 2-deer permit (antlered deer and antlerless white-tailed deer)	415.00		
Nonresident youth (under 16 years of age): combination 2-deer permit (antlered deer and antlerless white-tailed deer).....	90.00		
Nonresident: antelope permit (archery only)	300.00		
Nonresident tenant: antelope permit.....	85.00		
Nonresident youth (under 16 years of age): antelope (archery only)	100.00		
Nonresident tenant: either-sex elk permit	300.00		
Nonresident tenant: antlerless-only elk permit	150.00		
Nonresident: deer permit application fee.....	25.00		
Nonresident: mule deer stamp.....	150.00		
Field trial permit: game birds	20.00		
Lifetime hunting license	500.00		
or eight quarterly installment payments of	67.50		
Migratory waterfowl habitat stamp	8.00		
Sandhill crane hunting permit: validation fee	5.00		
Disabled person hunt-from-a-vehicle permit	0		

(b) Fishing licenses and permits.

Resident fishing license (valid for one year from date of purchase)	25.00
Resident fishing license (valid for five years from date of purchase)	100.00

(c) Combination hunting and fishing licenses and permits.

Resident combination hunting and fishing license (valid for one year from date of purchase).....	45.00
Resident combination hunting and fishing license (valid for five years from date of purchase).....	180.00
Resident disabled veteran combination hunting and fishing license (valid for one year from date of purchase, 30 percent or more service-connected disabled)	22.50
Resident senior combination hunting and fishing license (valid for one year from date of purchase, 65 years of age through 74 years of age).....	22.50
Resident combination youth hunting and fishing license (one-time purchase, valid from 16 years of age through 20 years of age, expiring at the end of that calendar year)	70.00
Resident lifetime combination hunting and fishing license	960.00
or eight quarterly installment payments of	130.00
Resident senior lifetime combination hunting and fishing license (one-time purchase, valid 65 years of age and older).....	40.00
Nonresident combination hunting and fishing license (valid for one year from date of purchase)	135.00

(d) Furharvester licenses.

Resident furharvester license (valid for one year from date of purchase).....	25.00
Resident junior furharvester license (valid for one year from date of purchase)	12.50

Lifetime furharvester license	500.00
or eight quarterly installment payments of.....	67.50
Nonresident furharvester license (valid for one year from date of purchase)	250.00
Nonresident bobcat permit (1-bobcat limit per permit)	100.00
Resident fur dealer license	100.00
Nonresident fur dealer license	400.00
Field trial permit: furbearing animals	20.00

(e) Commercial licenses and permits.

Controlled shooting area hunting license (valid for one year from date of purchase).....	25.00
Resident mussel fishing license	75.00
Nonresident mussel fishing license	1,000.00
Mussel dealer permit	200.00
Missouri river fishing permit	25.00
Game breeder permit	10.00
Controlled shooting area operator license	200.00
Commercial dog training permit	20.00
Commercial fish bait permit (three-year permit)	50.00
Commercial prairie rattlesnake harvest permit (without a valid Kansas hunting license).....	20.00
Commercial prairie rattlesnake harvest permit (with a valid Kansas hunting license or exempt from this license requirement).....	5.00
Commercial prairie rattlesnake dealer permit.....	50.00
Prairie rattlesnake round-up event permit	25.00

(f) Collection, scientific, importation, rehabilitation, and damage-control permits.

Scientific, educational, or exhibition permit	10.00
Raptor propagation permit	0
Rehabilitation permit	0
Wildlife damage-control permit	0
Wildlife importation permit	10.00
Threatened or endangered species: special permits	0

(g) Falconry.

Apprentice permit	75.00
General permit	75.00
Master permit	75.00
Testing fee	50.00

(h) Miscellaneous fees.

Duplicate license, permit, stamp, and other issues of the department.....	0
Special departmental services, materials, or supplies	At cost
Vendor bond	
For bond amounts of \$5,000.00 and less	50.00
For bond amounts of more than \$5,000.00	50.00
plus \$6.00 per additional \$1,000.00 coverage or any fraction thereof.	

(i) Discounts.

Discount for five or more licenses, permits, stamps, or other issues of the department purchased by an individual at the same time.....	five percent of the total price
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This regulation shall be effective on and after January 1, 2021. (Authorized by K.S.A. 2019

Supp. 32-807 and K.S.A. 2019 Supp. 32-988; implementing K.S.A. 2019 Supp. 32-807, K.S.A. 2019 Supp. 32-988, and K.S.A. 2019 Supp. 32-9,100; effective Dec. 4, 1989; amended Sept. 10, 1990; amended Jan. 1, 1991; amended June 8, 1992; amended Oct. 12, 1992; amended April 11, 1994; amended Aug. 29, 1994; amended June 5, 1995; amended Aug. 21, 1995; amended Feb. 28, 1997; amended July 30, 1999; amended Jan. 2, 2002; amended Jan. 1, 2003; amended Jan. 1, 2004; amended Feb. 18, 2005; amended Jan. 1, 2006; amended May 1, 2006; amended Jan. 1, 2007; amended Jan. 1, 2008; amended Jan. 1, 2009; amended Jan. 1, 2010; amended Aug. 1, 2010; amended Jan. 1, 2011; amended Jan. 1, 2013; amended April 19, 2013; amended Nov. 15, 2013; amended Jan. 1, 2015; amended Jan. 1, 2016; amended Jan. 1, 2018; amended April 26, 2019; amended Sept. 20, 2019; amended Jan. 1, 2021.)

115-2-2. Motor vehicle permit fees. (a)

The following motor vehicle permit fees shall be in effect for state parks and for other areas requiring a motor vehicle permit:

Daily motor vehicle permit	\$3.50
Senior or disabled daily motor vehicle permit.....	1.75
Annual motor vehicle permit	22.50
Senior or disabled annual motor vehicle permit	11.25
Easy pass annual motor vehicle permit.....	15.00
Unconventional motor vehicle permit	50.00

(b) Each daily motor vehicle permit shall expire at 2:00 p.m. on the day following its effective date.

(c) Annual motor vehicle permits shall not be valid during designated special events.

This regulation shall be effective on and after January 1, 2017. (Authorized by and implementing K.S.A. 2015 Supp. 8-134, K.S.A. 2015 Supp. 32-807, and K.S.A. 2015 Supp. 32-901; effective Jan. 22, 1990; amended Oct. 12, 1992; amended Aug. 21, 1995; amended Jan. 1, 2001; amended Jan. 1, 2003; amended Jan. 1, 2005; amended Jan. 1, 2007; amended April 8, 2011; amended Jan. 1, 2012; amended Jan. 1, 2013; amended Jan. 1, 2017.)

115-2-3. Camping, utility, and other fees.

(a) Each overnight camping permit shall be valid only for the state park for which the permit is purchased and shall expire at 2:00 p.m. on the day following its effective date.

(b) Any annual camping permit may be used in any state park for unlimited overnight camping,

subject to other laws and regulations of the secretary. This permit shall expire on December 31 of the year for which the permit is issued.

(c) Any 14-night camping permit may be used in any state park. This permit shall expire when the permit has been used a total of 14 nights, or on December 31 of the year for which the permit is issued, whichever is first.

(d) Camping permits shall not be transferable.

(e) The fee for a designated prime camping area permit shall be in addition to the overnight, annual, 14-night, or other camping permit fee and shall apply on a nightly basis.

(f) Fees shall be due at the time of campsite occupancy and by noon of any subsequent days of campsite occupancy.

(g) Fees set by this regulation shall be in addition to any required motor vehicle permit fee specified in K.A.R. 115-2-2.

(h) The following fees shall be in effect for state parks and for other designated areas for which camping and utility fees are required:

Camping—per camping unit (April 1 through September 30):

Annual camping permit	\$ 250.00
Overnight camping permit	9.00
14-night camping permit.....	110.00
Prime camping area permit.....	2.00

Camping—per camping unit (October 1 through March 31):

Annual camping permit	200.00
Overnight camping permit	9.00
14-night camping permit.....	110.00
Overflow primitive camping permit, per night.....	5.00

Recreational vehicle seasonal camping permit, except for Clinton, El Dorado, Milford, Sand Hills, and Tuttle Creek State Parks (includes utilities)—per month, per unit (annual camping permit and annual vehicle permit required):

One utility	370.50
Two utilities.....	430.50
Three utilities.....	490.50

Recreational vehicle seasonal camping permit for Clinton, Milford, Sand Hills, and Tuttle Creek State Parks (includes utilities)—per month, per unit (annual camping permit and annual vehicle permit required):

One utility	460.50
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Two utilities.....	520.50
Three utilities.....	580.50

Recreational vehicle seasonal camping permit for El Dorado State Park (includes utilities)—per month, per unit (annual camping permit and annual vehicle permit required):

One utility	485.50
Two utilities.....	545.50
Three utilities.....	605.50

Recreational vehicle short-term parking—per month..... 50.00

Utilities—electricity, water, and sewer hookup per night, per unit:

One utility	9.00
Two utilities.....	11.00
Three utilities.....	12.00

Youth group camping permit in designated areas, per camping unit—per night..... 2.50

Group camping permit in designated areas, per person—per night..... 1.50

Reservation fee, per reservation (camping, special use, or day use)..... 10.00

Rent-a-camp: equipment rental per camping unit—per night 15.00

Special event permit negotiated based on event type, required services, and lost revenue—maximum 200.00

(Authorized by and implementing K.S.A. 2018 Supp. 32-807 and 32-988; effective Jan. 22, 1990; amended Jan. 28, 1991; amended June 8, 1992; amended Oct. 12, 1992; amended Aug. 21, 1995; amended Sept. 19, 1997; amended Jan. 1, 1999; amended Jan. 1, 2001; amended Jan. 1, 2003; amended Jan. 1, 2005; amended Jan. 1, 2009; amended Jan. 1, 2011; amended April 8, 2011; amended Jan. 1, 2012; amended May 24, 2013; amended Feb. 7, 2014; amended Jan. 1, 2015; amended Jan. 1, 2017; amended Jan. 1, 2018; amended Jan. 1, 2019; amended April 26, 2019.)

115-2-3a. This regulation shall be revoked on and after September 15, 2011. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 2009 Supp. 32-988; effective Jan. 1, 2005; amended Jan. 1, 2007; amended July 25, 2007; amended Jan. 1, 2008; amended May 16, 2008; amended Dec. 1, 2008; amended Nov. 20, 2009; amended Jan. 1, 2011; revoked Sept. 15, 2011.)

115-2-4. Boating fees. The following boating fees shall be in effect for vessel registrations and related issues for which a fee is charged:

Testing or demonstration boat registration	\$30.00
Additional registration	5.00
Vessel registration: each vessel.....	40.00
Water event permit.....	25.00
Special services, materials, or suppliesat cost	

(Authorized by and implementing K.S.A. 2018 Supp. 32-1172; effective Aug. 1, 1990; amended Oct. 12, 1992; amended Jan. 1, 2002; amended Jan. 1, 2006; amended May 1, 2006; amended Jan. 1, 2018; amended April 26, 2019.)

115-2-5. This regulation shall be revoked on and after January 1, 2019. (Authorized by and implementing K.S.A. 32-807, K.S.A. 32-901, and K.S.A. 2007 Supp. 32-988; effective April 1, 1996; amended Aug. 2, 1996; amended Jan. 1, 2009; revoked Jan. 1, 2019.)

115-2-6. Other fees. (a) The following fees shall be in effect for state parks and for other designated areas for which fees are required:

- (1) Annual private boat dock fee..... \$25.00
- (2) Private cabin, club, and organization site assignment transfer fee 25.00
- (3) Private cabin, club, and organization site annual fee.

(A) The annual fee for private cabin, club, and organization sites shall be adjusted when the lease agreement for a site is newly assigned, transferred, or renewed, unless the existing lease agreement specifies a fee applicable for the renewal term.

(B) The annual fee shall be adjusted on January 1, 2018, January 1, 2019, January 1, 2020, January 1, 2021, and January 1, 2022, as specified in subsection (b).

(b) The following fees shall apply for calendar years 2018 through 2022:

(1) Cedar Bluff:	
(A) North shore cabin lot.	
2018	490.00
2019	980.00
2020	1,470.00
2021	1,960.00
2022	2,450.00
(B) South shore club lot.	
2018	500.00
2019	1,000.00

2020	1,500.00
2021	2,000.00
2022	2,500.00

(C) South shore cabin lot.	
2018	440.00
2019	880.00
2020	1,320.00
2021	1,760.00
2022	2,200.00

(2) Lovewell:	
(A) Club lot.	
2018	580.00
2019	1,160.00
2020	1,740.00
2021	2,320.00
2022	2,900.00

(B) Cabin lot.	
2018	500.00
2019	1,000.00
2020	1,500.00
2021	2,000.00
2022	2,500.00

(C) Mobile home space.	
2018	250.00
2019	500.00
2020	750.00
2021	1,000.00
2022	1,250.00

(3) Webster:	
(A) Club lot.	
2018	500.00
2019	1,000.00
2020	1,500.00
2021	2,000.00
2022	2,500.00

(B) Cabin lot.	
2018	440.00
2019	880.00
2020	1,320.00
2021	1,760.00
2022	2,200.00

(c) The annual fee for private cabin, club, and organization sites shall be recalculated on January 1, 2023, January 1, 2028, and January 1, 2033, using the equation and terms specified in this subsection.

$$\text{Annual Fee} = \text{Previous Annual Fee} \times \frac{(\text{New CPI})}{(\text{Previous CPI})}$$

(1) "CPI" shall mean the "consumer price index for all urban consumers" (CPI-U) for the midwest region average for all items, 1982-1984 = 100, as published in the "CPI detailed report" by the bureau of labor statistics of the U.S. department of labor.

(2) "Previous annual fee" shall mean the amount specified in subsection (b) for each location for the year 2022 for the recalculation of the annual fee on January 1, 2023, and for each recalculation thereafter shall mean the annual fee calculated five years previous to the new calculation, using the equation in subsection (c).

(3) "New CPI" shall mean the CPI on July 1 immediately preceding the January 1 date for a newly calculated annual fee.

(4) "Previous CPI" shall mean the CPI on July 1, 2017 for the recalculation of the annual fee on January 1, 2023, the CPI on July 1, 2022 for the recalculation of the annual fee on January 1, 2028, and the CPI on July 1, 2027 for the recalculation of the annual fee on January 1, 2033.

(d) Each private cabin, club, and organization site lease and each private boat dock permit shall expire on the date specified in the respective lease or permit.

This regulation shall be effective on and after January 1, 2018. (Authorized by and implementing K.S.A. 2016 Supp. 32-807 and K.S.A. 2016 Supp. 32-988; effective Jan. 1, 1999; amended July 1, 2002; amended Jan. 1, 2018.)

115-2-7. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective Jan. 11, 2019; revoked Sept. 20, 2019.)

Article 3.—SMALL GAME

115-3-1. Game birds; legal equipment, taking methods, and possession. (a) Legal hunting equipment for game birds shall consist of the following:

(1) Shotguns and muzzleloading shotguns not larger than 10 gauge and using only shot;

(2) archery equipment; and

(3) falconry equipment.

(b) The use of dogs, horses, and mules shall be permitted while hunting, but no person shall shoot while mounted on a horse or mule.

(c) Hunting hours shall be from one-half hour before sunrise to sunset.

(d) Game birds shall be shot only while the birds are in flight.

(e) Any type of apparel may be worn while taking game birds.

(f) Legally taken game birds may be possessed without limit in time and may be given to another if accompanied by a dated written notice that includes the donor's printed name, signature, address, and permit or license number. The person receiving the meat shall retain the notice until the meat is consumed, given to another, or otherwise disposed of. It shall not be deemed unlawful for a person to relinquish possession of a game bird for the purpose of dressing the bird.

(g) Each pheasant in an individual's possession for the purpose of transportation shall retain intact a foot or plumage by which the sex can be readily established. (Authorized by and implementing K.S.A. 2020 Supp. 32-807; effective, T-115-7-27-89, July 27, 1989; effective Sept. 18, 1989; amended June 1, 2001; amended July 23, 2021.)

115-3-2. Rabbits, hares, and squirrels; legal equipment, taking methods, and possession. (a) Legal hunting equipment for rabbits, hares, and squirrels shall consist of the following:

(1) Firearms, except fully automatic rifles and handguns and except shotguns and muzzleloading shotguns larger than 10 gauge or using other than shot ammunition;

(2) pellet and BB guns;

(3) archery equipment;

(4) crossbows;

(5) falconry equipment;

(6) projectiles hand-thrown or propelled by a slingshot;

(7) box traps for rabbits and hares only;

(8) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light;

(9) lures, decoys except live decoys, and calls, including electric calls; and

(10) other equipment or methods as allowed by permit.

(b) The use of dogs, horses, and mules shall be permitted while hunting, but no person shall shoot while mounted on a horse or mule.

(c) Legal hours for the hunting and taking of rabbits, hares, and squirrels shall be from ½ hour before sunrise to sunset during established hunting seasons, except that legal hours for the running and box-trapping of rabbits and hares shall be 24 hours per day during established running seasons.

(d) Any type of apparel may be worn while hunting or running rabbits and hares.

(e) Legally taken rabbits, hares, and squirrels may be possessed without limit in time and may be

given to another if accompanied by a dated written notice that includes the donor's printed name, signature, address, and permit or license number. The person receiving the meat shall retain the notice until the meat is consumed, given to another, or otherwise disposed of. (Authorized by and implementing K.S.A. 2020 Supp. 32-807 and K.S.A. 2020 Supp. 32-1002; effective, T-115-7-27-89, July 27, 1989; effective Sept. 18, 1989; amended, T-115-12-28-89, Dec. 28, 1989; amended Jan. 22, 1990; amended Sept. 19, 1997; amended June 1, 2001; amended July 23, 2004; amended Feb. 18, 2005; amended April 26, 2019; amended May 28, 2021.)

Article 4.—BIG GAME

115-4-1. (Authorized by K.S.A. 32-807 and K.S.A. 1999 Supp. 32-937; implementing K.S.A. 32-807, K.S.A. 1999 Supp. 32-937, K.S.A. 32-1001, and K.S.A. 32-1002; effective Jan. 22, 1990; amended May 27, 1991; amended June 1, 1993; amended May 10, 1996; amended June 6, 1997; amended April 24, 1998; amended July 21, 2000; revoked June 1, 2001.)

115-4-2. Big game and wild turkey; general provisions. (a) Possession.

(1) Each permittee shall meet either of the following requirements:

(A) Nonelectronic carcass tags. The permittee shall sign, record the county, the date, and the time of kill, and attach the carcass tag to the carcass in a visible manner immediately following the kill and before moving the carcass from the site of the kill. The carcass tag shall remain attached to the carcass or in the possession of the permittee if transporting a quartered or deboned animal until the animal reaches the permittee's residence or a commercial place of processing or preservation and is processed for consumption. The permittee shall retain the carcass tag until the animal is consumed, given to another, or otherwise disposed of.

(B) Electronic carcass tags. Using the department's electronic carcass tag system, the permittee shall record the county, the date, and the time of kill and enter a photograph of the entire carcass, with sufficient clarity to display the species and the antlered or antlerless condition of the big game animal or the beard of the wild turkey, immediately following the kill and before moving the carcass from the site of the kill. The permittee shall possess the confirmation number until the animal reaches the permittee's residence or a commercial place of processing or preservation

and is processed for consumption. The permittee shall retain the confirmation number until the animal is consumed, given to another, or otherwise disposed of.

(2) Except for a wild turkey or big game animal taken with an "either sex" permit, the beard of the wild turkey shall remain naturally attached to the breast and the visible sex organs of the big game animal shall remain naturally attached to the carcass, or a quartered portion of the carcass, while in transit from the site of the kill to the permittee's residence or to a commercial place of processing or preservation, unless the carcass has been tagged with a department check station tag, the permittee is using the department's electronic carcass tag system and has submitted the information required in paragraph (a)(1)(B), the permittee has obtained a transportation confirmation number after electronically registering the permittee's big game animal or wild turkey on the department's electronic registration site, or the permittee retains photographs necessary for electronic registration until registration occurs. "Electronically registering" shall mean submitting any necessary and relevant information and digital photographs of the big game head or turkey breast and of the completed carcass tag of sufficient clarity to display the species and the antlered or antlerless condition of the big game animal, the beard of the wild turkey, and the transaction number and signature on a completed carcass tag.

(3) Any legally acquired big game or wild turkey meat may be given to and possessed by another, if a dated written notice that includes the donor's printed name, signature, address, and permit number accompanies the meat. The person receiving the meat shall retain the notice until the meat is consumed, given to another, or otherwise disposed of.

(4) Any person may possess a salvaged big game or wild turkey carcass if a department salvage tag issued to the person obtaining the carcass is affixed to the carcass. The salvage tag shall be retained as provided in paragraph (a)(1). Big game or wild turkey meat may be donated as specified in paragraph (a)(3) using the salvage tag number. Each salvage tag report prepared by the department agent issuing the tag shall be signed by the individual receiving the salvaged big game or wild turkey carcass. Each salvage tag shall include the following information:

(A) The name and address of the person to whom the tag is issued;

- (B) the salvage tag number;
- (C) the species and sex of each animal for which the tag is issued;
- (D) the location and the date, time, and cause of death of each animal; and
- (E) the date of issuance and the signature of the department agent issuing the salvage tag.

(b) Big game and wild turkey permits and game tags.

(1) Big game and wild turkey permits and game tags shall not be transferred to another person, unless otherwise authorized by law or regulation.

(2) In addition to other penalties prescribed by law, each big game and wild turkey permit or game tag shall be invalid from the date of issuance if obtained by an individual under any of these conditions:

- (A) Through false representation;
 - (B) through misrepresentation; or
 - (C) in excess of the number of permits or game tags authorized by regulations for that big game species or wild turkey.
- (3) No individual shall copy, reproduce, or possess any copy or reproduction of a big game or wild turkey permit or carcass tag.

(c) Hunting assistance. Subject to the hunting license requirements of K.S.A. 32-919 and amendments thereto, the license requirements of the implementing regulations, and the provisions of paragraphs (c)(1), (c)(2), and (c)(3), any individual may assist any holder of a big game or wild turkey permit or game tag during the permittee's big game or wild turkey hunting activity. This assistance may include herding, driving, or calling.

(1) An individual assisting the holder of a big game or wild turkey permit or game tag shall not perform the actual shooting of big game or wild turkey for the permittee. However, a permittee who is, because of disability, unable to pursue a wounded big game animal or wild turkey may designate any individual to assist in pursuing and dispatching a big game animal or wild turkey wounded by the disabled permittee.

(2) The designated individual shall carry the disabled permittee's big game or wild turkey permit or game tag and shall utilize the applicable procedure specified in subsection (a).

(3) The designated individual shall use only the type of equipment authorized for use by the disabled permittee. (Authorized by and implementing K.S.A. 2019 Supp. 32-807, K.S.A. 2019 Supp. 32-933, K.S.A. 2019 Supp. 32-937, and K.S.A. 2019 Supp. 32-969; effective June 1, 2001;

amended April 22, 2005; amended April 16, 2010; amended April 20, 2012; amended July 18, 2014; amended April 21, 2017; amended Dec. 20, 2019; amended May 22, 2020.)

115-4-3. (Authorized by K.S.A. 32-807 and K.S.A. 1999 Supp. 32-937; implementing K.S.A. 32-807, K.S.A. 1999 Supp. 32-937, K.S.A. 32-1001, and K.S.A. 32-1002; effective April 30, 1990; amended May 27, 1991; amended June 8, 1992; amended June 1, 1993; amended May 30, 1995; amended May 10, 1996; amended June 6, 1997; amended July 21, 2000; revoked June 1, 2001.)

115-4-4. Big game; legal equipment and taking methods. (a) Hunting equipment for the taking of big game during a big game archery season shall consist of the following:

(1) Archery equipment.

(A) No bow or arrow shall have any electronic device attached to the bow or arrow that controls the flight of the arrow. Devices that may be attached to a bow or arrow shall include lighted pin, dot, or holographic sights; illuminated nocks; rangefinders; film or video cameras; locking draws; and radio-frequency location devices.

(B) Each arrow used for hunting shall be equipped with a broadhead point incapable of passing through a ring with a diameter of three-quarters of an inch when fully expanded. A big game hunter using archery equipment may possess non-broadhead-tipped arrows while hunting if the arrows are not used to take or attempt to take big game animals.

(2) Crossbows using arrows that are equipped with broadhead points incapable of passing through a ring with a diameter of three-quarters of an inch when fully expanded.

(A) 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.

(B) 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 with bullets only through the front of the firing chamber and are .40 inches in diameter bore or larger. Only tumble-on-impact, hard-cast solid lead, conical lead, or sabot bullets shall be used with muzzleloading rifles, pistols, and muskets.

(c) Hunting equipment for the taking of big game during a big game firearm season shall consist of the following:

(1) Archery and crossbow equipment as authorized in subsection (a);

(2) muzzleloader-only season equipment as authorized in subsection (b);

(3) centerfire rifles and handguns that are not fully automatic, while using only tumble-on-impact, hard-cast solid lead, soft point, hollow point, or other expanding bullets; and

(4) shotguns using only slugs.

(d)(1) Each individual hunting deer or elk during a firearms deer or elk season and each individual assisting an individual hunting deer or elk as authorized by K.A.R. 115-4-2 or K.A.R. 115-18-15 during a firearms deer or elk season shall wear outer clothing of a bright orange color commonly referred to as daylight fluorescent orange, hunter orange, blaze orange, or safety orange. This bright orange color shall be worn as follows:

(A) A hat or other garment upon the head with the exterior of not less than 50 percent of the bright orange color, an equal portion of which is visible from all directions; and

(B) at least 100 square inches of the bright orange color that is on the front of the torso and is visible from the front and at least 100 square inches that is on the rear of the torso and is visible from the rear.

(2) Lures, decoys except live decoys, and non-electric calls shall be legal while hunting big game.

(3) Any individual may use blinds and stands while hunting big game.

(4) Optical scopes or sights that project no visible light toward the target and do not electronically amplify visible light or detect infrared light or thermal energy may be used.

(5) Any range-finding device, if the device does not project visible light toward the target, may be used.

(6) Devices capable of dispensing lethal, debilitating, or immobilizing chemicals to take big game animals shall not be used.

(e) Shooting hours for deer, antelope, and elk during each day of any deer, antelope, or elk hunting season shall be from one-half hour before sunrise to one-half hour after sunset.

(f) Horses and mules may be used while hunting big game, except that horses and mules shall not be used for herding or driving big game.

(g) Firearm report-suppressing devices may be used.

(h) Handguns may be possessed during all big game seasons. However, no handgun shall be used to take deer except as legal equipment specified in subsection (c) during a big game firearms season.

(i) Dogs may be used to retrieve dead or wounded big game animals if the following requirements are met:

(1) Each dog shall be maintained on a hand-held leash at all times while tracking the big game animal.

(2) An individual tracking big game animals outside of legal shooting hours shall not carry any equipment capable of harvesting the big game animal.

(3) Each individual harvesting a big game animal shall be limited to the equipment type for the permit and the season that is authorized.

(4) Each individual participating in the tracking of the big game animal shall have a hunting license, unless the individual is exempt by law or regulation. (Authorized by and implementing K.S.A. 2020 Supp. 32-807 and K.S.A. 2020 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; amended April 26, 2019; amended May 22, 2020; amended July 23, 2021.)

115-4-4a. Wild turkey; legal equipment and taking methods. (a) Hunting equipment for the taking of wild turkey during a wild turkey archery season shall consist of the following:

(1) Archery equipment.

(A) No bow or arrow shall have any electronic device attached to the bow or arrow that controls the flight of the arrow. Devices that may be attached to a bow or arrow shall include lighted pin, dot, or holographic sights; illuminated nocks; rangefinders; film or video cameras; and radio-frequency location devices.

(B) Each arrow used for hunting shall be equipped with a broadhead point incapable

of passing through a ring with a diameter of three-quarters of an inch when fully expanded. A wild turkey hunter using archery equipment may possess non-broadhead-tipped arrows while hunting if the arrows are not used to take or attempt to take wild turkeys.

(2) Crossbows using arrows that are equipped with broadhead points incapable of passing through a ring with a diameter of three-quarters of an inch when fully expanded. A wild turkey hunter using crossbow equipment may possess non-broadhead-tipped arrows while hunting if the arrows are not used to take or attempt to take wild turkeys.

No crossbow or arrow shall have any electronic device attached to the crossbow or arrow that controls the flight of the arrow. Devices that may be attached to a crossbow or arrow shall include lighted pin, dot, or holographic sights; illuminated nocks; rangefinders; film or video cameras; and radio-frequency location devices.

(b) Hunting equipment for the taking of wild turkey during a wild turkey firearm season shall consist of the following:

(1) Archery and crossbow equipment as authorized in subsection (a);

(2) shotguns and muzzleloading shotguns using only size two shot through size nine shot;

(3) choked handguns and muzzleloading handguns having a minimum barrel length of 10 inches, including the chamber, and 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. (Authorized by and implementing K.S.A. 2020 Supp. 32-807 and K.S.A. 2020 Supp. 32-969; effective April 22, 2005; amended April 13, 2007; amended April 11, 2008; amended May 21, 2010; amended April 20, 2012; amended April 19, 2013; amended Dec. 25, 2020; amended Dec. 27, 2021.)

115-4-5. (Authorized by K.S.A. 32-807 and K.S.A. 1999 Supp. 32-937; implementing K.S.A. 32-807, K.S.A. 1999 Supp. 32-937, K.S.A. 32-1001, and K.S.A. 32-1002; effective April 30, 1990; amended May 27, 1991; amended June 8, 1992; amended June 1, 1993; amended May 30, 1995; amended May 10, 1996; amended June 6, 1997; amended July 21, 2000; revoked June 1, 2001.)

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 state highway K-156, then west on state highway K-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 Johnson County 135 Street, then east on Johnson County 135 Street 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 Johnson County 135 Street 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 state highway K-156, then east on state highway K-156 to its junction with federal highway US-183, then south on federal highway US-183 to its junction with federal highway US-54, then southwest on federal highway US-54 to its junction with federal highway US-283, then north on federal highway US-283 to its junction with federal highway US-56, then southwest on federal highway US-56 to its junction with state highway K-144, then west on state highway K-144 to its junction with federal highway US-160, then continuing west on federal highway US-160 to the Colorado-Kansas state line, then north along the Colorado-Kansas state line to its junction with state highway K-96, except federal and state sanctuaries.

(r) Cimarron; unit 18: that part of Kansas bounded by a line from the Colorado-Kansas state line east on federal highway US-160 to its junction with state highway K-144, then east on state highway K-144 to its junction with federal highway US-56, then east on federal highway US-56 to its junction with federal highway US-283, then south on federal highway US-283 to its junction with the Oklahoma-Kansas state line, then west along the Oklahoma-Kansas state line to its junction with the Colorado-Kansas state line, then north along the Colorado-Kansas state line to its junction with federal highway US-160, except federal and state sanctuaries.

(s) Kansas City urban; unit 19: that part of Kansas bounded by a line from the Missouri-Kansas state line west on Johnson County 199 Street to its junction with interstate highway I-35, then southwest on interstate highway I-35 to its junction with federal highway US-75, then north on federal highway US-75 to its junction with

South Topeka Avenue, then north on South Topeka Avenue to its junction with Shawnee County SW 93 Street, then west on Shawnee County SW 93 Street to its junction with Shawnee County SW Auburn Road, then north on Shawnee County SW Auburn Road to its junction with interstate highway I-70, then west on interstate highway I-70 to its junction with NW Carlson-Rossville Road, then north on NW Carlson-Rossville Road to its junction with Shawnee County NW 62 Street, then east on Shawnee County NW 62 Street to its junction with Shawnee County NW Hoch Road, then north on Shawnee County NW Hoch Road to its junction with Shawnee County NW 66 Street, then east on Shawnee County NW 66 Street to its junction with Shawnee County NW Humphrey Road, then south on Shawnee County NW Humphrey Road to its junction with Shawnee County NW 62 Street, then east on Shawnee County NW 62 Street to its junction with state highway K-4, then north on state highway K-4 to its junction with state highway K-92, then east on state highway K-92 to its junction with Leavenworth County 207 Street, then north on Leavenworth County 207 Street to its junction with state highway K-192, then northeast on state highway K-192 to its junction with federal highway US-73, then east on federal highway US-73 to its junction with state highway K-92, then east on state highway K-92 to its junction with the Missouri-Kansas state line, and then south on the Missouri-Kansas state line to Johnson County 199 Street, except federal and state sanctuaries and department-owned or -managed properties. (Authorized by K.S.A. 2020 Supp. 32-807; implementing K.S.A. 2020 Supp. 32-807 and K.S.A. 2020 Supp. 32-937; effective April 30, 1990; amended June 8, 1992; amended June 1, 1993; amended June 13, 1994; amended May 30, 1995; amended June 6, 1997; amended July 21, 2000; amended April 18, 2003; amended July 25, 2003; amended Feb. 18, 2005; amended April 14, 2006; amended Feb. 8, 2008; amended April 16, 2010; amended May 22, 2020; amended April 23, 2021.)

115-4-6a. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 2003 Supp. 32-937, as amended by L. 2004, Ch. 99, Sec. 5; effective Feb. 18, 2005; revoked Feb. 8, 2008.)

115-4-6b. Elk; management units. Each of the following subsections shall designate an elk management unit: (a) Cimarron; unit 1: that part

of Kansas bounded by a line from the Oklahoma-Kansas state line north on county road CR-24 to its junction with state highway K-51, then north on state highway K-51 to its junction with road U, then west on state highway K-51 to its junction with road 9, then north on road 9 to its junction with road V, then west on road V to its junction with the Colorado-Kansas state line, then south along the Colorado-Kansas border to its junction with the Oklahoma-Kansas border, and then east along the Oklahoma-Kansas border to its junction with county road CR-24, except federal and state sanctuaries.

(b) Republican-Tuttle; unit 2: That part of Kansas bounded by a line from the federal highway US-77 and interstate highway I-70 junction, then northeast along interstate highway I-70 to its junction with state highway K-177, then north along state highway K-177 to its junction with state highway K-24, then west along state highway K-24 to its junction with state highway K-77, then north along state highway K-77 to its junction with barton road, then west along barton road to its junction with state highway 24, then west along state highway 24 to its junction with state highway 15, then south along state highway K-15 to its junction with state highway K-18, then east along state highway K-18 to its junction with state highway K-77, and then south along state highway K-77 to its junction with interstate highway I-70, except federal and state sanctuaries.

Fort Riley; subunit 2a: The following described area shall be designated a subunit of unit 2, and, with approval of Fort Riley command, the area shall be open for the taking of elk during the elk season: United States government land lying entirely within the boundaries of the Fort Riley military reservation. Each person hunting in this subunit shall be in possession of any permits and licenses required by Fort Riley.

(c) Kansas; unit 3: statewide except for the areas described in units 1 and 2. (Authorized by K.S.A. 2017 Supp. 32-807; implementing K.S.A. 2017 Supp. 32-807 and K.S.A. 2017 Supp. 32-937; effective April 8, 2011; amended July 20, 2018.)

115-4-7. (Authorized by K.S.A. 32-807 and K.S.A. 1999 Supp. 32-937; implementing K.S.A. 32-807, K.S.A. 1999 Supp. 32-937, K.S.A. 32-1001, and K.S.A. 32-1002; effective April 30, 1990; amended May 27, 1991; amended June 8, 1992; amended June 1, 1993; amended June 13, 1994; amended May 30, 1995; amended May 10,

1996; amended June 6, 1997; amended April 24, 1998; amended July 21, 2000; revoked June 1, 2001.)

115-4-8. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1015; effective, T-115-9-26-89, Sept. 26, 1989; effective Oct. 30, 1989; amended May 30, 1995; revoked June 1, 2001.)

115-4-9. (Authorized by K.S.A. 1989 Supp. 32-807; implementing K.S.A. 1989 Supp. 32-807, K.S.A. 1989 Supp. 32-1002 and K.S.A. 1989 Supp. 32-1004; effective Sept. 10, 1990; revoked June 1, 2001.)

115-4-10. (Authorized by and implementing K.S.A. 1989 Supp. 32-807; effective, T-115-9-26-89, Sept. 26, 1989; effective Oct. 30, 1989; amended Sept. 10, 1990; revoked June 1, 2001.)

115-4-11. Big game and wild turkey permit applications. (a) General application provisions.

(1) Unless otherwise authorized by law or regulation, an individual shall not apply for or obtain more than one antlered or horned big game or wild turkey permit for each big game species or wild turkey, except when the individual is unsuccessful in a limited quota drawing and alternative permits for the species are available at the time of subsequent application or when the individual is the final recipient of a commission permit.

(2) Unless otherwise authorized by law or regulation, each big game or wild turkey permit application shall be signed by the individual applying for the permit.

(3) Subject to any priority draw system established by this regulation, if the number of permit applications of a specific species and type received by the designated application deadline exceeds the number of available permits of that species and type, a random drawing to issue permits of that species and type shall be conducted by the secretary.

(4) A hunt-on-your-own-land permit shall not be tabulated in a priority draw system if the permit would otherwise reduce the applicant's odds of receiving a big game permit through that draw system.

(b) Deer permit applications.

(1) Subject to any priority draw system established by this subsection, in awarding deer permits in units having a limited number of permits,

the first priority shall be given to those applicants who did not receive, in the previous year, a deer permit that allowed the taking of an antlered deer. All other deer permit applicants shall be given equal priority.

(2) In awarding a limited number of deer permits by a priority draw system, the first priority shall be given to those individuals who have earned the highest number of preference points. Preference points shall be awarded as follows:

(A) One point shall be awarded to an individual for each year the individual is unsuccessful in obtaining, by a priority draw system, a deer permit that allows the taking of an antlered deer.

(B) If the individual fails to make at least one application or purchase one preference point within a period of five consecutive years, all earned points shall be lost.

(C) If an applicant obtains, by a priority draw system, a deer permit that allows the taking of an antlered deer, all earned points shall be lost.

(D) If the number of applicants with the most preference points exceeds the number of permits for specified units or permit types, then a drawing shall be held to determine the successful applicants.

(E) If an individual desires to apply for a preference point for a deer permit that allows the taking of antlered deer and not receive a permit, the person may apply for and receive a preference point by paying the proper application or preference point fee and submitting an application during the application period specified in this regulation. No individual may apply for more than one preference point in the same calendar year, and no individual shall apply for a preference point in the same calendar year as the calendar year in which the individual is applying for a permit.

(3) If an individual is a final recipient of a commission deer permit, the individual shall not possess more than one regular antlered deer permit and one commission deer permit.

(4) Applications for nonresident limited-quota antlered deer permits shall be accepted in the Pratt office from the earliest date that applications are available through the last Friday of April each year. Any nonresident applicant may select, at the time of application, one deer management unit and up to one adjacent management unit where that permit shall be valid.

(5) Applications for resident firearms either-species, either-sex permits shall be accepted at designated locations from the earliest date that

applications are available through the second Friday of June.

(6) Applications for resident any-season white-tailed either-sex deer permits, resident archery deer permits, resident muzzleloader either-species either-sex permits, and hunt-on-your-own-land deer permits shall be accepted at designated locations from the earliest date that applications are available through December 30.

(7) Each resident applicant for either-species, either-sex muzzleloader or firearm deer permits shall select, at the time of application, the unit where the permit shall be valid. The west unit permit shall be valid in units 1, 2, 17, and 18. The east unit permit shall be valid in units 3, 4, 5, 7, and 16.

(8) Applications for antlerless white-tailed deer permits shall be accepted at designated locations from the earliest date that applications are available through January 30 of the following year.

(9) Each nonresident applicant for a regular deer permit shall have purchased a nonresident hunting license before submitting the application or shall purchase a nonresident hunting license when submitting the application.

(c) Firearm antelope permit applications. In awarding firearm antelope permits, the first priority shall be given to those individuals who have earned the highest number of preference points. Preference points shall be awarded as follows:

(1) One point shall be awarded to an individual for each year the individual is unsuccessful in obtaining a firearm antelope permit.

(2) If the individual fails to make at least one application or purchase one preference point within a period of five consecutive years, all earned points shall be lost.

(3) If an applicant obtains a firearm permit by a priority draw system, all earned points shall be lost.

(4) If the number of applicants with the most preference points exceeds the number of permits for specified units or permit types, then a drawing shall be held to determine the successful applicants.

(5) If an individual desires to apply for a preference point for an antelope firearms permit that allows the taking of an antelope and not receive a permit, the person may apply for and receive a preference point by paying the preference point fee and submitting an application during the application period specified in this regulation. No individual may apply for more than one preference point in the same calendar year, and no in-

dividual shall apply for a preference point in the same calendar year as the calendar year in which the individual is applying for a permit.

(6) Applications for resident firearm and muzzleloader permits shall be accepted in the Pratt office from the earliest date that applications are available through the second Friday of June.

(7) Applications for resident and nonresident archery permits shall be accepted at designated locations from the earliest date that applications are available through October 30.

(8) If there are any unfilled permits after all timely applications have been considered, the application period may be extended by the secretary.

(9) Any applicant unsuccessful in obtaining a permit through a drawing may apply for any permit made available during an extended application period, or any other permit that is available on an unlimited basis.

(d) Elk permit applications.

(1) An individual receiving a limited-quota elk permit shall not be eligible to apply for or receive an elk permit in subsequent seasons, with the following exceptions:

(A) An individual receiving an any-elk or a bull-only elk permit may apply for and receive an antlerless-only elk permit in subsequent seasons.

(B) An individual receiving a limited-quota, antlerless-only elk hunting permit shall not be eligible to apply for or receive a limited-quota, antlerless-only elk permit for a five-year period thereafter. Subject to this subsection, however, this individual may apply for and receive an any-elk or bull-only elk permit without a waiting period.

(C) When a limited number of elk permits are awarded by a random draw system, each individual shall have an additional opportunity of drawing for each bonus point earned by the individual in addition to the current application. Bonus points shall be awarded as follows:

(i) One bonus point shall be awarded to an individual for each year the individual is unsuccessful in obtaining, by a random draw system, an elk permit that allows the taking of an elk.

(ii) If an individual fails to make at least one application or purchase one bonus point within a period of five consecutive years, all earned bonus points shall be lost.

(iii) If an applicant obtains, by a random draw system, an elk permit that allows the taking of an elk, all earned points shall be lost.

(iv) If an individual desires to apply for a bonus point for an elk permit that allows the taking of elk

and not receive a permit, the person may apply for and receive a bonus point by paying the proper application or bonus point fee and submitting an application during the application period specified in this regulation. No individual may apply for more than one bonus point in the same calendar year, and no individual shall apply for a bonus point in the same calendar year as the calendar year in which the individual is applying for a permit.

(D) Each individual who is the final recipient of a commission elk permit shall be eligible for a limited-quota elk permit, subject to the provisions of this subsection.

(E) Limited-quota antlerless-only elk permits and limited-quota either-sex elk permits shall be awarded from a pool of applicants who are Fort Riley military personnel and applicants who are not Fort Riley military personnel.

(2) Applications for hunt-on-your-own-land and unlimited over-the-counter elk permits shall be accepted at designated locations from the earliest date that applications are available through March 14 of the following year.

(3) Applications for limited-quota antlerless-only elk permits and limited-quota either-sex elk permits shall be accepted at designated locations from the earliest date that applications are available through the second Friday in June.

(4) If there are leftover limited-quota antlerless-only elk permits or limited-quota either-sex permits after all timely applications have been considered, the application periods for those permits may be reopened by the secretary. Leftover permits shall be drawn and issued on a daily basis for those application periods reopened by the secretary. Any applicant unsuccessful in obtaining a permit through a drawing may apply for any leftover permit or any other permit that is available on an unlimited basis.

(5) Any individual may apply for or obtain no more than one permit that allows the taking of an elk, unless the individual is unsuccessful in a limited-quota drawing and alternative permits for elk are available at the time of subsequent application or the individual obtains a commission permit pursuant to this subsection.

(e) Wild turkey permit applications.

(1) When awarding wild turkey permits in units having a limited number of permits, the first priority shall be given to those individuals who did not receive a permit in a limited wild turkey unit during the previous year. All other applicants shall be given equal priority.

(2) In awarding a limited number of wild turkey permits by a priority draw system, the first priority shall be given to those individuals who have earned the highest number of preference points. Preference points shall be awarded as follows:

(A) One point shall be awarded to an individual for each year the individual is unsuccessful in obtaining, by a priority draw system, a wild turkey permit.

(B) If the individual fails to make at least one application or purchase one preference point within a period of five consecutive years, all earned points shall be lost.

(C) If an applicant obtains, by a priority draw system, a wild turkey permit, all earned points shall be lost.

(D) If the number of applicants with the most preference points exceeds the number of permits for specified units or permit types, then a drawing shall be held to determine the successful applicants.

(E) If an individual desires to apply for a preference point for a wild turkey permit and not receive a permit, the person may apply for and receive a preference point by paying the preference point fee and submitting an application during the application period specified in this regulation. No individual may apply for more than one preference point in the same calendar year, and no individual shall apply for a preference point in the same calendar year as the calendar year in which the individual is applying for a permit.

(3) Fall wild turkey permits for unit 1, unit 2, unit 3, unit 5, and unit 6, youth turkey permits, and game tags for unit 2, unit 3, unit 5, and unit 6 may be purchased over the counter at designated locations, from the earliest date in the year that applications are available through 5:00 p.m. on January 30 of the following year.

(4) Applications for spring wild turkey permits in unit 4 shall be accepted by the department from the earliest date that applications are available until midnight on the second Friday of February. If there are turkey permits left over after all timely applications have been considered, the application period may be reopened by the secretary. Leftover turkey permits shall be issued on a daily competitive basis until the day before the last day of the turkey season or until all turkey permits are issued.

(5) Spring wild turkey permits in unit 1, unit 2, unit 3, unit 5, and unit 6, youth turkey permits, and game tags in unit 1, unit 2, unit 3, unit 5, and

unit 6 may be purchased over the counter at designated locations from the earliest date that applications are available until midnight on the day before the closing date for the season. (Authorized by K.S.A. 2018 Supp. 32-807, K.S.A. 2018 Supp. 32-937, K.S.A. 2018 Supp. 32-969, and K.S.A. 2018 Supp. 32-970; implementing K.S.A. 2018 Supp. 32-937, K.S.A. 2018 Supp. 32-969, and K.S.A. 2018 Supp. 32-970; effective Sept. 10, 1990; amended May 27, 1991; amended June 1, 2001; amended April 18, 2003; amended Feb. 18, 2005; amended May 15, 2009; amended Feb. 5, 2010; amended April 8, 2011; amended May 24, 2013; amended Nov. 30, 2015; amended April 21, 2017; amended April 26, 2019.)

115-4-12. (Authorized by K.S.A. 32-807 and K.S.A. 32-937 as amended by L. 1994, Chapter 245, sec. 1; implementing K.S.A. 32-807, K.S.A. 32-937 as amended by L. 1994, Chapter 245, sec. 1 and K.S.A. 32-1002; effective May 27, 1991; amended Oct. 17, 1994; revoked June 1, 2001.)

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 us-

ing legal equipment for one of the following deer seasons, which shall be selected at the time of application: muzzleloader-only, archery, or firearms deer season. Muzzleloader-only permits may be used in the early muzzleloader season and during the regular firearms season, using equipment that is legal during the muzzleloader deer season.

(b) Either-species, either-sex deer permits.

(1) Resident archery either-species, either-sex deer permit. This permit shall be valid for the hunting of any antlered or antlerless white-tailed deer or mule deer statewide during the established archery deer season, using equipment that is legal during the archery deer season.

(2) Resident firearm either-species, either-sex deer permit. This permit shall be valid for the hunting of any antlered or antlerless white-tailed deer or mule deer during the established firearms deer season within designated management units, using equipment that is legal during the firearms deer season.

(3) Resident muzzleloader either-species, either-sex deer permit. This permit shall be valid for the hunting of any antlered or antlerless white-tailed deer or mule deer during the established muzzleloader-only and firearms deer seasons within designated management units, using muzzleloader equipment that is legal during the muzzleloader-only deer season.

(4) Nonresident either-species, either-sex deer permit. Any nonresident possessing a nonresident archery or muzzleloader-only white-tailed deer permit valid for a management unit designated by the department as a mule deer unit may apply for one of a limited number of mule deer stamps that, if drawn, will convert the applicant's white-tailed deer permit to an either-species, either-sex deer permit.

(5) Antlerless either-species permit. This permit shall be valid for the hunting of any antlerless white-tailed deer or mule deer within a designated management unit or units during the established muzzleloader-only, archery, and firearms deer seasons, using equipment that is legal during the established season.

(c) Hunt-on-your-own-land deer permits. Each hunt-on-your-own-land permit shall be valid for any white-tailed deer or mule deer, unless otherwise specified in these regulations.

(1) Resident hunt-on-your-own-land deer permit. This permit shall be available to individuals who qualify as resident landowners or as resident tenants or as family members domiciled with the

resident landowner or with the resident tenant. This permit shall be valid during the muzzleloader-only, archery, and firearms deer seasons, using equipment that is legal during the established season. This permit shall be valid only on lands owned or operated by the resident landowner or resident tenant.

(2) Special resident hunt-on-your-own-land deer permit. This permit shall be available to individuals who qualify as lineal ascendants or descendants and their spouses, or as siblings of resident landowners or resident or nonresident tenants. This permit shall be valid during the muzzleloader-only, archery, and firearms deer seasons, using equipment that is legal during the established season. This permit shall be valid only on lands owned or operated by the resident landowner or resident or nonresident tenant.

(3) Nonresident hunt-on-your-own-land deer permit. This permit shall be available to 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.)

115-4-14. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 2003 Supp. 32-968, as amended by L. 2004, Ch. 76, Sec. 1; effective Nov. 29, 2004; revoked Feb. 8, 2008.)

115-4-15. Restitution scoring system; white-tailed deer; mule deer; elk; antelope.

(a) For the purpose of establishing restitution values, each of the following terms shall have the meaning specified in this subsection:

(1) "Abnormal point" means a point that is non-typical in shape or location.

(2) "Antler burr" means the elevated bony rim around the antler base of a deer or elk that is just above the skin of the pedicle.

(3) "First normal point" means the longest, first point immediately above, but not part of, the antler burr. If this point is branched, the longest and straightest portion of the point shall be used for measurement. All other points branching from this point shall be considered abnormal points.

(4) "Gross score" means the number derived by totaling certain measurements taken from the antlers or horns of a big game animal in accordance with this regulation.

(5) "Inside spread of the main antler beams" means the measurement at right angles to the center line of the skull at the widest point between main antler beams.

(6) "Length of the main antler beam" means the measurement from the lowest outside edge of the antler burr over the outer curve to the most distant point of what is or appears to be the main antler beam beginning at the place on the antler burr where the center line along the outer curve of the beam intersects the antler burr.

(7) "Normal point" means a point that projects from the main antler beam in a typical shape or location.

(8) "Point" means a projection on the antler of a deer or elk that is at least one inch long as measured from its tip to the nearest edge of the antler beam and the length of which exceeds the width at one inch or more of length. "Point" shall not include an antler beam tip.

(b) All measurements shall be made to the nearest $\frac{1}{8}$ of an inch using a flexible steel tape that is $\frac{1}{4}$ inch wide.

(c) The gross score of an antlered whitetail deer shall be determined by adding together all of the following measurements:

(1) The inside spread of the main antler beams, not to exceed the length of the longest main antler beam;

(2) the length of the main antler beam on the deer's right side;

(3) the length of the main antler beam on the deer's left side;

(4) the total length of all abnormal points on the right and left antlers;

(5) the total length of all normal points on the right and left antlers as measured from the nearest edge of the main antler beam over the outer curve to the tip. To determine the baseline for normal point measurement, the tape shall be laid along the outer curve of the antler beam so that the top edge of the tape coincides with the top edge of the antler beam on both sides of the point; and

(6) the following circumference measurements from the right and left antlers:

(A) The circumference taken at the smallest place between the antler burr and the first normal point on the main antler beam. If the first normal point is missing, the circumference shall be taken at the smallest place between the antler burr and the second normal point;

(B) the circumference taken at the smallest place between the first normal point and the second normal point on the main antler beam. If the first normal point is missing, the circumference shall be taken at the smallest place between the antler burr and the second normal point;

(C) the circumference taken at the smallest place between the second normal point and the third normal point on the main antler beam; and

(D) the circumference taken at the smallest place between the third normal point and the fourth normal point on the main antler beam. If the fourth normal point is missing, the circumference shall be taken halfway between the third normal point and the tip of the main antler beam.

(d) The gross score of an antlered mule deer shall be determined by adding together all of the following measurements:

(1) The inside spread of the main antler beams, not to exceed the length of the longest main antler beam;

(2) the length of the main antler beam on the deer's right side;

(3) the length of the main antler beam on the deer's left side;

(4) the total length of all abnormal points on the right and left antlers;

(5) the total length of all normal points on the right and left antlers as measured from the nearest edge of the main antler beam over the outer curve to the tip. To determine the baseline for normal point measurement, the tape shall be laid along the outer curve of the antler beam so that the top edge of the tape coincides with the top edge of the antler beam on both sides of the point; and

(6) the following circumference measurements from the right and left antlers:

(A) The circumference taken at the smallest place between the antler burr and the first normal point on the main antler beam. If the first normal point is missing, the circumference shall be taken at the smallest place between the antler burr and the second normal point;

(B) the circumference taken at the smallest place between the first normal point and the second normal point on the main antler beam. If the first normal point is missing, the circumference shall be taken at the smallest place between the antler burr and the second normal point;

(C) the circumference taken at the smallest place between the main antler beam and the third normal point; and

(D) the circumference taken at the smallest place between the second normal point and the fourth normal point. If the fourth normal point is missing, the circumference shall be taken halfway between the second normal point and the tip of the main antler beam.

(e) The gross score of an antlered elk shall be determined by adding together all of the following measurements:

(1) The inside spread of the main antler beams, not to exceed the length of the longest main antler beam;

(2) the length of the main antler beam on the elk's right side;

(3) the length of the main antler beam on the elk's left side;

(4) the total length of all abnormal points on the right and left antlers;

(5) the total length of all normal points on the right and left antlers as measured from the nearest edge of the main antler beam over the outer curve to the tip. To determine the baseline for normal point measurement, the tape shall be laid along the outer curve of the antler beam so that the top edge of the tape coincides with the top edge of the antler beam on both sides of the point; and

(6) the following circumference measurements from the right and left antlers:

(A) The circumference taken at the smallest place between the first normal point and the second normal point on the main antler beam;

(B) the circumference taken at the smallest place between the second normal point and the third normal point on the main antler beam;

(C) the circumference taken at the smallest

place between the third normal point and the fourth normal point on the main antler beam; and

(D) the circumference taken at the smallest place between the fourth normal point and the fifth normal point on the main antler beam. If the fifth normal point is missing, the circumference shall be taken halfway between the fourth normal point and the tip of the main antler beam.

(f) The gross score of an antelope shall be determined by adding together all of the following measurements:

(1) The length of the right horn measured along the center of the outer curve from the tip of the horn to a point in line with the lowest edge of the base, using a straight edge to establish the line end;

(2) the length of the left horn measured along the center of the outer curve from the tip of the horn to a point in line with the lowest edge of the base, using a straight edge to establish the line end;

(3) the circumference of the base of each horn, measured at a right angle to the axis of the horn, not to follow the irregular edge of the horn. The line of the measurement shall be entirely on horn material;

(4) three circumference measurements on each horn based on the criteria specified in this paragraph. The length of the longest horn shall be divided by four. Starting at the base, each horn shall be marked at these quarters, even though the other horn may be shorter. The circumference shall be measured at these marks at a right angle to the axis of the horn. If the prong of the horn interferes with the first measurement from the base, this measurement shall be taken immediately below the swelling of the prong. If the second measurement from the base falls in the swelling of the prong, this measurement shall be taken immediately above the swelling of the prong; and

(5) the length of the prong measured from the tip of the prong along the upper edge of the outer side to the horn, then continuing around the horn, at a right angle to the long axis of the horn, to a point at the rear of the horn where a straight edge crossing the back of both horns touches the horn. If there is a crack where the prong extends from the horn, the length of the prong shall be taken passing over the entire crack. Once the initial prong length is taken, the width of the crack shall be measured and deducted from the initial prong length. The adjusted length shall be the recorded length of the prong. (Authorized by and implementing K.S.A. 2013 Supp. 32-807 and 32-1032; effective Jan. 1, 2013; amended Feb. 7, 2014.)

Article 5.—FURBEARERS**115-5-1. Furbearers and coyotes; legal equipment, taking methods, and general provisions.**

(a) Hunting equipment permitted during furbearer hunting seasons and during coyote hunting seasons shall consist of the following:

- (1) Firearms, except fully automatic firearms;
- (2) archery equipment;
- (3) crossbows; and

(4) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light, except as specified in subsection (d).

(b) Trapping equipment permitted during furbearer and coyote trapping seasons shall consist of the following:

(1) Smooth-jawed foothold traps, except that all types of foothold traps may be used in water sets;

- (2) body-gripping traps;
- (3) box traps;
- (4) cage traps;
- (5) colony traps;
- (6) snares; and
- (7) deadfalls.

(c) The following general provisions shall apply to the taking of furbearers and coyotes:

(1) Calls may be used in the taking of furbearers and coyotes.

(2) Handheld, battery-powered flashlights, hat lamps, and handheld lanterns may be used while trapping furbearers or coyotes or while running furbearers.

(3) Any .22 or .17 caliber rimfire rifle or handgun may be used to take trapped furbearers or trapped coyotes when using a light to check traps.

(4) Any .22 or .17 caliber rimfire rifle or handgun may be used while using a handheld, battery-powered flashlight, hat lamp, or handheld lantern to take furbearers treed with the aid of dogs.

(5) Lures, baits, and decoys may be used in the taking of furbearers and coyotes.

(6) The use of horses and mules shall be permitted while hunting, trapping, or running furbearers and coyotes.

(7) The use of motor vehicles for taking coyotes shall be permitted while hunting coyotes, except as provided in subsection (d).

(8) The use of radios in land or water vehicles shall be permitted for the taking of coyotes.

(9) The use of dogs for hunting and during running seasons shall be permitted.

(10) Each body-gripping trap with an inside jawsread of eight inches or greater, when measured across the jaws at a 90-degree angle, shall be used only in a water set.

(11) Only landowners or tenants of land immediately adjacent to the right-of-way of a public road, or their immediate family members or authorized agents, may set slide-locking wire or snare-type cable traps as dryland sets within five feet of a fence bordering a public road or within 50 feet of the outside edge of the surface of a public road. Only these landowners or tenants, or their immediate family members or authorized agents, may possess the fur, pelt, skin, or carcass of any furbearer or coyote removed from these devices located within these specified limits.

(12) A person shall not have in possession any equipment specified in subsection (a) while pursuing or chasing furbearers with hounds during the running season.

(13) All trapping devices included in subsection (b) shall be tagged with either the user's name and address or the user's department-issued identification number and shall be tended and inspected at least once every calendar day.

(14) Each foothold trap that has an outside jawsread greater than seven inches, when measured across the jaws at a 90-degree angle, shall be used only in a water set.

(d) From January 1 through March 31, the following provisions shall apply to the hunting of coyotes:

(1) Artificial light, scopes and equipment that amplify visible light, and thermal-imaging scopes and thermal-imaging equipment may be used for hunting.

(2) The use of vehicles when hunting with the equipment specified in paragraph (d)(1) shall be prohibited.

(3) The use of the equipment specified in paragraph (d)(1) shall not be authorized on department lands and waters.

(4) Each person using the equipment specified in paragraph (d)(1) in the manner prescribed in this subsection shall first obtain a permit from the department. (Authorized by and implementing K.S.A. 2019 Supp. 32-807 and 32-1003; effective March 19, 1990; amended Nov. 15, 1993; amended July 19, 2002; amended Feb. 18, 2005; amended Sept. 4, 2009; amended July 22, 2011; amended July 26, 2013; amended May 31, 2019; amended Sept. 18, 2020.)

115-5-2. Furbearers and coyotes; possession, disposal, and general provisions. (a) Legally taken raw furs, pelts, skins, carcasses, or meat of furbearers may be possessed without limit in time.

(b) Live furbearers legally taken during a furbearer season may be possessed only through the last day of the season in which taken.

(c) Legally acquired skinned carcasses and meat of furbearers may be sold or given to and possessed by another, and legally acquired raw furs, pelts, and skins of furbearers may be given to and possessed by another, if a written notice that includes the seller's or donor's name, address, and furharvester license number accompanies the carcass, pelt, or meat. A bobcat, otter, or swift fox tag as described in subsection (f) shall meet the requirements of written notice.

(d) Legally taken raw furs, pelts, skins, or carcasses of coyotes or legally taken live coyotes may be possessed without limit in time.

(e) Any person in lawful possession of raw furbearer or coyote furs, pelts, skins, or carcasses may sell or ship or offer for sale or shipment the same to licensed fur dealers or any person legally authorized to purchase raw furbearer or coyote furs, pelts, skins, or carcasses.

(f) Each bobcat, otter, or swift fox pelt legally taken in Kansas shall be submitted to the department so that an export tag provided by the department can be affixed to the pelt.

(1) The pelt of any bobcat, otter, or swift fox taken in Kansas shall be presented to the department for tagging within seven days following closure of the bobcat, otter, or swift fox hunting and trapping season.

(2) Each pelt presented for tagging shall be accompanied by the furharvester license number under which the pelt was taken.

(g) Properly licensed persons may legally salvage furbearers and coyotes found dead during the established open seasons for hunting or trapping of furbearers or coyotes. Salvaged furbearers and coyotes may be possessed or disposed of as authorized by this regulation. (Authorized by and implementing K.S.A. 2018 Supp. 32-807 and K.S.A. 32-942; effective March 19, 1990; amended Oct. 17, 1994; amended Nov. 29, 1999; amended July 19, 2002; amended Sept. 4, 2009; amended July 22, 2011; amended July 26, 2013; amended May 31, 2019.)

115-5-3. Furbearers, except otters, and coyotes; management units. The manage-

ment unit for furbearers, except otters, and coyotes shall be statewide. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective Oct. 17, 1994; amended July 19, 2002; amended Sept. 20, 2019.)

115-5-3a. Otters; management units. The management units for otters shall be as follows:

(a) Missouri unit: Doniphan, Brown, Atchison, Leavenworth, Jefferson, Wyandotte, Douglas, and Johnson counties;

(b) Marais des Cygnes unit: Osage, Franklin, Miami, Anderson, Linn, and Bourbon counties;

(c) Lower Neosho unit: Allen, Neosho, Crawford, Labette, and Cherokee counties;

(d) Big Blue unit: Washington, Marshall, and Nemaha counties;

(e) Kansas unit: Riley, Pottawatomie, Jackson, Geary, Wabaunsee, and Shawnee counties;

(f) Upper Neosho unit: Morris, Marion, Chase, Lyon, Coffey, and Woodson counties;

(g) Verdigris unit: Greenwood, Elk, Wilson, Chautauqua, and Montgomery counties;

(h) Lower Arkansas unit: Harvey, Sedgwick, Butler, Sumner, and Cowley counties;

(i) Republican unit: Jewell, Republic, Cloud, and Clay counties;

(j) Solomon unit: Smith, Osborne, Mitchell, and Ottawa counties;

(k) Smoky-Saline unit: Russell, Lincoln, Ellsworth, Saline, McPherson, and Dickinson counties;

(l) Middle Arkansas unit: Barton, Rice, Stafford, Reno, Pratt, Kingman, Barber, and Harper counties; and

(m) Western unit: that part of Kansas including Phillips, Rooks, Ellis, Rush, Pawnee, Edwards, Kiowa, and Comanche counties and all counties west. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective Sept. 20, 2019.)

115-5-4. Nonresident bobcat hunting permit; tagging, disposal, legal equipment, shooting hours, and general provisions. (a) Each permittee shall sign, record the county, date, and time of kill, and attach the carcass tag to the carcass immediately following the kill and before moving the carcass from the site of the kill.

(b) The carcass tag shall remain attached to the carcass or pelt until presented to the department for tagging with an export tag. The export tagging shall occur within seven calendar days of the harvest of the bobcat.

(c) Nonresident bobcat hunting permits shall be valid only for the hunting season specified in K.A.R. 115-25-11.

(d) Nonresident bobcat hunting permits shall not be transferred to another person.

(e) Legally acquired, skinned carcasses and meat of bobcats taken with a nonresident bobcat hunting permit may be sold or given to and possessed by another, and legally acquired raw furs, pelts, and skins of bobcats may be given to and possessed by another, if a written notice that includes the seller's or donor's name, address, and nonresident bobcat hunting permit number accompanies the carcass, pelt, or meat. A bobcat export tag as described in subsection (b) shall meet the requirements of written notice.

(f) Hunting equipment permitted during bobcat hunting season for use with a nonresident bobcat hunting permit shall consist of the following:

- (1) Firearms, except fully automatic firearms;
- (2) archery equipment;
- (3) crossbows; and

(4) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light.

(g) The following general provisions shall apply to the hunting of bobcats with a nonresident bobcat hunting permit:

(1) Calls, lures, baits, and decoys may be used in the hunting of bobcats.

(2) Shooting hours shall be one-half hour before sunrise to one-half hour after sunset.

(3) The bag limit shall be one bobcat for each nonresident bobcat hunting permit purchased. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective May 20, 2005; amended May 31, 2019.)

Article 6.—FUR DEALERS

115-6-1. Fur dealer license; application, authority, possession of furs, records, and revocation. (a) Each application shall be submitted on a form provided by the department. Each applicant shall provide the following information:

- (1) Name of applicant;
- (2) residential address;
- (3) the address of each business location;
- (4) an inventory of raw furs, pelts, skins, and carcasses of furbearing animals and coyotes on hand at time of application; and
- (5) any other relevant information as required by the secretary.

(b) Each fur dealer license shall expire on June 30 following the date of issuance.

(c) Each fur dealer shall deal only with properly licensed persons and only at authorized fur dealer business locations.

(d) Any fur dealer may buy, purchase, or trade in the furs, pelts, skins, or carcasses of coyotes.

(e) Any fur dealer may possess legally acquired furs, pelts, skins, or carcasses of furbearing animals for no more than 30 days after the expiration date of the fur dealer's license. Coyote furs, pelts, skins, or carcasses may be possessed without limit in time.

(f) Each fur dealer shall purchase or acquire only those bobcat, otter, and swift fox pelts that have been tagged with a department export tag or with the official export tag provided by the wildlife agency of another state, except for any legally harvested swift fox pelt originating from a state that does not require an official export tag.

(g) Each fur dealer shall maintain a furharvester record book and a fur dealer book provided by the department or shall use a department-approved electronic record system. Entries shall be made in the appropriate record book or electronic record system whenever receiving, shipping, or otherwise disposing of furs, pelts, skins, or carcasses of furbearing animals or coyotes. Each record book or electronic record system, all receipts, and all furs, pelts, skins, and carcasses in the fur dealer's possession shall be subject to inspection upon demand by any conservation officer. Each record book or electronic record and all receipts shall be subject to copying upon demand by any conservation officer. Each fur dealer shall forward all record books or electronic records to the department annually on or before May 1.

(1) The furharvester record book or electronic record system shall include the following information:

- (A) The name of the fur dealer;
- (B) residential address;
- (C) fur dealer license number;
- (D) the date of each receipt of furs, pelts, skins, or carcasses;
- (E) name, address, and license number of each person from whom furs, pelts, skins, or carcasses were acquired;
- (F) name of the state where the furs, pelts, skins, or carcasses were harvested;
- (G) number of each species of furs, pelts, skins, or carcasses acquired; and
- (H) any other relevant information as required by the secretary.

(2) The fur dealer record book or electronic record system shall include the following information:

- (A) The name of the fur dealer;
- (B) residential address;
- (C) fur dealer license number;
- (D) date of each receipt or disposal of furs, pelts, skins, or carcasses;
- (E) name, address, and fur dealer license number of each fur dealer from which furs, pelts, skins, or carcasses are acquired or to which they are sold;
- (F) number and species of furs, pelts, skins, or carcasses acquired or sold; and
- (G) any other relevant information as required by the secretary.

(h) In addition to other penalties prescribed by law, a fur dealer's license may be refused issuance or revoked by the secretary under any of the following circumstances:

- (1) The application is incomplete or contains false information.
- (2) The fur dealer fails to meet reporting requirements.
- (3) The fur dealer violates license conditions.
- (4) The fur dealer has violated department laws or regulations or has had any other department license or permit revoked or suspended. (Authorized by and implementing K.S.A. 2019 Supp. 32-807 and K.S.A. 32-942; effective March 19, 1990; amended Sept. 4, 2009; amended July 26, 2013; amended May 31, 2019; amended Sept. 18, 2020.)

Article 7.—FISH AND FROGS

115-7-1. Fishing; legal equipment, methods of taking, and other provisions. (a) Legal equipment and methods for taking sport fish shall be the following:

- (1) Fishing lines with not more than two baited hooks or artificial lures per line;
- (2) trotlines, except that any float material used with a trotline shall be constructed only from plastic, wood, or foam and shall be a closed-cell construction. A "closed-cell" construction shall mean a solid body incapable of containing water;
- (3) setlines, except that any float material used with a setline shall be constructed only from plastic, wood, or foam and shall be a closed-cell construction. A "closed-cell" construction shall mean a solid body incapable of containing water;
- (4) tip-ups;

(5) using a person's hand or hands for flathead catfish in waters designated as open to hand fishing, subject to the following requirements:

- (A) An individual hand fishing shall not use hooks, snorkeling or scuba gear, or other man-made devices while engaged in hand fishing;
- (B) an individual hand fishing shall not possess fishing equipment, other than a stringer, while engaged in hand fishing and while on designated waters or adjacent banks;
- (C) stringers shall not be used as an aid for hand fishing and shall not be used until the fish is in possession at or above the surface of the water;
- (D) each individual hand fishing shall take fish only from natural objects or natural cavities;
- (E) an individual hand fishing shall not take fish from any man-made object, unless the object is a bridge, dock, boat ramp, or riprap, or other similar structure or feature;

(F) no part of any object shall be disturbed or altered to facilitate the harvest of fish for hand fishing; and

(G) an individual hand fishing shall not take fish within 150 yards of any dam;

(6) snagging for paddlefish in waters posted or designated by the department as open to the snagging of paddlefish, subject to the following requirements:

(A) Each individual with a filled creel limit shall cease all snagging activity in the paddlefish snagging area until the next calendar day;

(B) each individual taking paddlefish to be included in the creel and possession limit during the snagging season shall sign the carcass tag, record the county, the date, and the time of harvest on the carcass tag, and attach the carcass tag to the lower jaw of the carcass immediately following the harvest and before moving the carcass from the site of the harvest; and

(C) each individual snagging for paddlefish shall use barbless hooks while snagging for paddlefish. "Barbless hook" shall mean a hook without barbs or upon which the barbs have been bent completely closed;

(7) floatlines in waters posted or designated by the department as open to floatline fishing, which shall be subject to the following requirements:

(A) All floatlines shall be under the immediate supervision of the angler setting the floats. "Immediate supervision" shall mean that the angler has visual contact with the floatlines set while the angler is on the water body where the floatlines are located;

(B) all floatlines shall be removed when float fishing ceases;

(C) floatlines shall not contain more than one line per float, with not more than two baited hooks per line;

(D) all float material shall be constructed only from plastic, wood, or foam and shall be a closed-cell construction. A "closed-cell" construction shall mean a solid body incapable of containing water;

(8) bow and arrow with a barbed head and a line attached from bow to arrow; and

(9) crossbow and arrow with a barbed head and a line attached from arrow to crossbow.

(b) Legal equipment and methods for taking non-sport fish shall be the following:

(1) Fishing lines with not more than two baited hooks or artificial lures per line;

(2) trotlines;

(3) setlines;

(4) tip-ups;

(5) bow and arrow with a barbed head and a line attached from bow to arrow;

(6) crossbow and arrow with a barbed head and a line attached from arrow to crossbow;

(7) spear gun, without explosive charge, while skin or scuba diving. The spear, without explosive charge, shall be attached to the speargun or person by a line;

(8) gigging;

(9) snagging in waters posted by the department as open to snagging; and

(10) floatlines in waters posted or designated by the department as open to floatline fishing, which shall be subject to the requirements specified in paragraphs (a)(7)(A) through (D).

(c) Dip nets and gaffs may be used to land any legally caught or hooked fish.

(d) Fish may be taken by any method designated by the secretary when a fish salvage order has been issued by the secretary through public notice or posting the area open to fish salvage.

(e) Fish may be taken with the aid of boats, depth finders, artificial lights, sound attracters, and scents.

(f) Fish may be taken by legal means from vehicles.

(g) The following additional requirements shall apply in the flowing portions and backwaters of the Missouri river and in any oxbow lake through which the Kansas-Missouri boundary passes:

(1) Each individual shall place all legally caught fish on a stringer, cord, cable, or chain, or in a bas-

ket, sack, cage, or other holding device, separate from those fish caught by any other individual.

(2) The equipment and methods specified in paragraphs (b)(5) and (b)(6) shall be legal only from sunrise to midnight.

(3) The equipment and method specified in paragraphs (b)(9) and (b)(10) shall be legal only from sunrise to sunset.

(h) The equipment and method specified in paragraphs (a)(8) and (a)(9) shall be legal, except on rivers and streams, only for the following species of sport fish where no size limit exists for any of these species of fish:

(1) Blue catfish;

(2) channel catfish; and

(3) flathead catfish.

(i) Optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light shall be valid for use on bows and crossbows. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective Dec. 26, 1989; amended Feb. 10, 1992; amended Oct. 1, 1999; amended Dec. 8, 2000; amended Sept. 27, 2002; amended Nov. 29, 2004; amended Nov. 27, 2006; amended Nov. 16, 2007; amended Dec. 1, 2008; amended Nov. 20, 2009; amended April 16, 2010; amended Nov. 19, 2010; amended Nov. 30, 2015; amended Nov. 28, 2016; amended Dec. 22, 2017; amended Jan. 11, 2019; amended Dec. 20, 2019.)

115-7-2. Fishing; general provisions. (a) Except as authorized in this regulation, any person may operate or set two fishing lines and, in addition, one trotline, eight floatlines, or eight setlines.

(b) Each fishing line, trotline, and setline shall be checked at least once every 24 hours.

(c) Each trotline, setline, tip-up, floatline, and unattended fishing line shall have a tag or label securely attached, designating either the name and address of the operator or the operator's department-issued identification number. No trotline, floatline, or setline shall be set within 150 yards of any dam.

(d) Sport fish shall be deemed legally taken by hook and fishing line only when hooked within the mouth, except paddlefish, which may be snagged as authorized by K.A.R. 115-7-1. Other sport fish hooked elsewhere shall be returned unrestrained to the water immediately.

(e) Fish may be taken by legal methods through the ice, unless the area is closed to ice fishing by

posted notice or otherwise prohibited by regulation. Ice holes used for ice fishing shall not exceed 12 inches in diameter or 144 square inches.

(f) For ice fishing, a tip-up may be used on each of the allowed eight setlines, unless otherwise posted.

(g) Bow and arrow fishing and crossbow and arrow fishing shall be permitted in all waters of the state except those waters posted as closed to such fishing and except all waters within 50 yards of an occupied boat dock or ramp, occupied swimming area, occupied picnic or camping area, or other occupied public use area.

(h) Speargun fishing shall be permitted on waters open to skin and scuba diving, unless prohibited by posted notice or regulation. By posted notice, certain water areas may be opened by the department for the taking of one or more species of sport fish by spearguns during a specified time period.

(i) Unless otherwise prohibited by regulation, in the flowing portions and backwaters of the 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 $\frac{1}{4}$ inch;

(2) a fish trap with mesh not larger than $\frac{1}{4}$ inch and a throat not larger than one inch in diameter;

(3) a dip or cast net with mesh not larger than one inch; or

(4) a fishing line.

(b) Each fish trap shall be tagged with the operator's name and address when the fish trap is in use.

(c) Baitfish taken, except gizzard shad, silver carp, and bighead carp, shall not exceed 12 inches

in total length. Silver carp and bighead carp shall not be transported from the water alive.

(d) The possession limit shall be 500 baitfish.

(e) For the species specified in this subsection, the department's applicable creel and possession limits shall apply.

Live baitfish, crayfish, leeches, amphibians, and mussels, except for bluegill and green sunfish from non-designated aquatic nuisance waters and baitfish, crayfish, leeches, amphibians, and mussels from designated aquatic nuisance waters, may be caught and used as live bait only within the common drainage where caught. However, live baitfish, crayfish, leeches, amphibians, and mussels shall not be transported and used above any upstream dam or barrier that prohibits the normal passage of fish. Bluegill and green sunfish collected from non-designated aquatic nuisance waters may be possessed or used as live bait anywhere in the state. Live baitfish, crayfish, leeches, amphibians, and mussels collected from designated aquatic nuisance waters shall be possessed or used as live bait only while on that water and shall not be transported from the water alive.

(f) No person shall import live baitfish that does not meet the requirements of K.A.R. 115-17-2 and K.A.R. 115-17-2a.

This regulation shall be effective on and after January 1, 2021. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Sept. 10, 1990; amended Nov. 20, 2009; amended Jan. 1, 2012; amended Jan. 1, 2013; amended Jan. 1, 2015; amended Jan. 1, 2019; amended Dec. 20, 2019; amended Jan. 1, 2021.)

115-7-4. Fish; processing and possession.

(a) Each person who takes any fish from a body of water shall leave the head, body, and tail fin attached while the person has possession of the fish on the water.

(b) Each person who has taken any fish shall retain the fish in that person's possession until any of the following occurs:

(1) The fish is consumed or processed for consumption.

(2) The fish is transported to the person's domicile or given to another person. Legally taken sport fish may be possessed without limit in time and may be given to another if accompanied by a dated written notice that includes the donor's printed name, signature, address, and permit or license number.

(3) The fish is transported to a place of commercial preservation or place of commercial processing for consumption.

(4) The fish is returned unrestrained to the waters from which the fish was taken.

(5) The fish is disposed of at a location designated for fish disposal or at a designated fish cleaning station.

(c) Each paddlefish permittee shall meet either of the following requirements:

(1) Nonelectronic carcass tags. The paddlefish permittee shall sign, record the county, the date, and the time of kill, and attach the carcass tag to the carcass in a visible manner immediately before reducing the paddlefish to permanent possession. The carcass tag shall remain attached to the carcass until the conditions of paragraphs (b) (1), (b)(2), (b)(3), or (b)(5) are met. The paddlefish permittee shall retain the carcass tag until the paddlefish is consumed, given to another, or otherwise disposed of.

(2) Electronic carcass tags. Using the department's electronic carcass tag system, the paddlefish permittee shall record the county, the date, and the time of kill and enter a photograph of the entire carcass, with sufficient clarity to display the species immediately before reducing the paddlefish to permanent possession. The paddlefish permittee shall possess the confirmation number until the conditions of paragraph (b)(1), (b)(2), (b) (3), or (b)(5) are met. The paddlefish permittee shall retain the confirmation number until the paddlefish is consumed, given to another, or otherwise disposed of.

(d) For paddlefish parts, the following additional requirements shall apply:

(1) No person shall possess any eggs that are attached to the egg membrane of more than one paddlefish.

(2) No person shall possess more than three pounds of processed paddlefish eggs or fresh paddlefish eggs removed from the membrane. "Processed paddlefish eggs" shall mean any eggs taken from a paddlefish that have gone through a process that turns the eggs into caviar or into a caviar-like product.

(3) No person shall ship into or out of, transport into or out of, have in possession with the intent to transport, or cause to be removed from this state any raw unprocessed paddlefish eggs, processed paddlefish eggs, or frozen paddlefish eggs.

(4) Each harvested paddlefish carcass shall have all internal organs removed before transporting

the carcass from Kansas. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Dec. 26, 1989; amended Nov. 27, 2006; amended Dec. 22, 2017; amended Jan. 11, 2019; amended Dec. 20, 2019.)

115-7-5. Bullfrogs and turtles; legal equipment, methods of take and license requirements. (a) Legal equipment and methods for taking bullfrogs shall be the following:

- (1) Hand;
- (2) hand dip net;
- (3) hook and fishing line;
- (4) gig;
- (5) bow and arrow with barbed head and a line attached from arrow to bow; and
- (6) crossbow and arrow with barbed head and a line attached from arrow to crossbow.

(b) Legal equipment and methods for taking common snapping turtles and soft-shelled turtles shall be the following:

- (1) Hand;
- (2) hook and fishing line;
- (3) set line;
- (4) hand dip net;
- (5) seine;
- (6) turtle trap; and
- (7) gig.

(c) Artificial light and boats may be used while taking bullfrogs and turtles.

(d) A valid Kansas fishing license shall be required to take common snapping turtles and softshelled turtles. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807, K.S.A. 1998 Supp. 32-906, K.S.A. 32-919 and K.S.A. 32-1002; effective Dec. 26, 1989; amended July 30, 1990; amended Oct. 1, 1999.)

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 imple-

menting K.S.A. 32-807; effective Sept. 10, 1990; amended Jan. 1, 2012.)

115-7-7. Fishing; Missouri river license requirements. (a) A person possessing a valid sport fishing license issued by the state of Missouri shall not be required to obtain a Kansas fishing license in order to fish in the following locations in Kansas:

(1) The flowing portions and backwaters of the Missouri river; and

(2) any oxbow lake through which the Kansas-Missouri boundary passes.

(b) Any person fishing in the Missouri river as authorized by subsection (a) may fish from and attach any legal device or equipment to the land as part of fishing within these waters. However, each person fishing as authorized by subsection (a) shall be subject to the following requirements:

(1) No person shall fish in any tributary of the Missouri river within Kansas boundaries without a valid Kansas fishing license.

(2) If any law or regulation governing fishing in Missouri is different from the corresponding law or regulation in Kansas, each person possessing only a Missouri sport fishing license shall comply with the more restrictive state's law or regulation.

(c) This regulation shall be effective on and after January 1, 2003. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 2001 Supp. 32-906; effective Jan. 1, 2003.)

115-7-8. This regulation shall be revoked on and after January 1, 2011. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 2006 Supp. 32-1002; effective Nov. 27, 2006; amended Nov. 16, 2007; amended April 11, 2008; revoked Jan. 1, 2011.)

115-7-9. Weigh-in black bass fishing tournaments. (a) Each individual or organization conducting a weigh-in black bass fishing tournament shall ensure that all of the following minimum requirements are met when conducting weigh-in procedures:

(1) One individual shall provide work crew support for each 10 registered anglers.

(2) One weigh-in tank filled with an electrolyte chemical-water solution and fitted with recirculation and aeration accessories shall be maintained for each 25 registered anglers.

(3) If the water temperature at the tournament location is 75 degrees Fahrenheit or cooler, the water contained in the weigh-in tank shall be

maintained at the same temperature as that of the tournament location water.

(4) If the water temperature at the tournament location is warmer than 75 degrees Fahrenheit, the water in the weigh-in tank shall be maintained at a temperature that is between five and 10 degrees Fahrenheit cooler than the tournament location water but shall not exceed 85 degrees Fahrenheit at any time.

(5) Not more than four anglers shall be in the weigh-in line at any one time.

(6) Each weigh-in bag containing water from the well of the vessel shall be reinforced, reusable, and capable of holding up to 15 pounds of live fish and two gallons of water.

(7) The weigh-in site shall meet the following requirements:

(A) Be located near the vessel mooring site and the release site, vehicle, or vessel; and

(B) be located at all times under a portable awning, in an event tent, or in the shade.

(8) Only fish that meet the special length limit for the specific body of water where the weigh-in tournament is being conducted shall be weighed within the period beginning June 16 and ending August 31.

(b) Each individual or organization conducting the tournament shall ensure that all of the following minimum requirements are met when conducting the release procedures:

(1) The direct release of fish into the 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 species waters shall be those specified in the department's "Kansas aquatic nuisance species designated waters," dated October 16, 2020, which is hereby adopted by reference.

(c) No person may fish or collect bait within, from, or over a fish passage, fish ladder, fish steps, or fishway. "Fish passage, fish ladder, fish steps, or fishway" shall mean a structure that facilitates the natural migration of fish upstream on, through, or around an artificial barrier or dam. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Nov. 20, 2009; amended Jan. 1, 2012; amended Jan. 1, 2013; amended Nov. 15, 2013; amended Nov. 14, 2014; amended Nov. 30, 2015;

amended Nov. 28, 2016; amended Dec. 22, 2017; amended Jan. 11, 2019; amended Dec. 20, 2019; amended Dec. 25, 2020.)

Article 8.—DEPARTMENT LANDS AND WATERS

115-8-1. Department lands and waters: hunting, furharvesting, and discharge of firearms. (a) Subject to provisions and restrictions as established by posted notice or as specified in the document adopted by reference in subsection (e), the following activities shall be allowed on department lands and waters:

(1) Hunting during open seasons for hunting on lands and waters designated for public hunting;

(2) furharvesting during open seasons for furharvesting on lands and waters designated for public hunting and other lands and waters as designated by the department;

(3) target practice in areas designated as open for target practice; and

(4) noncommercial training of hunting dogs.

(b) Other than as part of an activity under subsection (a), the discharge of firearms and other sport hunting equipment capable of launching projectiles shall be allowed on department lands and waters only as specifically authorized in writing by the department.

(c) The discharge of fully automatic rifles or fully automatic handguns on department lands and waters shall be prohibited.

(d) Department lands and waters shall be open neither for commercial rabbit and hare furharvesting nor for commercial harvest of amphibians and reptiles.

(e) The department's "KDWPT public lands division special use restrictions," dated April 29, 2021, is hereby adopted by reference. (Authorized by and implementing K.S.A. 2020 Supp. 32-807; effective Dec. 4, 1989; amended July 13, 2001; amended May 16, 2008; amended May 15, 2009; amended July 23, 2010; amended Nov. 14, 2011; amended Jan. 1, 2013; amended July 26, 2013; amended July 18, 2014; amended April 22, 2016; amended May 19, 2017; amended July 20, 2018; amended May 31, 2019; amended July 23, 2021.)

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 fol-

lows: (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.)

115-8-3. Non-toxic shot; department lands and waters. Each individual hunting with a shotgun on department lands or waters posted as a "steel shot only" area or "non-toxic shot only" area shall possess and use only non-toxic shot as approved under K.A.R. 115-18-14. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Sept. 18, 1989; amended Dec. 27, 1994.)

115-8-4. Non-commercial hunting dog training. (a) Subject to provisions and restrictions as established by posted notice, department lands and waters that are designated for public hunting or other areas as designated by the department shall be open for the non-commercial training of hunting dogs as follows:

(1) The non-commercial training of bird dogs and retrieving dogs shall be authorized throughout the year.

(2) The non-commercial training of trail hounds and sight hounds shall be authorized during and in compliance with established running and hunting seasons.

(b) Pigeons, pen-raised or wild-trapped, may be released and shot during the non-commercial training of bird dogs and retrieving dogs. Banding of released pigeons shall not be required.

(c) Other than pigeons, no game bird, pen-raised bird, or wild-trapped bird may be released on department lands or water during the noncommercial training of bird dogs and retrieving dogs, unless specifically authorized by a permit issued by the department. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Dec. 4, 1989; amended Oct. 5, 2001.)

115-8-5. (Authorized by L. 1989, Ch. 118, Sec. 9; implementing L. 1989, Ch. 118, Sec. 9 and 126; effective Dec. 4, 1989; revoked July 13, 2001.)

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.)

115-8-7. Boating and general restrictions. All department lands and waters and all federal reservoirs shall be open to boating subject to provisions, restrictions, and closures as established by posted notice. All of the following general restrictions shall apply:

(a) Each operator of a motorized vessel on a state fishing lake shall operate the vessel only for fishing or hunting purposes unless otherwise authorized by the department.

(b) Each operator of a motorized vessel on a state fishing lake shall operate the vessel at no-wake speeds if required by posted notice.

(c) No operator of a vessel shall operate the vessel within 200 feet of any area posted specifically for swimming or diving and delineated by buoys or other markers.

(d) Each operator of a vessel shall operate the vessel at no-wake speeds of five miles per hour or less when within 200 feet of any of the following:

- (1) A dock;
- (2) a boat ramp;
- (3) a person swimming;
- (4) a bridge structure;
- (5) a moored or anchored vessel;
- (6) a sewage pump-out facility;
- (7) a nonmotorized watercraft;
- (8) a boat storage facility; or
- (9) a concessionaire's facility.

(e) An operator of a vessel shall not moor or store the vessel in excess of 24 hours, except at sites designated for moorage or storage of vessels.

(f) Vessels left unattended at other than a designated moorage or storage site or vessels not in conformity with posted notice provisions or restrictions for moorage or storage sites shall be subject to removal by the department as authorized by law. (Authorized by K.S.A. 32-807 and K.S.A. 32-1103; implementing K.S.A. 32-807, K.S.A. 32-1015, and K.S.A. 32-1103; effective Dec. 4, 1989; amended Sept. 14, 2007.)

115-8-8. Swimming. (a) Swimming shall be allowed in all department waters, subject to the following restrictions:

(1) Swimming shall be prohibited in state fishing lakes except as authorized by posted notice.

(2) Skin and scuba diving shall be allowed only in department waters designated for these activities by posted notice.

(3) Swimming in any department water may be prohibited or restricted by posted notice.

(b) In any department water where swimming is otherwise prohibited, body contact with water that occurs incidental to allowed activities shall be authorized.

(c) On lands that are designated by posted notice as swimming beaches or in waters that are designated by buoys or other markers as swimming areas, the following restrictions shall apply:

(1) Possession of liquor or beer shall be prohibited.

(2) No containers other than shatterproof containers shall be possessed. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1015; effective Dec. 4, 1989; amended July 13, 2001.)

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 consec-

utive 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.)

115-8-11. Domestic animals and livestock; provisions and restrictions. (a) Livestock used for riding shall be allowed for riding purposes on maintained roads, bridle paths, parking areas and other areas designated by posted notice, except the riding of livestock on state park areas shall be restricted to maintained bridle paths and other areas designated by posted notice.

(b) Draft livestock used for draft purposes shall be allowed on maintained roads, parking areas, and other areas designated by posted notice, except the use of draft livestock in state parks shall occur only as authorized by the department.

(c) Livestock may be ridden or used for draft purposes during a department approved special event provided the activity has been approved as a part of the special event.

(d) The stabling of livestock used for riding or for draft purposes shall be restricted to designated areas or as authorized by the department.

(e) Livestock and domestic animals not used for riding or draft purposes or as allowed by K.A.R. 115-8-10 shall be prohibited except as authorized by the department. (Authorized by L. 1989, Ch. 118, Sec. 9; implementing L. 1989, Ch. 118, Secs. 9 and 126; effective Dec. 4, 1989.)

115-8-12. Stocking or releasing of wildlife. Wildlife may be stocked or released on department lands or waters, navigable publicly owned rivers, and federal reservoirs only as authorized by any of the following:

(a) A written agreement issued by the department;

- (b) a permit issued by the department;
- (c) a department-approved management plan;
- (d) regulations; or
- (e) posted notice.

This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807; effective Dec. 4, 1989; amended July 13, 2001; amended Jan. 1, 2012.)

115-8-13. Motorized vehicles and aircraft; authorized operation. (a) Motorized vehicles shall be operated only on department roads and parking areas, except as otherwise established by this regulation or posted notice or as approved by the secretary.

(b) Motorized vehicles shall be operated at speeds not in excess of 25 miles per hour or as otherwise established by posted notice.

(c) Motorized vehicles shall be operated in accordance with load limits as established by posted notice for roads or bridges.

(d) Motorized aircraft landings and takeoffs shall be allowed in designated areas only or as authorized by the secretary.

(e) Except as otherwise specified in K.A.R. 115-8-1, posted notice, or this regulation, motorized electric or gasoline-powered two-wheeled vehicles, all-terrain vehicles, work-site utility vehicles, golf carts, and snowmobiles may be operated on ice-covered department waters only for the purpose of ice fishing from one-half hour before sunrise to one-half hour after sunset. These vehicles shall enter onto the ice only from boat ramps and points of entry as established by posted notice.

(f) (1) Except as provided in this regulation, each motorized vehicle that meets either of the following conditions shall be prohibited from being operated on all department lands and roads:

- (A) Is not registered with one of the following:
 - (i) The director of vehicles pursuant to K.S.A. 8-127 and amendments thereto; or
 - (ii) the corresponding authority in another state or country; or

(B) is unlawful to be operated on any interstate highway, federal highway, or state highway pursuant to K.S.A. 8-15,100 and K.S.A. 8-15,109, and amendments thereto.

(2) The term “motorized vehicle” shall include cars, trucks, all-terrain vehicles, work-site utility vehicles, golf carts, go-carts, and electric or gasoline-powered two-wheeled vehicles.

(3) Any person desiring to operate an unconventional motorized vehicle on department roads

within state parks may purchase an annual unconventional motorized vehicle permit from the secretary.

(A) The term “unconventional motorized vehicle” shall include work-site utility vehicles and golf carts.

(B) Unconventional motorized vehicles shall be operated only from sunrise to sunset by a holder of a valid driver’s license.

(g) Any person with a disability, as defined by K.S.A. 8-1,124 and amendments thereto, may annually request a permit from the secretary to utilize a motorized vehicle for accessing certain department lands and roads to provide access to recreational opportunities that would otherwise be unavailable to disabled persons. Each written request shall include the following:

- (1) The name, address, and telephone number of the applicant;
- (2) the name and location of the property to be accessed;
- (3) the date or duration of the entry requested; and

(4) documentation of that person’s disability in the form of a disabled accessible parking placard, disabled motor vehicle license plate, or disabled identification card issued by the director of vehicles of the department of revenue pursuant to K.S.A. 8-1,125 and amendments thereto, or similar documentation issued by another state.

(h) No person who is in possession of a motorized vehicle and has a permit to operate the motorized vehicle on department lands and roads shall perform either of the following:

- (1) Allow another person to operate the vehicle on department lands and roads unless that other person has a permit issued by the department; or
- (2) operate the vehicle on department lands and roads unless that person is in possession of a permit issued by the department.

(i) Each permit issued by the department that authorizes the operation of a motorized vehicle on department lands and roads shall expire on the last day of the calendar year in which the permit was issued, unless otherwise specified on the permit.

(j) A permit that authorizes the operation of a motorized vehicle on department lands and roads shall not be issued or shall be revoked by the secretary for any of the following reasons:

- (1) The disability does not meet the requirements for the permit.
- (2) The application is incomplete or contains false information.

(3) The disability under which the permit was issued no longer exists.

(4) The documentation of disability in the form of a disabled accessible parking placard, disabled motor vehicle license plate, or disabled identification card issued by the director of vehicles of the department of revenue pursuant to K.S.A. 8-1,125 and amendments thereto, or similar documentation issued by another state, has expired.

(5) The permit holder fails to comply with the terms and limitations of the permit or with the requirements specified in this regulation.

(6) The issuance or continuation of the permit would be contrary to the preservation of habitat or species located on or in department lands or waters.

(k) This regulation shall not apply to any motorized vehicle that is owned by the department or a designated agent and is used in the operation and maintenance of department lands and roads. (Authorized by and implementing K.S.A. 2015 Supp. 32-807; effective Dec. 4, 1989; amended Feb. 8, 2008; amended Sept. 9, 2011; amended Nov. 28, 2016.)

115-8-13a. Electric-assisted bicycles.

(a) For the purposes of this regulation, the term "electric-assisted bicycle" shall have the meaning specified in K.S.A. 8-1489, and amendments thereto.

(b) A motor vehicle pass shall not be required to operate an electric-assisted bicycle in any state park. (Authorized by and implementing K.S.A. 2018 Supp. 32-807 and 32-901; effective Oct. 18, 2019.)

115-8-14. Fireworks; discharge and public displays. (a) Subject to provisions and restrictions as established by posted notice, using or discharging fireworks shall be allowed only in designated areas or as authorized by the department.

(b) Public fireworks displays may be conducted through special event permits issued by the department.

(c) Public fireworks displays shall comply with all state laws and rules and regulations applicable to public fireworks displays. (Authorized by L. 1989, Ch. 118, Sec. 9; implementing L. 1989, Ch. 118, Sec. 9 and 126; effective Dec. 4, 1989.)

115-8-15. Fire; authorized uses. (a) Subject to provisions and restrictions as established by posted notice, fires shall be allowed for the following purposes:

(1) cooking or heat in firerings, fireplaces, grills and stoves;

(2) department approved management purposes; and

(3) other purposes as authorized by posted notice.

(b) Fires shall be attended at all times and shall be totally extinguished prior to persons leaving the site of the fire. (Authorized by L. 1989, Ch. 118, Sec. 9; implementing L. 1989, Ch. 118, Secs. 9 and 126; effective Dec. 4, 1989.)

115-8-16. (Authorized by L. 1989, Ch. 118, Sec. 9; implementing L. 1989, Ch. 118, Secs. 9 and 126; effective Dec. 4, 1989; revoked July 13, 2001.)

115-8-18. (Authorized by L. 1989, Ch. 118, Sec. 9; implementing L. 1989, Ch. 118, Secs. 9 and 126; effective Dec. 4, 1989; revoked July 13, 2001.)

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 implement-

ing 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.)

115-8-20. Construction, littering, and prohibited activities. (a) The following activities shall be prohibited on department lands and waters except as specified in rules and regulations or as authorized by the department.

(1) Constructing any structure, building, facility, appurtenance or roadway;

(2) dumping, discarding, or depositing trash, litter, or waste material;

(3) digging holes or pits; and

(4) destroying, defacing, degrading, or removing any of the following:

(A) Signs;

(B) real or personal property, other than property owned by that person;

(C) geological formations;

(D) historical sites;

(E) archeological relics or ruins; or

(F) vegetation, except for the noncommercial gathering of edible wild plants, wild fruits, nuts, or fungi for human consumption.

(b) Trash, litter, and waste material shall be deposited or discarded only in containers provided for the depositing of trash, litter, and waste material. Each person using lands or waters where these containers are not provided shall remove any trash, litter, and waste material generated as a result of and during the person's use of the area. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1015; effective Dec. 4, 1989; amended July 13, 2001.)

115-8-21. Special events; permit requirements and procedures; department lands and waters. (a) A special event permit shall be required for any event occurring on department lands or waters, or both, if one of the following conditions exists:

(1) An entrance, admission, or participation fee is charged.

(2) Food, merchandise, or service is offered for sale.

(3) The exclusive use of a facility or a specified land or water area is necessary, other than facilities or areas for which other permits may be issued.

(4) An organized or advertised competition will be conducted.

(5) Sound will be amplified that may disrupt area users.

(6) Temporary structures, other than blinds or common camping equipment, will be erected.

(b) An event sponsored in part or in total by the department shall not require a special event permit.

(c) For a field trial or a water event on department lands or waters, a special event permit may be issued by the department in place of a field trial permit or a water event permit if the requirements of K.A.R. 115-13-2 or K.A.R. 115-30-9, respectively, are met in addition to the requirements for a special event permit.

(d) Permit procedures.

(1) Each application for a special event permit shall be made to the department no fewer than five weekdays before the event is to be held.

(2) Payment of the special event permit fee specified in K.A.R. 115-2-3 shall accompany each application.

(3) The permit fee shall be returned to the applicant if the special event permit is not approved by the department.

(4) The permit fee shall not be refunded for an issued special event permit.

(5) A performance deposit may be required as a condition of special event permit issuance.

(6) The deposit shall be returned by the department if the special event permittee has met all permit conditions.

(e) Permit holders may tag or mark wildlife only as allowed under permit conditions.

(f) A special event permit may be refused issuance by the department if the proposed event meets any of the following conditions:

(1) Would not be compatible with intended uses of the area;

(2) Would result in misuse or damage to facilities, structures, or the natural environment; or

(3) Would pose a threat to public health, safety, or welfare.

(g) In addition to other penalties prescribed by law, failure to comply with all rules and regulations and permit conditions shall be grounds for revocation of a special event permit or refusal to issue a special event permit.

(h) This regulation shall be effective on and after January 1, 2002. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1015; effective March 19, 1990; amended Jan. 1, 2002.)

115-8-22. Concession operations on department lands; contracting provisions and restrictions. (a) Renewal of an existing conces-

sion contract without a competitive bid process shall be considered by the secretary for any concession contract if the gross income under the concession contract for the most recent full year of operation did not exceed \$25,000.

(b) Each concession contract renewed without a competitive bid process shall not exceed three years in duration.

(c) Subject to the provisions of subsection (a), any person operating a concession business under contract with the department upon department lands or waters may make written request for a concession contract renewal to the secretary. The request shall include the following information:

(1) the name and address of concession business owner or owners;

(2) the name and address of each concession business manager or operator;

(3) the location of concession operation with map attached showing such location;

(4) the current concession contract number and expiration date;

(5) a complete financial statement from the previous year's concession operation;

(6) an operational plan for the requested contract renewal period; and

(7) other information as required by the secretary.

(d) The renewal, renegotiation or re-establishment of a concession contract may be refused by the secretary if:

(1) a loss of revenue or services to the department would result;

(2) a reduction in the amount or quality of services available to the public would occur; or

(3) the non-competitive bid process for establishment of the concession contract would not be in the best interest of the department or the public.

(e) The renewal of these concession contracts shall be on negotiated terms approved by the secretary and shall not be limited by any term, provision, restriction or condition of any previous contract or agreement. (Authorized by and implementing K.S.A. 1992 Supp. 32-807, as amended by L. 1993, Chapter 185, section 2; effective April 11, 1994.)

115-8-23. Bait; hunting. (a) No person shall place, deposit, expose, or scatter bait while hunting or preparing to hunt on department lands or place, deposit, expose, or scatter bait in a manner that causes another person to be in violation of this regulation.

(b) Hunting shall be prohibited within 100 yards of any bait placed, deposited, exposed, or scattered on department lands. Bait shall be considered placed, deposited, exposed, or scattered on department lands for 10 days following complete removal of the bait.

(c) (1) Nothing in this regulation shall prohibit the hunting or taking of wildlife over any of the following:

(A) Standing crops or flooded standing crops, including aquatic crops;

(B) standing, flooded, or manipulated natural vegetation;

(C) flooded harvested croplands;

(D) lands or areas where seeds or grains have been scattered solely as the result of normal agricultural planting, harvesting, postharvest manipulation, or soil stabilization practice; or

(E) standing or flooded standing agricultural crops over which grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed wildlife.

(2) The taking of wildlife, except migratory waterfowl, coots, and cranes, on or over any lands or areas meeting the following conditions shall not be prohibited:

(A) Are not otherwise baited; and

(B) have grain or other feed that has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown, scattered solely as the result of normal agricultural operations, or scattered solely as the result of normal weather conditions.

(d) For the purposes of this regulation, "bait" shall mean any grain, fruit, vegetable, nut, hay, salt, sorghum, feed, other food, or mineral that is capable of attracting wildlife. Liquid scents and sprays shall not be considered bait. (Authorized by and implementing K.S.A. 2012 Supp. 32-807; effective July 20, 2012; amended July 26, 2013.)

115-8-24. This regulation shall be revoked on and after August 1, 2016. (Authorized by and implementing K.S.A. 32-807; effective July 20, 2012; revoked Aug. 1, 2016.)

Article 9.—LICENSES, PERMITS, STAMPS, AND OTHER DEPARTMENT ISSUES

115-9-1. (Authorized by and implementing L. 1989, Ch. 118, Sec. 97; effective Dec. 26, 1989; revoked Dec. 27, 1993.)

115-9-2. Issuance of duplicate licenses, permits, stamps and other department issues. (a) Any person who has lost or destroyed a current license, permit, stamp or other department issue may secure a duplicate license, permit, stamp or other department issue upon submitting the proper application and appropriate fee to the department.

(b) The application shall include the following information:

- (1) applicant's name and address;
- (2) type of duplicate applied for;
- (3) county of purchase;
- (4) location of purchase;
- (5) month of purchase;
- (6) signature of applicant attesting to the loss or destruction of the issue; and
- (7) other information as required by the secretary. (Authorized by L. 1989, Ch. 118, Sec. 9 and K.S.A. 1988 Supp. 32-104b as amended by L. 1989, Ch. 118, Sec. 98; implementing K.S.A. 1988 Supp. 32-104b as amended by L. 1989, Ch. 118, Sec. 98; effective Dec. 26, 1989.)

115-9-3. Purchase of lifetime hunting or lifetime combination hunting and fishing licenses without certificate of completion of an approved hunter education course. (a) Any individual may purchase a lifetime hunting or lifetime combination hunting and fishing license on behalf of a Kansas resident born after July 1, 1957, under procedures specified in K.S.A. 1988 Supp. 32-104m, as amended by L. 1989, Ch. 118, Sec. 67, prior to issuance to that resident of a certificate of completion of an approved hunter education course.

(b) Any resident may purchase a lifetime hunting or lifetime combination hunting and fishing license prior to issuance of a certificate of completion of an approved hunter education course to that resident.

(c) Lifetime licenses purchased under provisions of subsection (a) and (b) shall be issued with a notice that the lifetime license is not valid until the recipient of the lifetime license has been issued a certificate of completion of an approved hunter education course. (Authorized by L. 1989, Ch. 118, Sec. 9 and K.S.A. 1988 Supp. 32-401 as amended by L. 1989, Ch. 118, Sec. 61; implementing K.S.A. 1988 Supp. 32-401 as amended by L. 1989, Ch. 118, Sec. 61; effective Dec. 26, 1989.)

115-9-4. Hunting or furharvester license or permit purchase. (a) Any individual required to have a certificate of completion of an approved hunter or bowhunter education course before purchasing a hunting license or permit, or an approved furharvester education course before purchasing a furharvester license or permit, may purchase a hunting or furharvester license or permit by attesting to the individual's successful completion of an approved hunter, bowhunter, or furharvester education course, respectively, at the time of purchase.

(b) The signature of the individual on the hunting, bowhunting, or furharvester license or permit, respectively, shall satisfy the attesting requirement of subsection (a). (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807, K.S.A. 2003 Supp. 32-912, and K.S.A. 2003 Supp. 32-920, as amended by L. 2004, Ch. 99, Sec. 2; effective Dec. 26, 1989; amended Feb. 22, 2002; amended Feb. 18, 2005.)

115-9-5. Hunting, fishing, and furharvester licenses; state park permits; effective dates. (a) Any individual may purchase an annual hunting, fishing, or furharvester license or a state park annual permit for the next calendar year on and after a mid-December date determined annually by the secretary.

(b) Each hunting, fishing, or furharvester license or state park annual permit purchased on or after the date specified in subsection (a) shall be valid from the date purchased through the expiration date as stated on the license or permit. (Authorized by and implementing K.S.A. 2018 Supp. 32-807, K.S.A. 2018 Supp. 32-906, K.S.A. 32-911, and K.S.A. 2018 Supp. 32-919; effective Dec. 4, 1989; amended Aug. 15, 1994; amended Sept. 19, 1997; amended April 26, 2019.)

115-9-6. Vehicle permits; display. (a) Except as provided in this regulation, 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.

(b) Annual vehicle permits shall be permanently affixed.

(c) Each vehicle permit purchased from an electronic permit kiosk shall be displayed within the vehicle for which the permit was purchased in an unobstructed manner to allow the text on

the permit to be read from outside the vehicle. (Authorized by K.S.A. 2020 Supp. 32-807; implementing K.S.A. 2020 Supp. 32-807 and 32-901; effective, T-115-7-27-89, July 27, 1989; effective Sept. 18, 1989; amended Feb. 20, 2015; amended May 28, 2021.)

115-9-7. Hunting licenses; general activities for which a hunting license shall not be required. A hunting license shall not be required for those activities which are not a part of the actual shooting, capturing or harvesting of wildlife. Such activities shall include, but not be limited to:

- (a) carrying or assist with carrying wildlife for another while in the company of that individual;
- (b) possession of wildlife for the purpose of dressing, cleaning, processing for human consumption or preparing for human consumption;
- (c) assisting with the dressing, cleaning, processing for human consumption or preparing for human consumption;
- (d) performance of taxidermy work;
- (e) possession of finished taxidermy work;
- (f) possession of finished wildlife products;
- (g) accompanying one or more hunters in the field who are engaged in hunting, except the accompanying individual shall not be in possession of hunting equipment for the shooting, capturing or harvesting of wildlife;
- (h) possession of donated wildlife that was acquired, possessed and given by another;
- (i) possession of wildlife that was legally acquired by the individual;
- (j) wildlife observations;
- (k) nature observations and studies;
- (l) feeding of wildlife;
- (m) watering of wildlife;
- (n) accidental killing or injuring of wildlife such as vehicle collision with wildlife; or
- (o) assisting with the tracking of wounded wildlife. (Authorized by K.S.A. 32-807 and K.S.A. 32-919; implementing K.S.A. 32-807, K.S.A. 32-919 and K.S.A. 32-1002; effective Oct. 17, 1994.)

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 com-

plete a Kansas migratory bird harvest information survey, as provided by the secretary.

(c) Upon completion of a Kansas migratory bird harvest information survey, a harvest information program permit shall be issued by the secretary or the secretary’s designee to the person completing the survey.

(1) Each person required to comply with subsection (b) shall be in possession of a valid harvest information program permit issued to that person while hunting any migratory game bird within the state of Kansas.

(2) Each harvest information program permit shall be validated by the signature of the permit holder written in the signature block of the permit.

(3) Each harvest information program permit shall be valid from the date of issuance through June 30 following the date of issuance.

(4) A harvest information program permit shall not be transferable.

(d) The provisions of subsection (b) shall not apply to the hunting of any migratory game bird by either of the following:

- (1) Tribal members on federal Indian reservations or tribal members hunting on ceded lands; or
- (2) a resident of this state not required by K.S.A. 32-919, and amendments thereto, to hold a hunting license.

(e) This regulation shall be effective on and after April 1, 2013. (Authorized by and implementing K.S.A. 32-807, as amended by L. 2012, ch. 47, sec. 25; effective July 1, 1998; amended April 1, 2013.)

115-9-9. Electronic licenses, permits, stamps, tags, and other issues of the department; other requirements. The requirements in this regulation shall apply to licenses, permits, stamps, tags, and other issues of the department purchased from electronic or telephone license vendors or by electronic means. These requirements shall consist of the following:

- (a) Each individual who receives or prints a hard copy of an issue of the department purchased from an electronic or telephone license vendor or by electronic means shall sign the issue, attesting that all information on the issue is true and correct.
- (b) Each individual who purchases a departmental issue from a telephone vendor shall carry the confirmation number while actively engaged in any activity authorized by the departmental issue. When the individual receives the hard copy of any issue received from a telephone vendor, the

individual shall sign and carry the hard copy of the departmental issue while actively engaged in any activity authorized by the departmental issue.

(c) Each individual who receives an electronic version of a departmental issue shall attest that all information contained in the issue is true and correct at the time of purchase. A digital file or portable document format file of the departmental issue shall be stored on the licensee's mobile device, which the licensee shall carry while actively engaged in any activity authorized by the departmental issue.

(d) Each hard-copy stamp received from an electronic or telephone license vendor or by electronic means shall be validated if the individual signs the issue displaying the valid stamp purchase. The confirmation number of each stamp purchased from an electronic or telephone license vendor shall be proof of signature until the individual receives the hard copy of the stamp purchased from the license vendor.

(e) Any current issue of the department that is destroyed or lost may be replaced by electronic means. Each individual whose current issue was destroyed or lost shall sign the new hard-copy issue, attesting to the destruction or loss of the current issue.

(f) An application form shall not be required for an individual to purchase any issue from an electronic or telephone license vendor or by electronic means. The signature on the issue by the individual receiving the issue shall meet the signature requirement on application forms.

(g) The removal of the carcass tag from any big game or wild turkey permit or game tag purchased from an electronic license vendor or by electronic means shall not invalidate the permit, game tag, or carcass tag for hunting. However, signing any carcass tag before harvesting an animal for which the carcass tag was issued shall invalidate the carcass tag and either the permit or the game tag for use.

(h) Each temporary annual park permit purchased from an electronic or telephone license vendor or by electronic means shall be valid only if visibly displayed on the vehicle or camping unit for which the annual park permit was purchased. Each individual with a temporary annual park permit purchased from an electronic license vendor or by electronic means shall exchange the permit for a permanent annual park permit at a department office or automated park license vendor.

(i) Each person required to provide the identifying number of a license, permit, tag, stamp, or

other issue of the department shall use the transaction number of the electronic license, permit, tag, stamp, or other issue. (Authorized by K.S.A. 2018 Supp. 32-807 and K.S.A. 2018 Supp. 32-980; implementing K.S.A. 2018 Supp. 32-980; effective July 22, 2005; amended May 18, 2007; amended Dec. 20, 2019.)

Article 10.—SPECIAL SURETY BOND

115-10-1. Special surety bond program; definitions. (a) “appointing authority” means either the secretary or the county clerk of any county in Kansas;

(b) “license or permit” means any license, stamp or permit issued by the department for sale to the general public;

(c) “applicant” means any person who has presented the appointing authority with a completed application for appointment as a vendor agent for selling licenses and permits;

(d) “special surety bond” means a bond agreement issued by a vendor agent and accepted by the secretary as having satisfied the bond requirements established in K.S.A. 1989 Supp. 32-985;

(e) “premium period” means the period of time in which the vendor agent has paid the prescribed fee and in which the special surety bond shall be in effect; and

(f) “vendor agent” means any person authorized by the appointing authority, pursuant to K.S.A. 1989 Supp. 32-985, to sell licenses and permits of the department. (Authorized by K.S.A. 1989 Supp. 32-807; implementing K.S.A. 1989 Supp. 32-985; effective April 30, 1990.)

115-10-2. Special surety bond authorized. (a) Any vendor agent may elect to satisfy the special surety bond requirements provided in K.S.A. 1989 Supp. 32-985 by executing a special surety in favor of the state of Kansas as provided in K.A.R. 115-10-3.

(b) Each special surety bond shall be in a form approved by the secretary. (Authorized by K.S.A. 1989 Supp. 32-807; implementing K.S.A. 1989 Supp. 32-985; effective April 30, 1990.)

115-10-3. Special surety bond procedure. (a) Each special surety bond authorized by the secretary shall be issued for the period specified in the special surety bond and shall meet the following requirements:

(1) each applicant shall complete an application form which shall include the following information:

(A) the name, age, address and occupation of the applicant;

(B) the amount of bond requested and the proposed effective date of bond;

(C) the vendor agent number; and

(D) three credit references.

(2) each applicant shall certify the facts represented in the application. Any applicant may be required by the secretary to provide the department, at applicant's expense, a current audited financial statement;

(3) each applicant shall agree to be firmly bound to the state of Kansas and to fully indemnify the department for all losses to the state of Kansas arising out of the applicant's actions as a vendor agent; and

(4) each applicant shall authorize the applicant's officer or agent executing the prescribed application form and special surety bond to fully bind and represent the applicant in all activities undertaken as an authorized vendor agent, and shall provide evidence of this authority as required by the secretary.

(b) Each application shall be accompanied by a fee, as established by K.A.R. 115-2-1, that shall be applied to the one-year bond premium period. The fee shall be returned to the applicant if the applicant is not authorized to act as a vendor agent. (Authorized by K.S.A. 1989 Supp. 32-807; implementing K.S.A. 1989 Supp. 32-985; effective April 30, 1990.)

115-10-4. Special surety bond term of effect and renewal. (a) Each special surety bond shall expire one year from the date of its issuance.

(b) The special surety bond period of coverage shall coincide exactly with the period for which a vendor agent is authorized to act as a vendor agent.

(c) Any vendor agent may renew a special surety bond upon its expiration by providing the department with a renewal request containing the vendor agent name and number, the requested renewal date, and the requested bond amount, and by paying the fee prescribed in K.A.R. 115-2-1. (Authorized by K.S.A. 1989 Supp. 32-807; implementing K.S.A. 1989 Supp. 32-985; effective April 30, 1990.)

115-10-5. Effect of loss of special surety bond on vendor agent authority. The expiration of a special surety bond shall automatically terminate the authority of the vendor agent to act

as a vendor agent. (Authorized by K.S.A. 1989 Supp. 32-807; implementing K.S.A. 1989 Supp. 32-985; effective April 30, 1990.)

115-10-6. Authorized amount of special surety bond. The amount for which an applicant shall be authorized to execute a special surety bond shall be determined by the secretary. (Authorized by K.S.A. 1989 Supp. 32-807; implementing K.S.A. 1989 Supp. 32-985; effective April 30, 1990.)

115-10-7. Reduction or increase in special surety bond. (a) Each special surety bond, once authorized and in effect, shall not be reduced within the premium period.

(a) Any special surety bond may be increased after the vendor agent has:

(1) supplied the secretary with information the secretary determines necessary to process the amendment application;

(2) paid the required premium for the increased amount, prorated to the bond premium period; and

(3) justified the increase to the secretary. (Authorized by K.S.A. 1989 Supp. 32-807; implementing K.S.A. 1989 Supp. 32-985; effective April 30, 1990.)

115-10-8. Grounds for termination of a special surety bond. (a) A special surety bond may be terminated, suspended or refused for renewal by the secretary when a vendor agent commits any of the following acts:

(1) fails to pay, within 30 days of the appointing authority's demand, the cash value of all lost, missing, or destroyed licenses and permits;

(2) fails to pay, within 30 days of the appointing authority's demand, the cash value of all monies collected for the licenses and permits sold by the vendor agent;

(3) fails to return all licenses and permits in the vendor agent's possession when required by the terms of the vendor agent indemnification agreement or upon demand by the appointing authority; or

(4) fails to properly perform any of the duties or violates any of the terms of the vendor agent indemnification agreement executed by the vendor agent and the appointing authority.

(b) Any action by the secretary to terminate, suspend or fail to renew a special surety bond shall be administered pursuant to K.S.A. 1989 Supp. 77-501 et seq. (Authorized by K.S.A. 1989

Supp. 32-807; implementing K.S.A. 1989 Supp. 32-985; effective April 30, 1990.)

Article 11.—CONTROLLED SHOOTING AREAS

115-11-1. Controlled shooting areas; license application, issuance priority, and reporting. (a) Each application for a controlled shooting area license shall be made on forms provided by the department.

(b) Each applicant shall provide the following information:

- (1) The size of the area;
- (2) a map of the area;
- (3) the legal description of the area;
- (4) the species of game birds to be released and hunted;
- (5) a description of the premises and facilities; and
- (6) any other relevant information required by the secretary.

(c) Each applicant for renewal of an existing controlled shooting area license shall provide information as required by paragraphs (b) (1) through (b) (5) only if a change of status has occurred.

(d) The applicant shall submit, with the application, proof of ownership or lease for a five-year period of the area described in the application.

(e) An application for a controlled shooting area license that is not a renewal application may be submitted at any time.

(f) Each application for a renewal of a controlled shooting area license shall be submitted not later than July 1.

(g) Each renewal application shall have priority over a new application for a controlled shooting area license in order that the maximum county controlled shooting area acreage limitation not be exceeded.

(h) Each renewal application received after July 1 shall be considered a new application for purposes of subsection (g).

(i) Each licensee shall maintain records of game bird releases, a register of hunters, the number of animals or birds taken for each species of game animal hunted on the controlled shooting area, and any other relevant information required by the secretary on forms provided by the department. These records shall be available for inspection by departmental staff.

(j) A final report consisting of the records and

any other information required by the secretary shall be submitted to the department as a part of the renewal application or by August 1 if the controlled shooting area license is not renewed. A controlled shooting area license shall not be issued or renewed until a final report has been received by the department.

(k) This regulation shall be effective on and after July 1, 2005. (Authorized by K.S.A. 32-948; implementing K.S.A. 32-944, K.S.A. 32-945, and K.S.A. 32-948; effective Dec. 4, 1989; amended July 1, 2002; amended July 1, 2005.)

115-11-2. Controlled shooting areas; operational requirements. (a) Each controlled shooting area shall be posted as follows:

(1) Signs shall be made of metal, plastic, or wood and shall be not less than 15 inches by 15 inches.

(2) Signs shall legibly display the words “controlled shooting area” in block lettering that is not less than two inches in height.

(3) Signs shall be placed along the boundary of the controlled shooting area, at intervals of not more than 500 feet.

(b) The licensee shall keep the license and a copy of the laws and regulations pertaining to the controlled shooting areas posted in a conspicuous and readily available place at the headquarters of the area.

(c) If the license of the controlled shooting area is cancelled or revoked, the licensee shall remove all controlled shooting area signs from the boundary of the area within 30 days of the cancellation or revocation date.

(d) If a licensee fails to renew a controlled shooting area license, all controlled shooting area signs shall be removed from the boundary of the area before September 1.

(e) Only those game birds released on the controlled shooting area from August 15 through April 30 of the license period shall be credited toward the allowable take for the area.

(f) The licensee shall not take or permit the taking of more than 100 percent of the number of each species of game bird released on the controlled shooting area. These game bird species shall not be hunted on the area until a release of the game bird species has been made.

(g) The shooting hours for the taking of game birds released on controlled shooting areas shall be from ½ hour before sunrise to sunset.

(h) Game birds taken on a controlled shooting

area shall be accompanied during transportation from the area by a form provided by the department and completed by the licensee, which shall include the number and species of game birds being transported, the name and license number of the licensee, the date of harvest, and any other relevant information required by the secretary.

(i) Except as authorized under Kansas dog training and field trial regulations, only hand-reared mallard ducks may be recaptured by trapping after release.

(j) Hunting during the established seasons and in compliance with all laws and regulations governing the hunting activity may occur on a controlled shooting area for wildlife species not included in K.S.A. 32-943, and amendments thereto, and for any wildlife species not included in the license issued for that controlled shooting area, including big game animals and wild turkeys for which the hunter has a valid permit issued by the department. The hunting, shooting, or taking of wild migratory waterfowl, however, shall be prohibited on each controlled shooting area used for the shooting of hand-reared mallard ducks.

This regulation shall be effective on and after March 1, 2019. (Authorized by K.S.A. 32-948; implementing K.S.A. 2018 Supp. 32-945, K.S.A. 2018 Supp. 32-946, K.S.A. 2018 Supp. 32-947, and K.S.A. 32-948; effective Dec. 4, 1989; amended Aug. 31, 1992; amended July 1, 1999; amended July 1, 2002; amended April 1, 2005; amended March 1, 2019.)

Article 12.—GAME BREEDERS

115-12-1. Game breeders, operational requirements. (a) Each game breeder shall provide a report of activities to the secretary on or before June 30. The report shall include the following information:

- (1) name of permittee;
- (2) address;
- (3) current game breeders permit number;
- (4) the number of each species sold; and
- (5) other information as required by the secretary.

(b) Each game breeder shall provide a bill of sale to each person purchasing wildlife. The bill of sale shall contain the game breeder's name and permit number and the bill of sale shall state the species and number of wildlife purchased, purchaser's name and address and date of purchase.

(c) In lieu of submitting the report as specified in subsection (a), items 1 through 4, any permittee may submit copies of all bills of sale to the secretary on or before June 30; provided that the copies are legible and that the name, address and permit number of the permittee is identified with the bills of sale. (Authorized by and implementing K.S.A. 1988 Supp. 32-159 as amended by L. 1989, Ch. 118, Sec. 82; effective Jan. 22, 1990.)

115-12-3. Game breeder permit requirement; other wildlife. A game breeder permit shall be required to engage in the business of raising and selling the following wildlife:

- (a) species of reptiles or amphibians that are native to or indigenous to Kansas;
- (b) mountain lion, *Felis concolor* Linnaeus;
- (c) wolf, *Canis lupus* Say;
- (d) black bear, *Ursus americanus* Pallas; and
- (e) grizzly bear, *Ursus arctos horribilis* Ord. (Authorized by and implementing L. 1991, Chapter 106, section 1; effective Feb. 10, 1992.)

Article 13.—TRAINING DOGS AND FIELD TRIAL EVENTS

115-13-1. Commercial dog training permit; application and general provisions. (a) The application for a commercial dog training permit shall be on a form provided by the department, and each applicant shall provide the following information:

- (1) The name and address of the applicant;
- (2) the breeds of dog to be trained;
- (3) the type of dog training to be conducted;
- (4) a legal description of the area or areas where dog training will be conducted; and
- (5) other information as required by the secretary.

(b) Subject to all federal and state laws, rules, and regulations, commercial training of bird dogs shall be authorized throughout the year.

(c) General provisions.

(1) Pen-raised, banded game birds may be released and shot during bird dog training activities.

(2) Pen-raised, banded game birds that escape after release shall not be recaptured, except as authorized by paragraphs (c) (3) and (4) and K.A.R. 115-13-5.

(3) Pen-raised or wild-trapped pigeons and pen-raised, banded mallard ducks may be released and shot during bird dog training activities, and the birds may be recaptured. Nontoxic shot approved

under K.A.R. 115-18-14 shall be required for the taking of pen-raised mallard ducks.

(4) Chukar partridge and hungarian partridge may be released and shot during bird dog training activities, and chukar partridge and hungarian partridge may be recaptured.

(5) The banding of pigeons, chukar partridge, and hungarian partridge shall not be required.

(6) Pigeons, chukar partridge, hungarian partridge and pen-raised, banded birds that are shot during bird dog training activity may be possessed by the commercial bird dog trainer.

(7) All bands used shall be leg bands and shall be coded with the initials "CDT."

(8) No commercial bird dog trainer shall possess unattached bands while conducting bird dog training activities.

(9) Wild birds, except waterfowl, may be pursued during commercial bird dog training activities, but shall not be shot, killed, or possessed except during established hunting seasons for the taking and possession of that species.

(d) Subject to all federal and state laws, rules, and regulations, commercial training of sight and trail hounds for hunting, furbearer running, or furbearer harvesting purposes shall be authorized. This training shall be restricted to established furbearer seasons for the taking of furbearers by hunting methods, running seasons, and hunting seasons.

(e) Pen-raised, legally trapped and possessed, or wild red fox, gray fox, raccoon, opossum, coyote, and cottontail rabbit may be pursued during commercial sight or trail hound training activities, but shall not be shot or killed and shall not be possessed after initial release except during established seasons for the taking and possession of that species.

(f) Commercial dog training activities shall be restricted to the area specified on the permit. (Authorized by K.S.A. 32-807 and K.S.A. 32-954; implementing K.S.A. 32-807, K.S.A. 32-954 and K.S.A. 32-1002; effective Aug. 5, 1991; amended Oct. 5, 2001.)

115-13-2. Non-commercial dog training.

(a) Subject to K.A.R. 115-8-4 concerning department lands and waters, non-commercial training of bird dogs shall be authorized throughout the year.

(b) General provisions.

(1) Pen-raised, banded game birds may be released during bird dog training activities, but shall not be shot except during established hunting seasons for that species.

(2) Pen-raised, banded game birds that escape after release shall not be recaptured, except as authorized by paragraphs (b) (3) and (4) and K.A.R. 115-13-5.

(3) Pen-raised or wild-trapped pigeons and pen-raised, banded mallard ducks may be released and shot during bird dog training activities, and the birds may be recaptured. Nontoxic shot approved under K.A.R. 115-18-14 shall be required for the taking of pen-raised mallard ducks.

(4) Chukar partridge and hungarian partridge may be released and shot during bird dog training activities, and chukar partridge and hungarian partridge may be recaptured.

(5) The banding of pigeons, chukar partridge, and hungarian partridge shall not be required.

(6) Pigeons, chukar partridge, hungarian partridge, and pen-raised, banded birds that are shot during bird dog training activity may be possessed by the bird dog trainer.

(7) All bands used shall be leg bands and shall be coded with the initials "DT."

(8) No dog trainer shall possess unattached bands while conducting bird dog training activities.

(9) Wild game birds, except waterfowl, may be pursued during bird dog training activities, but shall not be shot, killed, or possessed except during established hunting seasons for the taking and possession of that species.

(c) Subject to K.A.R. 115-8-4 concerning department lands and waters, non-commercial training of sight and trail hounds for hunting, furbearer running, or furbearer harvesting purposes shall be authorized. This training shall be restricted to established furbearer seasons for the taking of furbearers by hunting methods, running seasons, and hunting seasons.

(d) Pen-raised, legally trapped and possessed, or wild red fox, gray fox, raccoon, opossum, coyote, and cottontail rabbit may be pursued during non-commercial sight or trail hound training activities, but shall not be shot or killed and shall not be possessed after initial release except during established seasons for the taking and possession of that species. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Aug. 5, 1991; amended Oct. 5, 2001.)

115-13-3. Field trial permit; small game.

(a) The application for a small game field trial permit shall be submitted on a form provided by the department. A special event permit issued under K.A.R. 115-8-21 shall satisfy the require-

ment for a small game field trial permit if the application requirements of K.A.R. 115-13-3 are met. Each applicant shall provide the following information:

- (1) The name of the applicant;
- (2) the address of the applicant;
- (3) the telephone number of the applicant;
- (4) a map of the area in which the small game field trial will be held. The map shall identify the site to be used as the event headquarters, shall be drawn on a scale of not less than $\frac{1}{4}$ inch to the mile, and shall show county and township roads;
- (5) the estimated number of individuals and dogs participating;
- (6) the requested dates of the small game field trial;

- (7) the daily starting time or times;
- (8) a description of the field trial event, including information on the proposed use of wildlife during the event; and

(9) other information as required by the secretary.

(b) Each application for a small game field trial permit shall be submitted at least 15 days before an event. This application deadline may be waived by the secretary for extenuating circumstances, if all other application requirements are met. "Extenuating circumstances" shall mean any condition that is caused by an unexpected event that is beyond the applicant's control.

(c) Each applicant for a small game field trial permit may include in the application a listing of all field trial events for the calendar year if the information required under subsection (a) is provided for each event.

(d) Issuance of a small game field trial permit may be denied by the secretary under any of the following circumstances:

- (1) The permit application is unclear or incomplete.
- (2) The event does not conform to requirements of a small game field trial event.
- (3) The requirements of K.A.R. 115-8-21 are not met.
- (4) Issuance of a permit would pose an inordinate risk to the public or wildlife resources.

(e) Subject to all federal and state laws, rules, and regulations, wildlife may be used during a small game field trial event as follows:

- (1) Pen-raised game birds that have been banded or otherwise marked may be released and shot.
- (2) All bands used shall be leg bands and shall be coded with the initials "FT."
- (3) Chukar partridge, hungarian partridge, and

wild-trapped or pen-raised pigeons, and pen-raised, banded mallard ducks may be released and shot. Steel shot shall be required for the taking of pen-raised mallard ducks.

(4) The banding or marking of chukar partridge, hungarian partridge, and pigeons shall not be required.

(5) The number of game birds killed during a field trial shall not exceed the number of game birds released of the same species.

(6) Wild game birds, except waterfowl, may be pursued, but shall not be possessed except during established hunting seasons for the taking and possession of that species.

(7) Pen-raised, wild-trapped, or wild cottontail rabbits may be pursued, shot, killed, and possessed during a small game field trial event.

(8) Wildlife shot or killed as authorized by this subsection may be possessed by the permittee or participants in the small game field trial event.

(f) Each small game field trial event held on a controlled shooting area shall be restricted to the licensed controlled shooting area.

(g) Pen-raised game birds that escape after release shall not be recaptured, except as authorized under K.A.R. 115-13-5. Pigeons, chukar partridge, hungarian partridge, and pen-raised, banded mallard ducks that escape after release may be recaptured.

(h) A separate small game field trial event conducted under a small game field trial permit shall not exceed 14 days in duration and shall be conducted only on the area defined in the permit.

(i) Each permittee shall keep a register of the names and addresses of all participants in each small game field trial event and, upon demand, shall make this register available for inspection to the department and any law enforcement officer authorized to enforce the laws of this state or the regulations of the secretary.

(j) In addition to other penalties prescribed by law, a small game field trial permit may be revoked by the secretary under either of the following circumstances:

- (1) The permit was secured through false representation.
- (2) The permittee fails to meet permit requirements or violates permit conditions. (Authorized by K.S.A. 32-807 and K.S.A. 32-954; implementing K.S.A. 32-807, K.S.A. 32-954, and K.S.A. 32-1002; effective Aug. 5, 1991; amended Sept. 27, 2002.)

115-13-4. Field trial permit; furbearers and coyotes. (a) Each application for a furbearer or coyote field trial permit shall be submitted on a form provided by the department. Each applicant shall provide the following information:

- (1) The name of the applicant;
- (2) the address of the applicant;
- (3) the telephone number of the applicant;
- (4) the location of the event headquarters and the specific counties where the furbearer or coyote field trial will occur;
- (5) the estimated number of individuals and dogs participating;
- (6) the requested dates of the furbearer or coyote field trial;
- (7) the daily starting time or times;
- (8) a description of the furbearer or coyote field trial event, including information on the proposed use of wildlife during the event; and
- (9) a copy of the furbearer or coyote sanction or license authorization if the event has been sanctioned or licensed.

(b) Each application for a furbearer or coyote field trial permit shall be submitted at least 15 days before an event. This application deadline may be waived by the secretary for extenuating circumstances, if all other application requirements are met. "Extenuating circumstances" shall mean any condition that is caused by an unexpected event that is beyond the applicant's control.

(c) Any applicant for a furbearer or coyote field trial permit may include in the application a listing of all field trial events for the calendar year if the information required under subsection (a) is provided for each event.

(d) Issuance of a furbearer or coyote field trial permit may be denied by the secretary, or approval for a specific furbearer or coyote field trial event requested by the applicant under the furbearer or coyote field trial permit may be withheld by the secretary, under any of the following circumstances:

- (1) The permit application is unclear or incomplete.
- (2) The requirements of K.A.R. 115-8-21 are not met.
- (3) The event does not conform to the requirements of a furbearer or coyote field trial event.
- (4) Issuance of a furbearer or coyote field trial permit would pose an inordinate risk to the public or to wildlife resources.

(e) Subject to all federal and state laws and regulations, wildlife may be used during a furbearer or coyote field trial event as follows:

(1) Pen-raised red fox, gray fox, raccoon, opossum, and coyotes may be released and pursued, but shall not be shot, killed, or possessed except during established seasons for the taking and possession of that species by hunting methods.

(2) Wild or legally trapped and released red fox, gray fox, raccoon, opossum, and coyotes may be pursued, but shall not be shot, killed, or possessed except during established seasons for the taking and possession of that species by hunting methods.

(f) Each separate furbearer or coyote field trial event conducted under a furbearer or coyote field trial permit shall be no longer than seven days in duration and shall be conducted only within the area specified in the permit.

(g) Each permittee shall keep a register of the names and addresses of all participants in each field trial event and, upon demand, shall make this register available for inspection to the department and any law enforcement officer authorized to enforce the laws of this state or the regulations of the secretary.

(h) No furbearer field trial event shall be held between the close of the fall running season established by K.A.R. 115-25-11 and the opening of the season established by K.A.R. 115-25-11 for the taking and possession of red fox, gray fox, raccoon, or opossum by hunting methods.

(i) No individual participating in a furbearer field trial shall possess a firearm except during the seasons established by K.A.R. 115-25-11 for the taking and possession of that species of furbearer.

(j) A coyote field trial event shall not be held during any closed season for the pursuing, shooting, killing, or possession of coyotes.

(k) In addition to other penalties prescribed by law, a furbearer or coyote field trial permit may be revoked by the secretary under either of the following circumstances:

- (1) The permit was secured through false representation.
- (2) The permittee fails to meet permit requirements or violates permit conditions.

(l) A furbearer or coyote field trial event permit shall not be required for water races or drag events. The following provisions shall apply to water races and drag events:

(1) A water race or drag event may be held at any time of the year if only coyotes or pen-raised furbearers are used in the event.

(2) A water race or drag event in which wild or wild-trapped furbearers or coyotes are used shall be held only during the established trapping

season or season established for the taking and possession by hunting methods for the species of wildlife used.

(3) A water race or drag event shall be restricted to a contiguous area that does not exceed 640 acres.

(4) The person holding the water race or drag event shall notify the department at least 10 days before the event and provide a description of the event to be conducted. This notification deadline may be waived by the secretary for extenuating circumstances. "Extenuating circumstances" shall mean any condition that is caused by an unexpected event that is beyond the applicant's control. (Authorized by and implementing K.S.A. 2018 Supp. 32-807 and 32-954; effective Aug. 5, 1991; amended Sept. 27, 2002; amended May 31, 2019.)

115-13-5. Pen-raised, banded birds; recapture. (a) Recapture call pens may be used to recapture pen-raised, banded birds and birds that have been otherwise marked according to K.A.R. 115-13-3. A recapture call pen permit shall be required to use a recapture call pen.

(b) The application shall be submitted on a form provided by the department, and each applicant shall provide the following information:

- (1) The name of the applicant;
- (2) the address of the applicant;
- (3) the telephone number of the applicant;
- (4) the purpose for the use of recapture call pens;
- (5) the period of time that recapture call pens would be in use; and
- (6) the legal description including range, township, and section number where recapture call pens would be located.

(c) Issuance of a recapture call pen permit may be denied by the secretary if any of the following conditions exists:

- (1) The permit application is unclear or incomplete.
- (2) The need for use of a recapture call pen has not been established.
- (3) The use of recapture call pens would pose inordinate risk to non-target wildlife or wild game birds.
- (4) The applicant has been convicted of or plead guilty or nolo contendere to a recapture call pen violation.

(d) Only pen-raised, banded birds and birds that have been otherwise marked according to K.A.R. 115-13-3 may be taken in recapture call

pens. Each permittee shall attend to each of the permittee's recapture call pens at least once every 24-hour period while the recapture call pen is in use. Except as may otherwise be authorized by law or by rule and regulation, all nonbanded birds and other wildlife shall be released and shall not be restrained or used in any manner.

(e) The name and permit number of the permittee shall be attached to the roof of the recapture call pen while the recapture call pen is in use.

(f) Each recapture call pen permit shall expire at the close of the expiration date specified in the permit.

(g) Each recapture call pen permittee shall provide a report of permit activity to the department within 10 days after permit expiration. The report shall contain the following information:

- (1) The name of the permittee;
- (2) the permit number;
- (3) the number of days each recapture call pen was used;
- (4) the number and species of pen-raised, banded birds and birds otherwise marked according to K.A.R. 115-13-3 that were recaptured;
- (5) the number, species, and disposition of other wildlife captured; and
- (6) other information as required by the secretary.

(h) In addition to other penalties prescribed by law, a recapture call pen permit may be revoked by the secretary if either of the following applies:

- (1) The permit was secured through false representation.
- (2) The permittee fails to meet permit requirements or violates permit conditions. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Aug. 5, 1991; amended Oct. 5, 2001.)

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.)

115-14-7. (Authorized by K.S.A. 1990 Supp. 32-807; implementing K.S.A. 1990 Supp. 32-807, K.S.A. 1990 Supp. 32-1001, and K.S.A. 1990 Supp. 32-1002; effective Nov. 12, 1991; revoked Oct. 5, 2001.)

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 be required to correctly answer at least 80 percent of the questions on the department's falconry examination specified in paragraph (j)(3).

(B) Upon passing the examination, a temporary permit for the appropriate level shall be issued by the department, based on the individual's documentation of experience and training.

(C) The individual holding the temporary permit may possess raptors for falconry purposes if the individual has falconry facilities approved in accordance with K.A.R. 115-14-13. The individual holding a temporary permit may fly raptors held for falconry by another permitted falconer. The individual holding a temporary permit shall not take raptors from the wild for falconry purposes.

(2) Any individual holding a temporary permit in accordance with this subsection may use any

bird for falconry that the individual legally possessed in the individual's country of origin for falconry purposes if the importation of that species of bird into the United States is not prohibited and the individual has met all permitting requirements of the individual's country of origin.

(A) The individual shall comply with all requirements for practicing falconry in the state. The individual shall acquire all permits and comply with all federal laws concerning the importation, exportation, and transportation of falconry birds; the wild bird conservation act; the endangered species act; migratory bird import and export permits; and the endangered species convention.

(B) Each falconry bird imported into the state under this subsection shall be exported from the state by the temporary permittee when the permittee leaves the state, unless a permit is issued allowing the bird to remain in Kansas. If the bird dies while in the state, the permittee shall report the loss to the department before leaving the state.

(C) When flown free, each bird brought into the state under the provisions of this subsection shall have attached to the bird two radio transmitters that allow the permittee to locate the bird.

(h) Each individual who holds a current, valid Kansas falconry permit and resides in another state, territory, or tribal land different from the individual's primary Kansas residence for more than 120 consecutive days shall provide the location of the individual's falconry facilities in the other jurisdiction to the department. This information shall be listed on the individual's Kansas falconry permit.

(i) Falconry permits shall be issued for the following levels of permittees: apprentice falconer, general falconer, and master falconer. Each applicant for a specific level shall meet the requirements of subsection (j), (k), or (l).

(j) An "apprentice falconer" shall mean an individual who is beginning falconry at an entry level, has no prior permitted falconry experience, and meets the following requirements:

(1) The applicant shall be at least 12 years of age. The application of any applicant under 18 years of age shall be signed by a parent or legal guardian, who shall be legally responsible for the applicant's activities.

(2) The applicant shall have secured a written sponsor agreement either from a general falconer with at least two years of falconry experience as a general falconer or from a master falconer, stating that the falconer has agreed to mentor the applicant for the duration of the apprentice permit.

(A) The sponsor agreement shall include a statement from the general falconer or master falconer specifying that the sponsor shall mentor the applicant in learning the husbandry and training of raptors for falconry, learning relevant wildlife laws and regulations concerning the practice of falconry, and deciding what species of raptor is appropriate for the applicant to possess while practicing falconry at the apprentice level.

(B) If the general falconer or master falconer is not able to fulfill the sponsor agreement to mentor the apprentice falconer, the apprentice shall secure a sponsor agreement from another falconer with the necessary qualifications and notify the department within 30 days of the change. The falconer sponsoring the apprentice falconer shall notify the department in writing within 30 days of withdrawing the falconer's mentorship.

(3) Each applicant for an apprentice falconry permit shall be required to correctly answer at least 80 percent of the questions on the department's falconry examination. The examination shall cover the following topics:

(A) The care and handling of falconry raptors;

(B) federal and state laws and regulations relating to falconry; and

(C) other relevant subject matter relating to falconry, including diseases and general health.

(4) Any applicant failing the examination may reapply after 90 days.

(5) An apprentice falconer shall not possess more than one raptor. Each apprentice falconer shall be restricted to taking or possessing not more than one wild-caught raptor from one of the following species:

(A) American kestrel (*Falco sparverius*);

(B) red-tailed hawk (*Buteo jamaicensis*); or

(C) red-shouldered hawk (*Buteo lineatus*).

(6) A raptor acquired by an apprentice falconer shall not have been taken from the wild as an eyas or have become imprinted on humans. Any wild-caught raptor species specified in paragraph (j)(5) may be transferred to the apprentice falconer by another properly permitted falconry permittee.

An apprentice falconer shall not acquire more than one replacement raptor during any 12-month period.

(7) The facilities used to house and keep the raptor shall meet the requirements in K.A.R. 115-14-13.

(k) A "general falconer" shall mean an individual who has been previously permitted as an apprentice falconer and meets the following requirements:

(1) The applicant shall be at least 16 years of age. The application of any applicant under 18 years of age shall be signed by a parent or legal guardian, who shall be legally responsible for the applicant's activities.

(2) Each application shall be accompanied by a letter from general falconer or a master falconer stating that the applicant has practiced falconry with wild raptors at the level of apprentice falconer, or its equivalent, for at least two years, including maintaining, training, flying, and hunting the raptor for at least four months in each year. This time may include the capture and release of falconry raptors. A school or education program in falconry shall not be substituted to shorten the required two years of experience at the level of apprentice falconer.

(3) A general falconer may take and use any species of *Accipitriform*, *Falconiform*, or *Strigiform*, including wild or captive-bred raptors and hybrid raptors, as defined in K.A.R. 115-14-11, for falconry, with the following exceptions:

- (A) Golden eagle (*Aquila chrysaetos*);
- (B) bald eagle (*Haliaeetus leucocephalus*);
- (C) white-tailed eagle (*Haliaeetus albicilla*); and
- (D) Steller's sea eagle (*Haliaeetus pelagicus*).

(4) A general falconer shall possess no more than three raptors at any one time, regardless of the number of state, tribal, or territorial falconry permits the general falconer possesses.

(1) A "master falconer" shall mean an individual who has been previously permitted at the level of general falconer and meets the following requirements:

(1) The applicant shall have practiced falconry with that individual's own raptor as a general falconer for at least five years.

(2) A master falconer may take and use any species of *Accipitriform*, *Falconiform*, or *Strigiform*, including wild or captive-bred raptors and hybrid raptors for falconry, with the following exceptions:

(A) A bald eagle (*Haliaeetus leucocephalus*) shall not be possessed.

(B) Golden eagles (*Aquila chrysaetos*), white-tailed eagles (*Haliaeetus albicilla*), or Steller's sea eagles (*Haliaeetus pelagicus*) may be possessed if the permittee meets the following requirements:

(i) The permittee shall not possess more than three raptors of the species listed in paragraph (1)(2)(B).

(ii) The permittee shall provide documentation to the department of the permittee's experience in handling large raptors, including information about

the species handled and the type and duration of the activity in which the experience was gained.

(iii) The permittee shall provide the department with at least two letters of reference from people with experience in handling or flying large raptors including eagles, ferruginous hawks (*Buteo regalis*), goshawks (*Accipiter gentilis*), or great horned owls (*Bubo virginianus*). Each letter shall contain a concise history of the author's experience with large raptors, which may include the handling of raptors held by zoos, rehabilitating large raptors, or scientific studies involving large raptors. Each letter shall also assess the permittee's ability to care for eagles and fly them for falconry purposes.

(C) The possession of a golden eagle, white-tailed eagle, or Steller's sea eagle shall count as one of the wild raptors that the permittee is allowed to possess.

(D) A master falconer may possess wild or captive-bred raptors or hybrid raptors of the species allowed by this subsection.

(E) A master falconer shall possess no more than five wild-caught raptors, including golden eagles, regardless of the number of state, tribal, or territorial falconry permits that the falconer possesses.

(F) A master falconer may possess any number of captive-bred raptors. However, the raptors shall be trained to pursue wild game and shall be used for hunting.

(m) A falconry permit may be denied, suspended, or revoked by the secretary for any of the following reasons:

(1) The application is incomplete or contains false information.

(2) The applicant does not meet the qualifications specified in this regulation.

(3) The applicant has failed to maintain or to submit required reports.

(4) The applicant has been convicted of violating department laws or regulations relating to hunting or the practice of falconry or has had any other department license or permit denied, suspended, or revoked.

(5) Issuance of the permit would not be in the best interests of the public, for reasons including complaints or inappropriate conduct while holding a previous falconry permit.

This regulation shall be effective on and after December 31, 2020. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Dec. 31, 2012; amended Dec. 31, 2020.)

115-14-13. Falconry; facilities, equipment, care requirements, and inspections. (a) Each individual keeping raptors shall maintain the facilities in accordance with this regulation.

(1) "Primary facility" shall mean the principal place and structures where the raptor is normally provided care and housing. This term shall include indoor facilities and outdoor facilities.

(2) "Temporary facility" shall mean a place and structure where a raptor is kept during the raptor's time away from the primary facility, including during transportation and while hunting or attending an event. This term shall include a place and structure where a raptor is kept for a limited time period while the primary facility is not available.

(b) All primary facilities used to house and keep raptors shall be inspected and approved by the department before the issuance of a Kansas falconry permit. Thereafter, all primary facilities used to house and keep raptors shall be inspected and approved whenever a change in the location of the primary facility occurs. All primary facilities shall meet the following standards:

(1) All indoor areas of the primary facility, which are also known as "mews," and all outdoor areas of the primary facility, which are also known as "weathering areas," shall protect raptors from the environment, predators, and domestic animals.

(2) The indoor area of the primary facility shall have a perch for each raptor and at least one opening for sunlight.

(3) Two or more raptors may be housed together and untethered if the birds are compatible with each other. Each raptor shall have an area large enough to allow the raptor to fly if it is untethered or, if tethered, to fully extend its wings to bate or attempt to fly while tethered without damaging its feathers or contacting other raptors.

(4) Each raptor shall have a pan of clean water available.

(5) Each indoor area of the primary facility shall be large enough to allow easy access for the care and feeding of the raptors kept there.

(6) Each indoor area of the primary facility housing untethered raptors shall have either solid walls or walls made with vertical bars spaced narrower than the width of the body of the smallest raptor being housed, heavy-duty netting, or other similar materials covering the walls and roof of the facility. All windows shall be protected on the inside by vertical bars, spaced at intervals narrower than the width of the raptor's body.

(7) The floor of the indoor area of the primary facility shall consist of material that is easily cleaned and well drained.

(8) Each indoor area of the primary facility shall include shelf-perch enclosures where raptors are tethered side by side. Other housing systems shall be acceptable if they afford the enclosed raptors with protection and maintain healthy feathers.

(9) A falconry raptor, or raptors, may be kept inside the permittee's residence if a suitable perch, or perches, are provided. Windows and other openings in the residence structure shall not be required to be modified. All raptors kept in the residence shall be tethered when the raptors are not being moved into or out of the location where they are kept.

(10) Each outdoor area of the primary facility shall be totally enclosed and shall be made of heavy-gauge wire, heavy-duty plastic mesh, slats, pipe, wood, or other suitable material.

(11) Each outdoor area of the primary facility shall be covered and have at least a covered perch to protect a raptor held in the facility from predators and weather. Each outdoor area of the primary facility shall be large enough to ensure that all the raptors held inside cannot strike the enclosure when flying from the perch.

(12) Any new design of primary facility may be used if the primary facility meets the requirements of this subsection.

(c) Falconry raptors may be kept outside, including in a weathering yard at a falconry meet, if the raptors are under watch by the permittee or a designated individual.

(d) The permittee may transport any permitted raptor if the bird is provided with a suitable perch and is protected from extreme temperatures, wind, and excessive disturbance. A giant hood or similar container may be used for transporting the bird or for housing it while away from the primary facility.

(e) The permittee shall inform the department of any change of location of the primary facility within five business days of the move to the new location.

(f) The property where the primary facility is located may be owned by the permittee or another person and may be at the residence of the permittee or at a different location.

The permittee shall submit to the department a signed and dated statement showing that the permittee agrees that the primary facility, equipment, all falconry-related facilities, equipment, records, and raptors may be inspected without advance no-

tice 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 con-

fiscation of any raptors in possession of the falconer. "Mistreatment" shall be defined as any of the following:

(1) Having physical custody of a raptor and failing to provide food, potable water, protection from the elements, opportunity for exercise, and other care as is needed for the health and well-being of the raptor;

(2) abandoning or leaving any raptor in any place without making provisions for its proper care; or

(3) failing to meet the requirements of this regulation.

This regulation shall be effective on and after December 31, 2020. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Dec. 31, 2012; amended Dec. 31, 2020.)

115-14-14. Falconry; taking, banding, transporting, and possessing raptors. (a) For the purpose of this regulation, "falconer" shall be defined as a person taking or attempting to take a raptor from the wild for falconry purposes. Each falconer shall possess a current, valid hunting license pursuant to K.S.A. 32-919, and amendments thereto, and meet the requirements for hunter education certification pursuant to K.S.A. 32-920, and amendments thereto.

(b) Each nonresident falconer shall apply for and receive a take permit from the department before attempting to take a raptor from the wild in Kansas. Each nonresident falconer shall submit a raptor acquisition report within 10 days of leaving Kansas, regardless of whether the falconer was successful in taking a raptor.

(c) Each resident falconer shall apply for and receive a take permit from the department before attempting to take a peregrine falcon from the wild in Kansas.

(d) Each capture device used to capture raptors shall have a tag attached showing the falconer's name, address, and current falconry permit number.

(e) The falconer shall acquire permission from the landowner or the person controlling any private land before taking or attempting to take any wild raptor for falconry purposes.

(f) Wild raptors may be taken for falconry purposes if the species is approved by the department to be taken by the falconer and is allowed under the level of falconry permit possessed by the falconer in accordance with K.A.R. 115-14-12.

(1) A falconer shall not intentionally take a rap-

tor species that the falconer is prohibited from possessing by the falconer's classification level.

(2) If a falconer captures a prohibited bird, the falconer shall immediately release it.

(g) A falconer shall take no more than two raptors from the wild each year to use in falconry in accordance with the permit level limitations specified in K.A.R. 115-14-12. The take shall be further restricted by the following provisions:

(1) Passage and haggard raptors may be taken by apprentice falconers, general falconers, and master falconers year-round.

(2) Eyases may be taken only by a general falconer or master falconer and may be taken year-round.

(3) No more than two eyases may be taken by a general falconer or a master falconer per calendar year. At least one eyas shall be left in the nest when an eyas is taken.

An apprentice falconer shall not take an eyas raptor from the wild.

(4) The following raptors may be taken from the wild, but only during the specified stages of development:

(A) Red-tailed hawk (*Buteo jamaicensis*) in the eyas and passage stages;

(B) American kestrel (*Falco sparverius*) in all stages; and

(C) great horned owl (*Bubo virginianus*) in all stages.

(5) Any other species of raptor in the eyas or passage stage of development may be taken by general falconers and master falconers.

(6) The recapture of a falconry bird that has been lost by a falconer shall not be considered to be the capture of a wild raptor to be counted against the annual limit.

(h) Except as provided by this subsection, no species designated by the United States or in K.A.R. 115-15-1 as endangered or threatened shall be taken from the wild.

(1) A general falconer or master falconer may obtain a permit to take one wild raptor listed by federal law as threatened for falconry purposes.

(2) (A) The falconer shall submit an application and receive a federal endangered species permit before taking the bird.

(B) The falconer shall submit an application and receive approval and a permit from the department before taking the bird.

(i) Each raptor taken from the wild shall always be considered a wild bird.

(j) Each raptor taken from the wild in a calen-

dar year by a falconer and then transferred to a second falconer shall count as one of the raptors allowed to be taken by the first falconer who took the raptor from the wild. The raptor transferred to the receiving falconer shall not count against the limit of wild raptors that may be taken in the calendar year by the receiving falconer.

(k) Each raptor taken from the wild shall be reported as follows:

(1) The falconer who is present and takes possession of a wild raptor at the capture site shall file the required report information within 10 calendar days of the capture by submitting the information to the electronic database of the United States fish and wildlife service.

(2) Any falconer may enlist the assistance of another person to take a wild raptor if the falconer is at the exact location of the capture and takes immediate possession of the bird.

(3) Any falconer who does not take immediate possession of a wild raptor at the exact location of the capture may acquire a wild raptor from a general falconer or master falconer, as defined in K.A.R. 115-14-12, in accordance with the following reporting requirements:

(A) The general falconer or master falconer who takes the raptor from the wild shall report the capture in accordance with paragraph (k)(1).

(B) The falconer receiving the wild raptor from the general falconer or master falconer shall report the transfer of the bird within 10 calendar days of the transfer by submitting the information to the electronic database of the United States fish and wildlife service.

(4) Any falconer who has a long-term or permanent physical impairment that prevents the individual from being present at the exact location of the capture and taking immediate possession of a wild raptor that may be used by the falconer for falconry purposes may acquire a bird by the following means:

(A) Any general falconer or master falconer, as defined by K.A.R. 115-14-12, may capture the wild raptor.

This capture shall not count against the general falconer's or master falconer's calendar-year limit for the take of wild raptors. However, this capture shall count against the calendar-year limit for wild raptors of the falconer with the long-term or permanent physical impairment.

(B) The falconer with the long-term or permanent physical impairment shall file the capture report in accordance with paragraph (k)(1).

(C) The falconer with the long-term or permanent physical impairment shall confirm the presence of the impairment and the need to report in accordance with this subsection at the time of application for the capture permit.

(1) A master falconer may be authorized by permit to possess not more than three eagles, including golden eagles, white-tailed eagles, or Steller's sea eagles, for falconry in accordance with the following provisions:

(1) Each eagle possessed shall count against the possession limit for the falconer.

(2) A golden eagle may be taken in a location declared by the wildlife services of the United States department of agriculture or in an area within a state that has been established as a livestock depredation area in accordance with the following provisions:

(A) An immature or a subadult golden eagle may be taken in a livestock depredation area while the depredation area is in effect.

(B) A nesting adult golden eagle, or an eyas from its nest, may be taken in a livestock depredation area if a biologist that represents the agency responsible for establishing the depredation area has determined that the adult eagle is preying on livestock.

(C) The falconer shall notify the regional law enforcement office of the United States fish and wildlife service of the capture plan before any trapping activity begins. Notification shall be submitted in person, in writing, or by facsimile or electronic mail at least three business days before the start of trapping.

(m) Any raptor wearing falconry equipment or any captive-bred raptor may be recaptured at any time by any falconer in accordance with the following provisions:

(1) The falconer may recapture the raptor whether or not the falconer is allowed to possess that species.

(2) The recaptured bird shall not count against the falconer's possession limit. This take from the wild shall not count against the capture limit for the calendar year.

(3) The falconer shall report the recapture to the department within five working days of the recapture.

(4) The disposition of any recaptured bird shall be as follows:

(A) The bird shall be returned to the person who lost it, if that person may legally possess the bird and chooses to do so. If the person who lost the

bird either is prohibited from taking or chooses not to take the bird, the falconer who captured the bird may take possession of the bird if the falconer holds the necessary qualifications for the species and does not exceed the falconer's possession limit.

(B) The disposition of a recaptured bird whose legal ownership cannot be ascertained shall be determined by the department.

(n) Each goshawk (*Accipiter gentilis*), Harris's hawk (*Parabuteo unicinctus*), peregrine falcon (*Falco peregrinus*), or gyrfalcon (*Falco rusticolus*) taken from the wild or acquired from a rehabilitator by a falconer shall be identified by one or more of the following means:

(1) The bird shall be banded with a black nylon, permanent, nonreusable, numbered falconry registration leg band from the United States fish and wildlife service. The bands shall be made available through the department. Any falconer may request an appropriate band before any effort to capture a raptor.

(2) In addition to the band specified in paragraph (n)(1), the falconer may purchase and have implanted in the bird a 134.2 kHz microchip that is compliant with the requirements of an international organization for standardization. All costs associated with the implantation of a microchip shall be the responsibility of the falconer.

(3) The falconer shall report the take of any bird within 10 days of the take by submitting the required information, including the band number or the microchip information, or both, to the electronic database of the United States fish and wildlife service.

(4) The falconer shall report to the department the loss or removal of any black nylon, nonreusable leg band within five days of the removal or notice of loss.

(A)(i) When submitting the report, the falconer shall submit a request for a black, nylon, nonreusable leg band to the United States fish and wildlife service.

(ii) The falconer may purchase and implant a 134.2 kHz microchip that is compliant with the requirements of an international organization for standardization, in addition to using the black, nylon, nonreusable leg band for rebanding.

(B) The falconer shall immediately submit the required information relating to the rebanding or the implanting of a microchip by submitting the information to the electronic database of the United States fish and wildlife service.

(o) Each raptor bred in captivity shall be banded with a seamless metal falconry registration band provided by the United States fish and wildlife service. In addition, any such raptor may have implanted a 134.2 kHz microchip that is compliant with the requirements of an international organization for standardization.

The falconer shall report to the department the loss or removal of any seamless band within 10 days of the removal or notice of loss.

(1)(A) When submitting the report, the falconer shall submit a request for a yellow, nylon, nonreusable leg band to the United States fish and wildlife service.

(B) The falconer may purchase and implant a 134.2 kHz microchip that is compliant with the requirements of an international organization for standardization, in addition to using the seamless leg band for rebanding.

(2) The falconer shall immediately submit the required information relating to the rebanding or the implanting of a microchip by submitting the information to the electronic database of the United States fish and wildlife service.

(p) A falconry registration band shall not be altered, defaced, or counterfeited. However, the rear tab on a falconry registration band used to identify a raptor taken from the wild may be removed and any imperfect surface may be smoothed if the integrity of the band and the numbering on the band are not affected.

(q) The falconry registration band requirement may be waived by the secretary and the removal of a registration band may be allowed in order to address a documented health or injury problem caused to a raptor by the registration band in accordance with the following provisions:

(1) The falconer shall be required to carry a copy of the exemption paperwork at all times while transporting or flying the raptor.

(2) A microchip compliant with the requirements of an international organization for standardization and provided by the United States fish and wildlife service shall be used to replace the registration band causing the health or injury problem on a wild-caught goshawk, Harris's hawk, peregrine falcon, or gyrfalcon.

(r) A wild-caught falcon shall not be banded with a seamless numbered band.

(s) Any falconer, with prior authorization, may take a wild raptor, including a wild raptor that has been banded with an aluminum band from the federal bird-banding laboratory of the United States fish and wildlife service.

ed States fish and wildlife service, during the legal season using legal methods and equipment, in accordance with the following provisions:

(1) Each captured raptor that has any band, research marker, or transmitter attached to it shall be immediately reported to the federal bird-banding laboratory of the United States fish and wildlife service. The reported information shall include any identifying numbers, the date and location of capture, and any other relevant information.

(2) A peregrine falcon that is banded with a research band or has a research marking attached to the bird shall not be taken from the wild and shall be immediately released.

(3) A captured peregrine falcon that has a research transmitter attached to the bird may be kept by the falconer not more than 30 days if the federal bird-banding laboratory of the United States fish and wildlife service is immediately contacted after the capture. The disposition of the captured peregrine falcon shall be in accordance with the directions provided by the federal bird-banding laboratory or its designee.

(4) Any raptor, other than a peregrine falcon, that has a transmitter attached to it may be possessed by the falconer who captured the bird for not more than 30 days in order to contact the researcher, or the researcher's designee, to determine if the transmitter should be replaced.

(A) The temporary, 30-day possession of the bird shall not count against the falconer's possession limit for falconry raptors.

(B) If the falconer who captured the raptor wishes to possess the bird for falconry purposes, the disposition of the bird shall be at the discretion of the researcher and the secretary if the species of the bird is allowable under the classification level of the falconer and the falconer's possession of the captured bird does not exceed the established possession limit.

(t) Each raptor, including a peregrine falcon, that is captured and found with a seamless metal band, a transmitter, or any other item identifying it as a falconry bird attached to it shall be reported to the department within five days of capture.

(1) Each such falconry raptor shall be returned to the person who lost the raptor.

(2) If the person who lost the bird is prohibited from possessing the bird or does not wish to possess the bird, the falconer who captured the bird may keep the bird if the falconer holds the necessary qualifications for the species and does not exceed the falconer's possession limit.

(3) If the falconer who captured the bird is prohibited from possessing the bird, the disposition of the bird shall be at the discretion of the secretary.

(4) The recaptured falconry bird shall not count against the possession limit or the calendar-year limit of wild birds that may be taken by the falconer during the time the recaptured bird is being held pending final disposition.

(u) Each raptor that is injured during trapping activities shall be handled in accordance with the provisions of this subsection. It shall be the falconer's responsibility to address any injury occurring to a raptor during trapping activities in one of the following ways:

(1) The falconer may take the raptor into possession and apply it to the falconer's possession limit if the raptor is of a species allowed to be possessed and the falconer's possession limit is not exceeded.

(A) The take shall be reported in accordance with subsection (k).

(B) The raptor shall be treated by a veterinarian or a permitted wildlife rehabilitator. The cost for the care and treatment of the raptor shall be the responsibility of the falconer.

(2) The raptor may be turned over directly to a veterinarian, a permitted wildlife rehabilitator, or a department employee, and the raptor shall not be counted against the falconer's allowable take or possession limit. The falconer shall be responsible for the costs relating to the care and rehabilitation of the bird.

(v)(1) The falconer shall report each raptor that dies or is acquired, transferred, rebanded, implanted with a microchip, lost to the wild and not recovered within 30 calendar days, or stolen by submitting the information to the electronic database of the United States fish and wildlife service.

(2) In addition to submitting the report required in paragraph (v)(1), the falconer shall file a report of the theft of a raptor with the department and the appropriate regional law enforcement office of the United States fish and wildlife service within 10 calendar days of the theft.

(3) The falconer shall keep copies of all electronic database submissions documenting the take, transfer, loss, theft, rebanding, or implanting of microchips of each falconry raptor for at least five years after the bird has been transferred, released to the wild, or lost, or has died.

(w) The intentional release to the wild of any falconry raptor shall be in accordance with the following requirements:

(1) A species of raptor that is not native to Kansas shall not be released to the wild. Any such bird may be transferred to another falconer if the falconer receiving the bird is authorized to possess the age and species of raptor and the transfer does not exceed the possession limit of the falconer receiving the bird.

(2) Any species of raptor that is native to Kansas and is captive-bred may be released to the wild according to the following requirements:

(A) The falconer shall obtain the department's permission to release the bird to the wild before the actual release. The time of year and the location where the release shall take place shall be specified by the department.

(i) The release of a raptor on department lands or waters shall meet the requirements of K.A.R. 115-8-12.

(ii) The falconer shall acquire verbal permission from the landowner or person in control of the private land before the release of the raptor.

(B) The falconer shall remove any tag, transmitter, or nonreusable falconry band, if present, before release. All falconry identification bands, tags, or markers shall then be surrendered to the department within 10 calendar days of the release.

(C) The falconer shall report the release of the bird within 10 calendar days of the release by submitting the required information to the electronic database of the United States fish and wildlife service.

(3) Any species of raptor that is native to Kansas and was taken from the wild may be released to the wild according to the following requirements:

(A) The falconer may release the bird to the wild year-round.

(i) Each release of a raptor on department lands or waters shall meet the requirements of K.A.R. 115-8-12.

(ii) The falconer shall acquire verbal permission from the landowner or person in control of the private land before the release of the raptor.

(B) The falconer shall remove any tag, transmitter, or nonreusable falconry band, if present, before the release. All falconry identification bands, tags, or markers shall then be surrendered to the department within 10 calendar days of the release.

(C) The falconer shall report the release of the bird within 10 calendar days of the release by 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, which means temporarily releasing a falconry raptor to the wild for conditioning, shall be permissible.

(x) In addition to any other requirements regarding the take of peregrine falcons, each falconer shall immediately notify the department when a peregrine falcon is taken, as specified on the take permit. If the quota for the take of peregrine falcons has been met and the take season is closed, the falconer shall immediately release the peregrine falcon upon notification by the department.

This regulation shall be effective on and after December 31, 2020. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Dec. 31, 2012; amended Feb. 8, 2013; amended Dec. 31, 2020.)

115-14-15. Falconry; transfers, trading, and sale of raptors.

(a) The number of transactions transferring a falconry raptor between permittees shall not be restricted if the permittee taking possession of the raptor does not exceed the possession limit in K.A.R. 115-14-12.

(b) Upon the death of a falconry permittee, the surviving spouse, executor, administrator, or other legal representative of the deceased falconry permittee may transfer any raptor held by the permittee to another authorized permittee within 90 days. After 90 days, the disposition of any raptor held under the permit shall be at the discretion of the secretary.

(c) No wild-caught raptor shall be sold or purchased, bartered, or traded, whether or not the raptor has been transferred or held in captivity for any period.

(d) A wild-caught raptor may be transferred to another falconry permit holder in accordance with the following requirements:

(1) The transferor shall report the transfer within 10 calendar days by submitting the information to the electronic database of the United States fish and wildlife service.

(2) Upon transfer to another properly permitted falconer, the raptor shall not count toward the number of wild raptors that may be taken from the wild by the receiving falconer.

(e) A wild-caught raptor may be transferred to the holder of a raptor propagation permit in accordance with the following provisions:

(1) A falconry raptor shall be transferred to a properly permitted captive propagation permittee if the raptor is used for propagation purposes for more than eight months.

(A) The individual holding the raptor propagation permit may be the same individual holding the falconry permit or a different person.

(B) Each raptor that is transferred shall have been used for falconry for at least two calendar years, except that the following raptor species shall have been used for falconry for at least one calendar year:

- (i) Sharp-shinned hawk (*Accipiter striatus*);
- (ii) Cooper's hawk (*Accipiter cooperii*);
- (iii) merlin (*Falco columbarius*); and
- (iv) American kestrel (*Falco sparverius*).

(C) The falconry permittee shall report the transfer within 10 calendar days by submitting the information to the electronic database of the United States fish and wildlife service.

(D) The transferred bird shall be banded with a black nylon, nonreusable, numbered band issued by the United States fish and wildlife service.

(2) A falconry raptor may be temporarily transferred to a permitted captive propagation permittee for propagation purposes in accordance with the following provisions:

(A) The individual holding the raptor propagation permit may be the same individual holding the falconry permit or a different person.

(B) A falconry raptor shall not be used for captive propagation for more than eight months in a calendar year.

(C) The permittee shall notify the department in writing of the dates on which the bird begins and ends captive propagation activity.

(3) A falconry raptor may be permanently transferred to the holder of a permit type other than a falconry permit or captive propagation permit in accordance with the following provisions:

(A) The transfer may occur regardless of the time during which the wild-caught bird has been used for falconry purposes.

(B) The bird shall have been injured and a veterinarian or wildlife rehabilitator shall have determined that the bird shall no longer be flown for falconry.

(C) The falconry permittee shall report the transfer within 10 calendar days by submitting the information to the electronic database of the United States fish and wildlife service. The falconry permittee shall also provide a copy of the certification from the veterinarian or wildlife re-

habilitator stating that the bird cannot be used for falconry to the regional migratory bird permit office of the United States fish and wildlife service within 10 calendar days of the transfer.

(f) Any captive-bred falconry raptor may be transferred to another falconry permit holder. The transferor shall report the transfer within 10 calendar days by submitting the transfer report to the electronic database of the United States fish and wildlife service.

(g) A captive-bred falconry raptor may be transferred to the holder of a permit type other than falconry. The transferor shall report the transfer within 10 calendar days to the electronic database of the United States fish and wildlife service.

(h) Any permittee may acquire a raptor for falconry purposes from a permitted rehabilitator if all of the following requirements are met:

(1) The raptor shall be of an age and species allowed under the permittee's classification level.

(2) The acquisition shall not place the permittee in excess of the possession limit.

(3) The transfer from the rehabilitator to the permittee shall be at the discretion of the rehabilitator.

(4) Each raptor acquired by transfer from a rehabilitator shall count as one of the raptors that the permittee is allowed to take from the wild for that calendar year.

(5) The permittee shall report each raptor acquired by transfer from a rehabilitator within 10 days of the transfer by submitting the required information to the electronic database of the United States fish and wildlife service. This regulation shall be effective on and after December 31, 2012. (Authorized by and implementing K.S.A. 32-807; effective Dec. 31, 2012.)

Article 15.—NONGAME, THREATENED AND ENDANGERED SPECIES

115-15-1. Threatened and endangered species; general provisions. (a) The following species shall be designated endangered within the boundaries of the state of Kansas.

(1) Invertebrates

Flat floater mussel, *Utterbackia suborbiculata*
(Say, 1831)

Rabbitsfoot mussel, *Thalidderma cylindrica*
(Say, 1817)

Western fanshell mussel, *Cyprogenia aberti*
(Conrad, 1850)

Neosho mucket mussel, *Lampsilis rafinesqueana*
(Frierson, 1927)

- Elktoe mussel, *Alasmidonta marginata*
(Say, 1818)
- Ellipse mussel, *Venustaconcha ellipsiformis*
(Conrad, 1836)
- Slender walker snail, *Pomatiopsis lapidaria*
(Say, 1817)
- Scott optioservus riffle beetle,
Optioservus phaeus
(White, 1978)
- American burying beetle,
Nicrophorus americanus
(Olivier, 1890)
- Mucket, *Actinonaias ligamentina*
(Lamarck, 1819)
- Cylindrical papershell mussel,
Anodontoides ferussacianus
(I. Lea, 1834)
- (2) Fish
- Arkansas River shiner, *Notropis girardi*
(Hubbs and Ortenburger, 1929)
- Pallid sturgeon, *Scaphirhynchus albus*
(Forbes and Richardson, 1905)
- Sicklefin chub, *Macrhybopsis meeki*
(Jordan and Evermann, 1896)
- Peppered chub, *Macrhybopsis tetranema*
(Gilbert, 1886)
- Silver chub, *Macrhybopsis storeriana*
(Kirtland, 1845)
- (3) Amphibians
- Cave salamander, *Eurycea lucifuga*
(Rafinesque, 1822)
- Grotto salamander, *Eurycea spelaea*
(Stejneger, 1892)
- (4) Birds
- Least tern, *Sternula antillarum*
(Lesson, 1847)
- Whooping crane, *Grus americana*
(Linnaeus, 1758)
- (5) Mammals
- Black-footed ferret, *Mustela nigripes*
(Audubon and Bachman, 1851)
- Gray myotis, *Myotis grisescens*
(A.H. Howell, 1909)
- (b) The following species shall be designated threatened within the boundaries of the state of Kansas.
- (1) Invertebrates
- Rock pocketbook mussel, *Arcidens confragosus*
(Say, 1829)
- Flutedshell mussel, *Lasmigona costata*
(Rafinesque, 1820)
- Butterfly mussel, *Ellipsaria lineolata*
(Rafinesque, 1820)
- Ouachita kidneyshell mussel,
Ptychobranthus occidentalis
(Conrad, 1836)
- Sharp hornsnail, *Pleurocera acuta*
(Rafinesque, 1831)
- Delta hydrobe, *Probythinella emarginata*
(Kuster, 1852)
- (2) Fish
- Flathead chub, *Platygobio gracilis*
(Richardson, 1836)
- Hornyhead chub, *Nocomis biguttatus*
(Kirtland, 1840)
- Neosho madtom, *Noturus placidus*
(Taylor, 1969)
- Redspot chub, *Nocomis asper*
(Lachner and Jenkins, 1971)
- Blackside darter, *Percina maculata*
(Girard, 1859)
- Sturgeon chub, *Macrhybopsis gelida*
(Girard, 1856)
- Western silvery minnow, *Hybognathus argyritis*
(Girard, 1856)
- Topeka shiner, *Notropis topeka*
(Gilbert, 1884)
- Shoal chub, *Macrhybopsis hyostoma*
(Gilbert, 1884)
- Plains minnow, *Hybognathus placitus*
(Girard, 1856)
- (3) Amphibians
- Eastern newt, *Notophthalmus viridescens*
(Rafinesque, 1820)
- Longtail salamander, *Eurycea longicauda*
(Green, 1818)
- Eastern narrow-mouthed toad,
Gastrophryne carolinensis
(Holbrook, 1836)
- Green frog, *Lithobates clamitans*
(Latreille, 1801)
- Strecker's chorus frog, *Pseudacris streckeri*
(Wright and Wright, 1933)
- Green toad, *Anaxyrus debilis*
(Girard, 1854)
- (4) Reptiles
- Broad-headed skink, *Plestidon laticeps*
(Schneider, 1801)
- Checkered gartersnake,
Thamnophis marcianus
(Baird and Girard, 1853)
- New Mexico Threadsnake, *Rena dissectus*
(Cope, 1896)
- (5) Birds
- Piping plover, *Charadrius melodus*
(Ord, 1824)
- Snowy plover, *Charadrius nivosus*
(Linnaeus, 1758)
- (6) Mammals
- Eastern spotted skunk, *Spilogale putorius*
(Linnaeus, 1758)
- (7) Turtles
- Northern map turtle, *Graptemys geographica*
(Le Sueur, 1817)

(c) A threatened or endangered species taken during established trapping seasons, authorized commercial wildlife operations, fishing by hook and line, bait fish seining, or other lawful activity shall not be unlawfully taken if immediately released.

(d) Any threatened or endangered species in possession before the effective date of this regulation and not prohibited by any previous regulation of the department or national listings may be retained in possession if either of the following conditions is met:

(1) An application of affidavit to that effect has been filed with and approved by the secretary before January 1, 1990 that states the circumstances of how the species came into possession.

(2) Possession of the animal has been previously approved by the department. (Authorized by K.S.A. 32-960 and 32-963; implementing K.S.A. 32-960, K.S.A. 2018 Supp. 32-961, K.S.A. 32-963, K.S.A. 32-1010, and K.S.A. 32-1011; effective Oct. 30, 1989; amended Aug. 31, 1992; amended Nov. 29, 1999; amended Feb. 18, 2005; amended July 24, 2009; amended Nov. 14, 2014; amended Dec. 20, 2019.)

115-15-2. Nongame species; general provisions. (a) The following species shall be designated nongame species in need of conservation within the boundaries of the state of Kansas.

(1) Invertebrates

- Snuffbox mussel, *Epioblasma triquetra*
(Rafinesque, 1820)
- Wartyback mussel, *Cyclonaias nodulata*
(Rafinesque, 1820)
- Spike mussel, *Elliptio dilatata*
(Rafinesque, 1820)
- Fatmucket mussel, *Lampsilis siliquoidea*
(Barnes, 1823)
- Yellow sandshell mussel, *Lampsilis teres*
(Rafinesque, 1820)
- Washboard mussel, *Megalonaias nervosa*
(Rafinesque, 1820)
- Round pigtoe mussel, *Pleurobema sintoxia*
(Conrad, 1834)
- Creeper mussel, *Strophitus undulatus*
(Say, 1817)
- Fawnsfoot mussel, *Truncilla donaciformis*
(I. Lea, 1828)
- Deertoe mussel, *Truncilla truncata*
(Rafinesque, 1820)
- Ozark emerald dragonfly,
Somatochlora ozarkensis
(Bird, 1833)
- Gray petaltail dragonfly, *Tachopteryx thoreyi*

- (Hagen in Selys, 1857)
- Prairie mole cricket, *Gryllotalpa major*
(Saussure, 1874)
- Neosho midget crayfish, *Orconectes macrus*
(Williams, 1952)
- (2) Fish
 - Arkansas darter, *Etheostoma cragini*
(Gilbert, 1885)
 - Banded darter, *Etheostoma zonale*
(Cope, 1868)
 - Banded sculpin, *Cottus carolinae*
(Gill, 1861)
 - Black redhorse, *Moxostoma duquesnei*
(Le Sueur, 1817)
 - Blue sucker, *Cycleptus elongatus*
(Le Sueur, 1817)
 - Western blacknose dace, *Rhinichthys obtusus*
(Agassiz, 1854)
 - Bluntnose darter, *Etheostoma chlorosoma*
(Hay, 1881)
 - Brassy minnow, *Hybognathus hankinsoni*
(Hubbs, 1929)
 - Gravel chub, *Erimystax x-punctatus*
(Hubbs and Crowe, 1956)
 - Greenside darter, *Etheostoma blennioides*
(Rafinesque, 1819)
 - Highfin carpsucker, *Carpionodes 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 blenni*
(Girard, 1856)
 - Slough darter, *Etheostoma gracile*
(Girard, 1859)
 - Highland darter, *Etheostoma teddyroosevelt*
(Jordan, 1877)
 - Spotfin shiner, *Cyprinella spiloptera*
(Cope, 1868)
 - Spotted sucker, *Minytrema melanops*
(Rafinesque, 1820)
 - Sunburst darter, *Etheostoma mihileze*
(Agassiz, 1854)
 - Tadpole madtom, *Noturus gyrinus*
(Mitchill, 1817)
 - Brindled madtom, *Noturus miurus*
(Jordan, 1877)
 - Bigeye shiner, *Notropis boops*
(Gilbert, 1884)
 - Redfin darter, *Etheostoma whipplei*
(Girard, 1859)
 - Lake Sturgeon, *Acipenser fulvescens*
(Rafinesque, 1817)

- Striped shiner, *Luxilus chrysocephalus*
(Rafinesque, 1820)
- Common shiner, *Luxilus cornutus*
(Mitchill, 1817)
- Southern Redbelly Dace,
Chrosomus erythrogaster
(Rafinesque, 1820)
- Cardinal Shiner, *Luxilus cardinalis*
(Mayden, 1988)
- Johnny Darter, *Etheostoma nigrum*
(Rafinesque, 1820)
- Chestnut lamprey, *Ichthyomyzon castaneus*
(Girard, 1858)
- Silverband shiner, *Notropis shumardi*
(Girard, 1856)
- (3) Amphibians
- Red-spotted toad, *Anaxyrus punctatus*
(Baird and Girard, 1852)
- Crawfish frog, *Lithobates areolatus*
(Baird and Girard, 1852)
- Spring peeper, *Pseudacris crucifer*
(Wied-Neuwied, 1838)
- (4) Reptiles
- Rough earthsnake, *Haldea striatula*
(Linnaeus, 1766)
- Plains hog-nosed snake, *Heterodon nasicus*
(Baird and Girard, 1852)
- Timber rattlesnake, *Crotalus horridus*
(Linnaeus, 1758)
- Eastern hog-nosed snake, *Heterodon platirhinos*
(Latreille, 1801)
- Glossy snake, *Arizona elegans*
(Kennicott, 1859)
- Chihuahuan nightsnake, *Hypsiglena jani*
(Duges, 1865)
- Red-bellied snake, *Storeria occipitomaculata*
(Storer, 1839)
- Long-nosed snake, *Rhinocheilus lecontei*
(Baird and Girard, 1853)
- Smooth earthsnake, *Virginia valeriae*
(Baird and Girard, 1853)
- (5) Birds
- Bobolink, *Dolichonyx oryzivorus*
(Linnaeus, 1758)
- Cerulean warbler, *Setophaga cerulea*
(Wilson, 1810)
- Curve-billed thrasher, *Toxostoma curvirostre*
(Swainson, 1827)
- Ferruginous hawk, *Buteo regalis*
(Gray, 1844)
- Golden eagle, *Aquila chrysaetos*
(Linnaeus, 1758)
- Short-eared owl, *Asio flammeus*
(Pontoppidan, 1763)
- Henslow's sparrow, *Ammodramus henslowii*
(Audubon, 1829)
- Ladder-backed woodpecker, *Picoides scalaris*
(Wagler, 1829)
- Long-billed curlew, *Numenius americanus*
(Bechstein, 1812)
- Mountain plover, *Charadrius montanus*
(Townsend, 1837)
- Chihuahuan raven, *Corvus cryptoleucus*
(Couch, 1854)
- Black tern, *Chlidonias niger*
(Linnaeus, 1758)
- Black rail, *Laterallus jamaicensis*
(Gmelin, 1789)
- Eastern whip-poor-will, *Antrastomas vociferus*
(Wilson, 1812)
- Yellow-throated warbler, *Setophaga dominica*
(Linnaeus, 1776)
- (6) Mammals
- Franklin's ground squirrel, *Poliocitellus franklinii*
(Sabine, 1822)
- Pallid bat, *Antrozous pallidus*
(LeConte, 1856)
- Southern bog lemming, *Synaptomys cooperi*
(Baird, 1858)
- Southern flying squirrel, *Glaucomys volans*
(Linnaeus, 1758)
- Texas mouse, *Peromyscus attwateri*
(J.A. Allen, 1895)
- Townsend's big-eared bat,
Corynorhinus townsendii
(Cooper, 1837)
- Northern long-eared bat, *Myotis septentrionalis*
(Trouessart, 1897)
- (7) Turtles
- Alligator snapping turtle,
Macrochelys temminckii
(Troost, in Harlan, 1835)
- (b) Any nongame species in need of conservation taken during established trapping seasons, authorized commercial wildlife operations, fishing by hook and line, baitfish seining, or other lawful activity shall not be unlawfully taken if immediately released.
- (c) Any nongame species in need of conservation in possession before the effective date of this regulation and not prohibited by any previous regulation of the department or national listings may be retained in possession if either of the following conditions is met:
- (1) An application of affidavit to that effect has been filed with and approved by the secretary before January 1, 1990, that states the circumstances of how the species came into possession.
- (2) Possession of the animal has been previously approved by the department. (Authorized by K.S.A. 32-959 and 32-963; implementing K.S.A. 32-959 and K.S.A. 2018 Supp. 32-1009; effective Oct. 30, 1989; amended Aug. 31, 1992; amended Nov. 29, 1999; amended Feb. 18, 2005; amended

July 24, 2009; amended Nov. 14, 2014; amended Dec. 20, 2019.)

115-15-3. Threatened and endangered wildlife; special permits and enforcement actions. (a) The following definitions shall apply only to this regulation:

(1) "Action" means an activity resulting in physical alteration of a listed species' critical habitat, physical disturbance of listed species, or destruction of individuals of a listed species.

(2) "Critical habitat" means either of the following:

(A) Specific geographic areas supporting a population of a listed species and including physical or biological features that meet the following requirements:

(i) Are essential to the conservation of the species; and

(ii) require special management or protection; or

(B) specific geographic areas not documented as currently supporting a population of a listed species but determined essential for the conservation of the listed species by the secretary.

(3) "Habitat" means the abode where a listed species is generally found and where all essentials for survival and growth of the listed species are present.

(4) "Intentional destruction" means an act or attempt that is willful and is done for the purpose of, and results in, the killing of a threatened or endangered species.

(5) "Intentional taking" means an act or attempt that is willful and is done for the purpose of taking a threatened or endangered species. "Intentional taking" shall include "intentional destruction" as defined in paragraph (a)(4).

(6) "Listed species" means those species listed in K.A.R. 115-15-1.

(7) "Normal farming and ranching practices" shall include activities financed with private funds on private lands and government cost-shared, routine agricultural land treatment measures.

(8) "Permit from another state or federal agency" shall not include a certification or registration.

(9) "Publicly funded," when used to describe an action, means any action for which planning and implementation are wholly funded with monies from federal, state, or local units of government.

(10) "State or federally assisted," when used to describe an action, means any action receiving technical assistance or partial funding from a state or federal governmental agency.

(b) Each person sponsoring or responsible for a publicly funded action, a state or federally assisted action, or an action requiring a permit from another state or federal government agency shall apply to the secretary for an action permit on forms provided by the department, unless one of the following exceptions applies:

(1) An action permit shall not be required to conduct normal farming and ranching practices, unless a permit is required by another state or federal agency or these practices involve an intentional taking.

(2) An action permit shall not be required for the development of residential and commercial property on privately owned property financed with private, nonpublic funds, unless a permit is required by another state or federal agency or the development involves an intentional taking.

(3) An action permit shall not be required for any activity for which a person has obtained a scientific, educational, or exhibition permit, pursuant to K.S.A. 32-952 and amendments thereto and K.A.R. 115-18-3.

(4) An action permit shall not be required for any species listed after July 1, 2016 if a recovery plan for the listed species is not completed within four years of the listing date, unless the species is listed as threatened or endangered under federal law or until a recovery plan for the listed species is completed.

(c) Each action permit application shall be submitted at least 90 days before the proposed starting date of the planned action and shall include the following information:

(1) Location and description of the proposed action and, if required, detailed plans of the proposed action;

(2) an assessment of potential impacts on the listed species or its critical habitat resulting from the proposed action; and

(3) proposed measures incorporated into the action plan to protect listed species or critical habitat of listed species.

(d) Each person sponsoring or responsible for an action for which an action permit is not required by subsection (b) and that will result in the intentional destruction of a member of any listed species shall apply to the secretary for an action permit on forms provided by the department. An action permit shall not be required for any activity for which a person has obtained a scientific, educational, or exhibition permit, pursuant to K.S.A. 32-952 and amendments thereto and K.A.R.

115-18-3. An action permit application shall be submitted at least 30 days before the proposed starting date of the planned action and shall include the following information:

(1) Location and description of the proposed action and, if required, detailed plans of the proposed action;

(2) an assessment of potential impacts on the listed species or its critical habitat resulting from the proposed action; and

(3) proposed measures incorporated into the action plan to protect listed species or critical habitat of listed species.

(e) An action permit required under subsection (b) or (d) shall be issued by the secretary pursuant to a timely and complete application, if the proposed action meets the requirements of the following:

(1) Sufficient mitigating or compensating measures to ensure protection of either critical habitats or listed species, or both as conditions require, cooperatively developed by the department and the applicant and incorporated into the proposed action; and

(2) all federal laws protecting listed species.

(f) A public hearing on the proposed action may be provided by the secretary before issuance of an action permit.

(g) In addition to other penalties prescribed by law, any action permit may be revoked by the secretary for any of the following reasons:

(1) Violation of conditions established by the permit;

(2) significant deviation of an action from the proposed action; or

(3) failure to perform or initiate performance of an action within one year after the proposed starting date, unless otherwise specified in the permit or an extension has been authorized in writing by the secretary after a determination of no significant change in the proposed action.

(h) Law enforcement action shall be undertaken only in cases of intentional taking.

(i) Nothing in this regulation shall be deemed to exempt a person from the requirement to acquire knowledge of the presence of a listed species by the exercise of due diligence once a listed species is known to exist within an area or the area is designated as critical habitat. This subsection shall be applied only to offenses or obligations arising under state statutes or regulations. (Authorized by K.S.A. 32-960b, K.S.A. 2016 Supp. 32-961, and K.S.A. 32-963; implementing K.S.A. 32-960b,

K.S.A. 2016 Supp. 32-961, K.S.A. 32-962, and K.S.A. 32-963; effective Oct. 30, 1989; amended Dec. 29, 1997; amended Feb. 16, 2018.)

115-15-4. Recovery plans; procedures.

(a) The following definitions shall apply only to this regulation:

(1) "Recovery plan" means a designated strategy or methodology that, if funded and implemented, is reasonably expected to lead to the eventual restoration, maintenance, or delisting of a listed species.

(2) "Listed species" means those species listed in K.A.R. 115-15-1 and K.A.R. 115-15-2.

(3) "Local advisory committee" means a committee as described in K.S.A. 32-960a, and amendments thereto.

(b) A recovery plan shall be developed for each listed species, subject to the priority list for development of recovery plans, and shall be consistent with the amount of funds appropriated for that purpose.

(1) All listed species shall be ranked to establish priorities for recovery plan development. Any recovery plan may include more than one listed species.

(2) When, using the ranked priority list, a listed species is designated for recovery plan development, notice shall be published to that effect in the Kansas register and shall be mailed to persons who have requested to be notified of the recovery plan process for that listed species or for all species.

(3) Reasonable opportunity shall be provided for individuals, organizations, and other interested parties to participate and express their views about the development and implementation of a recovery plan.

(4) A local advisory committee shall be established to take part in the development of the recovery plan. The local advisory committee shall identify measures that minimize adverse social and economic impacts during recovery actions.

(c)(1) Each recovery plan shall include the following:

(A) The current status of the listed species, including the existing scientific knowledge of habitat requirements, limiting factors, and distribution;

(B) additional data needs;

(C) actions and land uses affecting the listed species;

(D) specific management activities that may be included in an agreement between the secretary and a landowner;

(E) critical habitat designations required for conservation and recovery of the listed species;

(F) objectives, criteria, and budgeted actions required to recover and protect the listed species;

(G) conservation assistance programs or other incentive-based opportunities for species conservation on private lands;

(H) information and education-based opportunities for conservation of listed species on private lands;

(I) delisting date goal; and

(J) estimated implementation cost.

(2) For each species listed before January 1, 1998, the existing critical habitat designation process and permitting authority shall be maintained by the department until a recovery plan is adopted for that species. The recovery plan, once adopted, shall determine the final designations for critical habitat as well as identify specific actions that are subject to permitting and enforcement authority.

(3) For newly listed species, critical habitat shall be temporarily designated by the secretary. Each temporary designation shall expire four years after the species is listed, unless the species is listed under federal law. Final critical habitat criteria and specific actions that are subject to permitting and enforcement authority shall be determined by the adopted recovery plan.

(4) Each critical habitat established through the recovery planning process shall supersede existing criteria and designations.

(5) Each critical habitat established through the recovery planning process or temporarily designated by the secretary shall be determined on the basis of the best scientific data available while taking into consideration the economic impact of the designation.

(6) Any geographic area may be excluded from a critical habitat designation by the secretary if the secretary determines that the benefits of the exclusion outweigh the benefits of the designation, unless the secretary determines that the failure to designate the critical habitat will result in the extirpation of the species, based on the best scientific and commercial data available.

(d) To meet the requirement that real property shall be included in management activities as part of a recovery plan, pursuant to K.S.A. 79-32,203(a)(2) and amendments thereto, each landowner shall meet the following requirements:

(1) Undertake land management activities or improvements identified in the recovery plan; and

(2) be a signed party to an agreement with the

secretary specifying those land management activities or improvements.

(e) Before its adoption, a draft recovery plan shall be distributed to relevant federal and state agencies, local and tribal governments that are affected by the recovery plan, and individuals and organizations that have requested notification of department actions regarding threatened or endangered species.

(f) After adoption of a recovery plan, cooperation with other state and federal agencies, local and tribal governments, and affected landowners for implementation of the recovery plan shall be sought by the secretary.

(g) If a listed species is also designated as a federal threatened or endangered species or is a candidate for federal designation, the recovery plan for that listed species shall be submitted to the secretary of the interior.

(h) Each recovery plan shall be reviewed at least once every five years, and the status of the listed species addressed by the recovery plan shall be monitored in the interim. The local advisory committee shall be consulted by the department during the review. This review shall take into account any new scientific knowledge or data since the original adoption of the recovery plan, as well as current population trends of the listed species. (Authorized by K.S.A. 32-960b; implementing K.S.A. 32-960a and K.S.A. 32-960b; effective Jan. 1, 1998; amended Feb. 16, 2018.)

Article 16.—WILDLIFE DAMAGE CONTROL

115-16-1. Cyanide gas gun permit; application and requirements. (a) Subject to federal and state laws and rules and regulations, a cyanide gas gun, may be used in an authorized wildlife control program for the purpose of live-stock protection. A cyanide gas gun permit shall be required to use cyanide gas gun devices.

(b) Any owner or operator of land used for agricultural purposes may apply to the secretary for a permit to use cyanide gas gun devices. The application shall be on forms provided by the department and each applicant shall provide the following information.

(1) the name of the applicant;

(2) the address of the applicant;

(3) the telephone number of the applicant;

(4) the legal description of the land where the cyanide gas gun devices will be used;

(5) a description of the wildlife depredation problem and methods used by the applicant to control the depredation;

(6) written approval from the extension specialist in wildlife damage control; and

(7) other information as required by the secretary.

(c) Issuance of a permit may be denied by the secretary if:

(1) the permit application is unclear or incomplete;

(2) the need for use of cyanide gas gun devices has not been established; or

(3) use of cyanide gas gun devices would pose an inordinate risk to the public, non-target wildlife, or the environment.

(d) The following permit conditions shall apply:

(1) The permit shall be valid only for the time periods specified on the permit, but shall not exceed 120 days;

(2) Warning signs indicating use of cyanide gas gun devices shall be conspicuously placed at all property access points. One elevated warning sign shall be placed within six feet of any cyanide gas gun device; and

(3) The permit shall be valid only for the locations specified on the permit.

(e) Each permittee shall submit a report to the department within 10 days after permit expiration. The report shall contain the following information:

(1) the name of the permittee;

(2) the permit number;

(3) the number of coyotes killed;

(4) the number of days that cyanide gas gun devices were in use;

(5) the number and species of non-target wildlife killed; and

(6) other information as required by the secretary.

(f) Each permittee shall use only cyanide gas gun devices and those necessary materials, supplies, signs, and equipment provided through the extension specialist in wildlife damage control.

(g) In addition to other penalties as prescribed by law, a cyanide gas gun permit may be revoked by the secretary if:

(1) the permit was secured through false representation; or

(2) the permittee fails to meet permit requirements or violates permit conditions. (Authorized by K.S.A. 1989 Supp. 32-807 and K.S.A. 1989 Supp. 32-955; implementing K.S.A. 1989 Supp.

32-955, K.S.A. 1989 Supp. 32-1002 and K.S.A. 1989 Supp. 32-1003; effective Sept. 10, 1990.)

115-16-2. Prairie dog control permit; application and requirements. (a) A prairie dog control permit shall be required to use any poisonous gas or smoke to control prairie dogs, except toxicants labeled and registered for above ground use for prairie dog control shall not require a prairie dog permit.

(b) Any person may apply to the secretary for a prairie dog control permit. The application shall be on forms provided by the department and each applicant shall provide the following information:

(1) the name of the applicant;

(2) the address of the applicant;

(3) the telephone number of the applicant;

(4) the legal description of land where the poisonous gas or smoke will be used;

(5) a description of the problem requiring prairie dog control;

(6) the type of control method to be used;

(7) written approval from the extension specialist in wildlife damage control; and

(8) other information as required by the secretary.

(c) Issuance of a permit may be denied by the secretary if:

(1) the permit application is unclear or incomplete;

(2) the need for prairie dog control has not been established; or

(3) use of poisonous gas or smoke would pose an inordinate risk to the public, non-target wildlife or the environment.

(d) The permit shall be valid only for the time period specified on the permit, but shall not exceed 120 days.

(e) The permit shall be valid only for the locations specified in the permit.

(f) In addition to other penalties as prescribed by law, a prairie dog control permit may be revoked by the secretary if:

(1) the permit was secured through false representation; or

(2) the permittee fails to meet permit requirements or violates permit conditions.

(g) All prairie dog control performed under the permit shall be subject to all federal and state laws and rules and regulations. (Authorized by K.S.A. 1989 Supp. 32-807 and K.S.A. 1989 Supp. 32-955; implementing K.S.A. 1989 Supp. 32-955, K.S.A.

1989 Supp. 32-1002 and K.S.A. 1989 Supp. 32-1003; effective Sept. 10, 1990.)

115-16-3. Nuisance bird control permit; application, provisions, and requirements.

(a) The term “nuisance birds” shall include those species specified in the department’s “Kansas nuisance bird species table,” dated April 11, 2017, which is hereby adopted by reference.

(b) Nuisance birds may be controlled when found depredating or about to depredate upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance.

(c) A nuisance bird control permit shall be required to use any lethal method of control that involves poisons or chemicals for controlling nuisance birds other than the English sparrow or European starling.

(d) Any person may apply to the secretary for a nuisance bird control permit. The application shall be submitted on forms provided by the department. Each applicant shall provide the following information:

- (1) The applicant’s name;
- (2) the applicant’s address;
- (3) the applicant’s telephone number;
- (4) the location of the nuisance bird problem;
- (5) a description of the problem;
- (6) the species of birds involved;
- (7) the proposed method of control; and
- (8) the length of time for which the permit is requested.

(e) Issuance of a permit may be denied by the secretary if any of the following conditions is met:

(1) The permit application is unclear or incomplete.

(2) The need for nuisance bird control has not been established.

(3) Use of the poison or chemical would pose inordinate risk to the public, non-target wildlife, or the environment.

(f) Each permit shall be valid only for the period specified on the permit, which shall not exceed one year.

(g) A permit may be extended by the secretary upon request and justification by the permittee. However, the combined total of the original and extended time periods shall not exceed one year.

(h) Each permit shall be valid only for the locations specified in the permit.

(i) In addition to other penalties as prescribed

by law, a nuisance bird control permit may be revoked by the secretary if either of the following conditions is met:

(1) The permit was secured through false representation.

(2) The permittee fails to meet permit requirements or violates permit conditions.

(j) A nuisance bird control permit shall not be required to control nuisance bird problems as described in subsection (b) if the control method is nonlethal or if the control method involves use of firearms, air rifles, air pistols, archery equipment, or falconry.

(k) Nuisance birds killed and the plumage of nuisance birds killed during nuisance bird control may be possessed, transported, and otherwise disposed of or utilized, except that nuisance birds killed and the plumage of nuisance birds killed during nuisance bird control shall not be sold or offered for sale.

(l) Nontoxic shot and bullets shall be required for the taking of nuisance birds pursuant to this regulation, except when using an air rifle, air pistol, or .22 caliber rimfire firearm. (Authorized by K.S.A. 2016 Supp. 32-807 and K.S.A. 32-955; implementing K.S.A. 32-955; effective Sept. 10, 1990; amended Aug. 31, 1992; amended Sept. 9, 2011; amended July 28, 2017.)

115-16-4. Big game control permit; application, requirements, and provisions.

(a) Big game animals may be controlled when found destroying property or when creating a public safety hazard.

(b) A big game control permit shall be required to use any lethal method in controlling big game.

(c) Any owner or operator of land may apply to the secretary for a big game control permit when a big game animal is found destroying property. Any person may apply to the secretary for a big game control permit when a big game animal is creating a public safety hazard. The application shall be submitted on forms provided by the department, and each applicant shall provide the following information:

- (1) The name of the applicant;
- (2) the address of the applicant;
- (3) the telephone number of the applicant;
- (4) the legal description of the land where the problem is occurring;
- (5) a description of the problem, including the number of acres involved; and
- (6) other information as required by the secretary.

(d) Issuance of a big game control permit may be denied by the secretary if any of the following conditions exists:

(1) The permit application is unclear or incomplete.

(2) The applicant does not agree to attempt to reduce numbers of big game by allowing hunting during the regular firearms season for the appropriate species of big game animal.

(3) Evidence of property destruction or a public safety hazard caused by a big game animal is lacking.

(4) Use of the lethal method of control would pose inordinate risk to the public or to the big game resource.

(e) In addition to any big game control provisions specified in the permit, the following general big game control permit provisions shall apply:

(1) The permit shall be valid for a period not to exceed 45 days.

(2) The permit shall be valid for only the locations specified in the permit.

(3) The number and type of big game that may be killed shall be those specified on the permit.

(4) The killing of big game under a big game control permit shall be restricted to the permittee or to the permittee's designated agent. A designated agent shall have a valid hunting license, unless exempt according to state law, and shall be approved by the department.

(5) The lethal control method shall be as specified on the permit.

(6) Big game killed under permit authority may be possessed as authorized by K.A.R. 115-4-9 or otherwise disposed of as specified on the permit.

(f) Each permittee shall submit a report to the department within 10 days following expiration of the permit. Each permittee shall provide the following information:

(1) The name of the permittee;

(2) the permit number;

(3) the number and type of big game killed;

(4) the disposition of the big game killed; and

(5) other information as required by the secretary.

(g) In addition to other penalties as prescribed by law, a big game control permit may be revoked by the secretary if either of the following conditions exists:

(1) The permit was secured through false representation.

(2) The permittee fails to meet permit requirements or violates permit conditions. (Authorized by K.S.A. 32-807 and 1999 SB 70, § 3; implement-

ing K.S.A. 32-1002, K.S.A. 32-1004, and 1999 SB 70, § 3; effective Sept. 10, 1990; amended June 11, 1999.)

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.)

115-16-6. Wildlife control permit; application and reporting requirements. (a) Each person 16 years of age or older wishing to obtain a wildlife control permit shall apply to the department on a form provided by the department and shall provide the following information:

(1) The applicant's name, address, and telephone number;

(2) the wildlife species to be controlled;

(3) the county or counties where wildlife control activities will be conducted;

(4) unless specifically exempted by the department based on previous use of the applicable methods or equipment as an authorized wildlife control operator, proof of completion of the following courses, if applicable:

(A) Department-approved hunter education training, if a firearm would be used to take wildlife; and

(B) department-approved furharvester education training, if furharvester equipment would be used to take wildlife; and

(5) any other information required by the department.

(b) Each applicant shall take a course of instruction approved by the department, which shall include instruction concerning applicable laws and regulations, methods for wildlife control, methods for handling wildlife, and other relevant material, and which shall include eight hours of instruction or the equivalent. The course may be offered by the department or by other approved agencies or organizations, and may be offered in person, by correspondence, or by electronic transmission. No applicant shall be required to take this course of instruction if the applicant has successfully completed an approved course within the previous five years.

(c) Successful completion of the course of instruction described in subsection (b) shall require that the applicant pass a department examination with a minimum score of 80 percent. No applicant shall be eligible to retake the examination within 30 days of failing the examination, and no applicant shall take the examination more than two times within the period of one year.

(d) A wildlife control permit may be refused issuance, 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 violated department laws or regulations, or has had any other department license or permit revoked or suspended.

(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 wildlife control permit.

(e) Each wildlife control permit shall expire on December 31, but may be renewed for the next calendar year before expiration.

(f) Each permittee shall be in possession of a valid wildlife control permit while conducting wildlife control activities, in addition to any other federal, state, or local permits that may be required. Upon request by any person in lawful possession of property where control activities are being conducted or by any person requesting control activities, the permittee shall make the wildlife control permit available for inspection. A permittee shall not act as an employee or an agent of the department.

(g) Upon request by any person to control wildlife, a wildlife control permittee shall make a reasonable attempt to identify the wildlife species in question, and shall advise the person requesting assistance of the proposed control method and the estimated cost before conducting any wildlife control activities. In no case shall the permittee conduct wildlife control activities without the authorization of the person in lawful control of the property.

(h) Each wildlife control permittee shall submit an annual report by January 31 following the permit year, on a form supplied by the department. The report shall be kept current and available for inspection throughout the permit year. Each report shall contain the following information:

(1) The name, address, and permit number of the permittee;

(2) the date of any control activity;

(3) the species, number, and condition of the wildlife controlled; and

(4) the control method or methods used.

(i) Each wildlife control permittee shall retain the following information for a minimum of three years and shall make this information available for inspection by the department on request:

(1) The name and postal zip code of the legal occupant where control activities were conducted; and

(2) the disposition of any wildlife taken, including any of the following:

(A) The name and postal zip code of the person in lawful possession of the property where the wildlife was released and the number of wildlife released;

(B) the method used if wildlife was euthanized; or

(C) the name of any licensed wildlife rehabilitator to whom the wildlife was submitted.

(j) Subject to applicable federal or state laws and regulations, any governmental body may be authorized by the secretary to conduct wildlife control activities. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective July 19, 2002.)

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 fishing bait.

(a) The following live species of wildlife may be commercially sold in Kansas for fishing bait:

- (1) The following species of fish:
 - (A) Black bullhead (*Ameiurus melas*);
 - (B) bluegill (*Lepomis macrochirus*), including hybrids;
 - (C) fathead minnow (*Pimephales promelas*), including “rosy reds”;

(D) golden shiner (*Notemigonus crysoleucas*);

(E) goldfish (*Carassius auratus*), including “black saltys”;

(F) green sunfish (*Lepomis cyanellus*), including hybrids; and

(G) yellow bullhead (*Ameiurus natalis*);

(2) only species of annelids native to or naturalized in the continental United States;

(3) the following species of crayfish:

(A) Virile crayfish (*Orconectes virilis*);

(B) calico crayfish (*Orconectes immunes*); and

(C) white river crayfish (*Procambarus acutus*); and

(4) only species of insects native to or naturalized in Kansas.

(b) The following species of wildlife may be commercially sold only if dead:

(1) Bighead carp (*Hypophthalmichthys nobilis*);

(2) emerald shiners (*Notropis atherinoides*);

(3) gizzard shad (*Dorosoma cepedianum*);

(4) silver carp (*Hypophthalmichthys molitrix*);

(5) skipjack herring (*Alosa chrysochloris*); and

(6) threadfin shad (*Dorosoma petenense*).

(c) Wildlife listed in K.A.R. 115-15-1 or in K.A.R. 115-15-2 or prohibited from importation pursuant to K.S.A. 32-956, and amendments thereto, shall not be sold.

(d) Live aquatic bait shall be certified free of the following pathogens before import, according to K.A.R. 115-17-2a:

- (1) Spring viremia of carp virus;
- (2) infectious pancreatic necrosis virus;
- (3) viral hemorrhagic septicemia virus; and
- (4) infectious hematopoietic virus.

(e) Each distribution tank and each retail tank shall utilize a source of potable water or well water.

This regulation shall be effective on and after January 1, 2022. (Authorized by and implementing K.S.A. 2020 Supp. 32-807; effective Sept. 10, 1990; amended Nov. 30, 1998; amended Jan. 1, 2012; amended Jan. 1, 2017; amended Jan. 1, 2018; amended Jan. 1, 2019; amended Jan. 1, 2022.)

115-17-2a. Commercial sale of bait fish; testing procedures.

(a) Live aquatic bait shall be certified free of the following pathogens before import, according to the requirements in this regulation:

- (1) Spring viremia of carp virus;
- (2) infectious pancreatic necrosis virus;
- (3) viral hemorrhagic septicemia virus; and
- (4) infectious hematopoietic virus.

(b) On and after January 1, 2014, upon application or renewal, each applicant and each commercial fish bait permittee shall provide documentation of two consecutive years of pathogen-free status from an independent laboratory approved by United States department of agriculture, animal and plant health inspection service, for the pathogens listed in subsection (a) for the source of bait fish being sold. If the facility is new, the applicant shall certify by affidavit that the facility does not meet the requirements in this regulation and shall provide documentation of pathogen-free status for the current year of operation.

(c) The sample size shall be 150 fish and shall include moribund fish observed in the sampling process. The samples shall be collected twice each year. The samples shall be collected once during the month of October, November, or December and once during the month of March, April, or May.

(d) Collection of each sample shall be overseen by a doctor of veterinary medicine accredited by the United States department of agriculture, animal and plant health inspection service. The collection shall be made under the direct observation of the overseer to the extent that the official can attest to the origin of the fish and that the sampling scheme meets the requirements in this regulation.

(e) Each sample shall include all of the ponds and grow-out tanks. The final species and age composition of each sample shall reflect the overall composition of the certified fish on location. For locations with more than 50 ponds, all species and sizes of fish shall be included in each sample, but the ponds may be sampled in rotation so that all ponds are sampled at least once every two years. This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807; effective Jan. 1, 2012.)

115-17-3. Commercial fish bait permit; requirement, application, and general provisions. (a) A commercial fish bait permit shall be required for the harvest, sale, or purchase for resale of fish bait, except that a commercial fish bait permit shall not be required for the harvest or sale of annelids or insects or for the purchase of annelids or insects for resale.

(b) Any person may apply to the secretary for a commercial fish bait permit. The application

shall be submitted on forms provided by the department and completed in full by the applicant. Each incomplete application shall be returned to the applicant.

(c) Each commercial fish bait permit shall be valid for only those wildlife species specified in the permit.

(d) Each commercial fish bait permit shall authorize the permittee to perform any of the following:

(1) Sell fish bait to any person for use as fish bait;

(2) purchase fish bait for resale as fish bait, if the purchase is made from a person who meets at least one of the following requirements:

(A) Possesses a valid commercial fish bait permit;

(B) is a commercial fish grower, as defined by K.S.A. 32-974 and amendments thereto; or

(C) is authorized by another state to export and sell fish bait; or

(3) import fish bait for sale as fish bait.

(e) Each permittee harvesting or purchasing fish bait shall maintain records of the following information and, if requested by the secretary, shall provide a report to the department containing the following information:

(1) The permittee's name;

(2) the permit number;

(3) the number, location, and species of wildlife harvested;

(4) the number and species of wildlife sold;

(5) for each permittee purchasing fish bait, the name, address, and phone number of each individual distributor or producer from whom the permittee purchased; and

(6) for each permittee purchasing fish bait, the delivery date of each purchase.

(f) Each permittee shall make records required under the permit available for inspection by any law enforcement officer or department employee upon demand.

(g) Each permittee shall make the fish and the distribution or retail holding tanks that are subject to sample testing pursuant to K.A.R. 115-17-2a available for inspection by any law enforcement officer or department employee upon demand.

(h) Each permittee shall respond to any survey regarding activities conducted under the permit if requested by the secretary.

(i) In addition to other penalties prescribed by law, a commercial fish bait permit or application may be denied or revoked by the secretary if either of the following conditions is met:

(1) The application is incomplete or contains false information.

(2) The permittee fails to meet permit requirements or violates permit conditions.

(j) Each commercial fish bait permit shall expire three years after the date the permit is issued.

(k) A permittee may possess and sell legally acquired wildlife for fish bait for not more than 30 days following expiration of the permit.

This regulation shall be effective on and after January 1, 2018. (Authorized by and implementing K.S.A. 2016 Supp. 32-807 and K.S.A. 32-941; effective Jan. 1, 1991; amended Jan. 1, 2012; amended Jan. 1, 2018.)

115-17-4. Commercial harvest of fish bait; legal equipment, taking methods, and general provisions. (a) Legal equipment and taking methods permitted for commercial harvest of wildlife for use as fish bait shall be as follows:

(1) Crayfish may be taken by the following methods and means:

(A) By hand;

(B) by trap with ½-inch or smaller mesh size, using the bar measurement, and with two-inch or smaller entrance openings;

(C) by seine with ½-inch or smaller mesh size, using the bar measurement. The seine may be of any length, height, or twine size;

(D) by lift net with ½-inch or smaller mesh size, using the bar measurement;

(E) by dip net with ½-inch or smaller mesh size, using the bar measurement. The dip net may be of any dimension and have any handle configuration; and

(F) by other methods as approved by the secretary.

(2) Annelids and insects may be taken by any method.

(b) (1) Boats with or without mechanical propulsion may be used.

(2) Depth-recording or fish-locating devices may be used.

(3) Holding baskets, holding cages, and holding bags may be used, if the permittee's name and permit number are attached.

(4) The permittee's name and permit number shall be attached to each trap and seine while the trap or seine is in use. This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 32-941; effective Sept. 10, 1990; amended Nov. 30, 1998; amended Jan. 1, 2012.)

115-17-5. Commercial harvest of fish bait; open areas. The following areas shall be open for the commercial harvest of crayfish, annelids, and insects:

(a) For crayfish, all lands and waters of the state except department lands and waters and federal and state sanctuaries; and

(b) for annelids and insects, all lands and waters of the state except department lands and waters and federal and state sanctuaries. This regulation shall be effective on and after January 1, 2012. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 32-941; effective Sept. 10, 1990; amended Nov. 30, 1998; amended Jan. 1, 2012.)

115-17-6. Commercial mussel fishing license; mussel salvage permits; license or permit application and requirements, authority, reports, general provisions, and license or permit revocation. (a) A commercial mussel fishing license shall be required for commercial mussel fishing purposes. If a mussel salvage order has been issued by the secretary through public notice or posting the area open to mussel salvage, a mussel salvage permit shall be required for mussel salvage purposes.

(b) Any person may apply to the secretary for a commercial mussel fishing license or a mussel salvage permit. The application shall be submitted on forms provided by the department, and each applicant shall provide the following information, except that no commercial license shall be issued on and after January 1, 2003 through December 31, 2022:

(1) The name of the applicant;

(2) the address and telephone number of the applicant;

(3) the business locations and telephone numbers of the applicant;

(4) the location for mussel storage and processing; and

(5) other relevant information as required by the secretary.

(c) Each mussel fishing licensee shall maintain a current record of activity and shall submit quarterly reports to the department on forms provided by the department. The reports shall be submitted not later than 15 days following the end of the quarter for which the reports are prepared. A license shall not be renewed until all reports due have been received by the department. Each mussel salvage permittee shall maintain a current record of activity for the duration of the permit

and shall submit a report to the department on forms provided by the department. The report shall be submitted not later than 15 days following the expiration of the permit.

(d) The records and reports shall include the following information:

- (1) The name of the licensee or permittee;
- (2) the address and telephone number of the licensee or permittee;
- (3) the license or permit number of the licensee or permittee;
- (4) the total weight or total shell weight of each mussel species harvested;
- (5) the total weight or total shell weight of each mussel species sold, including the following information:
 - (A) A separate entry for each sale stating the total weight or total shell weight of each mussel species sold;
 - (B) the date of each sale;
 - (C) the name, address, and license number of the person to whom the mussels were sold; and
 - (D) the name of the state where harvested; and
 - (6) other relevant information as required by the secretary.

(e) Each commercial mussel fishing licensee or mussel salvage permittee shall sell mussels only to a person legally authorized to purchase mussels under subsection (f) of this regulation, or pursuant to K.A.R. 115-17-14.

(f) Any person may purchase mussels from a commercial mussel fishing licensee or mussel salvage permittee if the mussels are not purchased for use as fish bait, are not purchased for resale, are not purchased for other commercial use, and are not sold.

(g) In addition to other penalties prescribed by law, a commercial mussel fishing or mussel salvage application, license, or permit may be revoked or denied issuance by the secretary if any of the following conditions is met:

- (1) The application is incomplete or contains false information.
- (2) The licensee or permittee fails to meet license or permit requirements or violates license or permit conditions.
- (3) The licensee or permittee violates any provision of law or regulations related to the commercial use of mussels.

(h) Each commercial mussel fishing license shall expire on December 31 of the year for which the license was issued. Each mussel salvage permit shall expire on the date written on the salvage permit.

(i) Each commercial mussel fishing license shall permit the possession of mussels harvested for commercial purposes by that licensee for no more than 48 hours after the close of the mussel season. A mussel salvage permit shall permit the possession of mussels harvested for commercial purposes by that permittee for no more than 48 hours after the expiration date written on the salvage permit.

(j) A licensee or permittee may submit a written request to the secretary to possess mussels for commercial purposes beyond the possession period specified in subsection (i). Each request shall specify the number of each species of mussels possessed and the applicant's name, address, and commercial mussel fishing license or mussel salvage permit number. Authorization of possession beyond the possession period shall be issued in writing and shall include a date on which the authorization expires. Receipt of this authorization by the licensee or permittee shall allow the licensee's or permittee's sale of shells pursuant to subsection (e). Each mussel sale during the authorized time period shall be reported to the department within 48 hours of the sale by both the licensee or permittee and the purchaser. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 32-941; effective Jan. 1, 1991; amended June 8, 1992; amended Nov. 30, 1998; amended Nov. 22, 2002; amended April 18, 2003; amended July 20, 2012.)

115-17-7. Commercial harvest of mussels; legal species, seasons, size restrictions, daily limits, and possession limits. (a) The following listed mussel species may be taken for commercial purposes, except that no mussels may be commercially harvested on and after January 1, 2003 through December 31, 2022, unless a mussel salvage order has been issued by the secretary through public notice or posting the area open to mussel salvage:

- (1) Threeridge, *Amblema plicata*;
- (2) monkeyface, *Quadrula metanevra*;
- (3) mapleleaf, *Quadrula quadrula*;
- (4) bleufer (purple shell), *Potamilus purpuratus*; and
- (5) Asian clam, *Corbicula fluminea*.

(b) The season for the commercial harvest of mussels shall be on and after April 1 through September 30. However, mussels shall not be commercially harvested on and after January 1, 2003 through December 31, 2022, unless a mus-

sel 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 ¼, NW ¼, 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.)

115-17-13. Commercial harvest of fish; state of Missouri commercial fishing permit.

(a) Any person authorized by the state of Missouri as a commercial fishing permittee may commercially fish in the Kansas portion of the Missouri river without a commercial fishing permit issued by the department, except that the person shall not fish from or attach any device or equipment to any land under the jurisdiction of the state of Kansas.

(b) Each Missouri commercial fishing permittee shall otherwise comply with all laws and regulations governing commercial fishing within Kansas boundaries.

(c) This exemption from the commercial fishing permit requirement shall be contingent upon the

state of Missouri recognizing the same exemption for any person issued a commercial fishing permit by the state of Kansas. (Authorized by K.S.A. 32-807 and K.S.A. 32-941; implementing K.S.A. 32-807, K.S.A. 32-941, and K.S.A. 32-1002; effective May 27, 1991; amended Sept. 27, 2002.)

115-17-14. Commercial mussel dealer permit; permit application and requirements, authority, reports, general provisions, and permit revocation. (a) Each person desiring to purchase or import wild mussels for resale, for export from the state, or for any other commercial use shall make application to the secretary for a commercial mussel dealer permit.

(b) Applications shall be submitted on forms provided by the department, and each applicant shall provide the following information:

- (1) The name of the applicant;
- (2) the address and telephone number of the applicant;
- (3) the business locations and the phone numbers of the applicant;
- (4) the location for mussel storage and processing; and
- (5) other information as required by the secretary.

(c) Any commercial mussel dealer may buy, sell, or trade in those species listed in K.A.R. 115-17-7. A commercial mussel dealer shall not buy, sell, or trade any mussel species for use as fish bait.

(d) Each commercial mussel dealer shall purchase mussels only from sources authorized pursuant to K.A.R. 115-17-6, from a commercial mussel dealer authorized pursuant to this regulation, or from a person authorized by another state to sell mussels.

(e) A commercial mussel dealer shall sell mussels only to the following:

- (1) A commercial mussel dealer authorized pursuant to this regulation; or
- (2) a person legally authorized by another state to purchase mussels.

(f) When a commercial mussel dealer ships, exports, or otherwise sells mussels commercially, the dealer shall provide a bill of lading with each sale. The bill of lading shall be written on a form provided by the department and shall include the following information:

- (1) The name, address and telephone number of the commercial mussel dealer;
- (2) the dealer permit number and expiration date;

- (3) the shipping date;
 - (4) the name of the recipient;
 - (5) the address and telephone number of the recipient; and
 - (6) the total weight of each species on shipment.
- (g) Each permittee shall maintain a commercial mussel dealer record book and shall submit a quarterly report to the department. The record book and quarterly report shall be maintained and submitted on forms provided by the department and shall be subject to inspection upon demand by any conservation officer. The report shall be submitted not later than 15 days following the end of the quarter for which the report is prepared. A permit shall not be renewed until all reports have been received by the department.

(h) The record book and report shall include the following information:

- (1) The name of the permittee;
- (2) the address and telephone number of the permittee;
- (3) the permit number of the permittee;
- (4) the total shell weight of each mussel species purchased or imported, including the following information:

(A) A separate entry for each purchase or importation, stating the total shell weight of each mussel species purchased;

- (B) the date of each purchase or importation;
- (C) the name of the state where harvested; and
- (D) the name, address, and permit number of each person from whom mussels were purchased or imported;

(5) a copy of each bill of lading accompanying each sale and shipment; and

(6) other information as required by the secretary.

(i) In addition to other penalties prescribed by law, a commercial mussel dealer permit may be revoked or denied issuance by the secretary if any of these conditions is met:

(1) The application is incomplete or contains false information.

(2) The permittee fails to meet reporting requirements or violates permit conditions.

(3) The permittee violates any provision of law, rule, or regulation related to the commercial use of mussels.

(j) Each commercial mussel dealer permit shall expire on December 31 of the year for which the permit was issued.

(k) Any commercial mussel dealer may possess and sell legally acquired mussels no more than 30 days after the expiration date of the permit.

(Authorized by K.S.A. 32-807 and K.S.A. 32-941; implementing K.S.A. 32-941 and K.S.A. 32-1002; effective June 8, 1992; amended Nov. 30, 1998; amended Nov. 22, 2002.)

115-17-15. Sale and purchase of game animals. (a) Any parts of legally taken game animals, excluding flesh, may be sold, purchased, possessed and utilized for any purpose. Antlers that have been dropped or shed may be possessed and may be sold, purchased, possessed and utilized for any purpose.

(b) Any person purchasing unprocessed parts of legally taken game animals shall maintain a bill of sale for one calendar year. (Authorized by and implementing K.S.A. 1992 Supp. 32-807 as amended by L. 1993, Chapter 185, section 2 and K.S.A. 1992 Supp. 32-1002 as amended by L. 1993, Chapter 185, section 9; effective Dec. 27, 1993.)

115-17-16. Commercial use of prairie rattlesnakes. (a) The commercial harvest, possession or sale of prairie rattlesnakes (*Crotalus viridis viridis*) or their parts shall be authorized only in conjunction with a commercial event authorized by the department under a commercial prairie rattlesnake special event permit or as otherwise authorized by rules and regulations. Finished products of prairie rattlesnakes taken in conjunction with a commercial prairie rattlesnake special event may be possessed at any time and may be sold at any time.

(b) Any person may apply to the department for a commercial prairie rattlesnake special event permit. Each application shall be on forms provided by the department and shall provide the following information:

- (1) the name and address of the applicant;
- (2) the telephone number of the applicant;
- (3) a description of the event including proposed dates; and

(4) other information as required by the secretary.

(c) Each permittee shall maintain a record of event activity and shall submit a final report to the department within 30 days following the expiration of the special event permit. The record and report shall include the following information:

- (1) the name and address of the permittee;
- (2) the permit number of the permittee;
- (3) the number of commercial prairie rattlesnake harvest permittees registered for the event;
- (4) the number of commercial prairie rattlesnake dealer permittees registered for the event;

(5) an estimate of the number and pounds of prairie rattlesnakes processed; and

(6) other information as required by the secretary.

(d) General provisions.

(1) Each application for a commercial prairie rattlesnake special event permit shall be submitted to the department not less than 30 days prior to the requested dates for the event.

(2) Each commercial prairie rattlesnake special event permit shall be issued only for an event which occurs during the period of time from April 1 through June 15.

(3) The length of time for a commercial prairie rattlesnake special event shall not exceed 30 days.

(4) Each commercial prairie rattlesnake special event permit shall authorize the possession of prairie rattlesnakes, their parts or finished products without regard to numbers.

(5) Each prairie rattlesnake that is 18 inches in length or greater and not otherwise disposed of during the commercial prairie rattlesnake special event and each prairie rattlesnake less than 18 inches in length shall be released live and unrestrained at the end of the commercial prairie rattlesnake special event unless otherwise authorized by the department.

(6) Each permittee shall cooperate with enforcement, research and data-gathering efforts conducted or authorized by the department in conjunction with the commercial prairie rattlesnake special event.

(7) Each permittee shall comply with permit conditions as specified in the commercial prairie rattlesnake special event permit.

(e) In addition to other penalties prescribed by law, a commercial prairie rattlesnake special event application or permit may be denied or may be revoked by the secretary if:

(1) the application is incomplete or contains false information;

(2) the permittee fails to meet permit requirements or violates permit conditions; or

(3) the permittee violates any provisions of law, rules or regulations related to the commercial use of prairie rattlesnakes. (Authorized by K.S.A. 1992 Supp. 32-807, as amended by L. 1993, Chapter 185, section 2 and K.S.A. 1992 Supp. 32-941, as amended by L. 1993, Chapter 139, section 1; implementing K.S.A. 1992 Supp. 32-807, as amended by L. 1993, Chapter 185, section 2, K.S.A. 1992 Supp. 32-941, as amended by L. 1993, Chapter 139, section 1, K.S.A. 1992

Supp. 32-1002, as amended by L. 1993, Chapter 185, section 9 and K.S.A. 1992 Supp. 32-1005; effective April 11, 1994.)

115-17-17. Commercial prairie rattlesnake harvest permit; permit application and requirements, authority, reports, general provisions and permit revocation. (a) A commercial prairie rattlesnake harvest permit shall be required to take prairie rattlesnakes (*Crotalus viridis viridis*) on a commercial basis.

(b) Any individual may apply to the secretary for a commercial prairie rattlesnake harvest permit. Each application shall be on forms provided by the department and shall provide the following information:

(1) the name of the applicant;

(2) the address of the applicant;

(3) the hunting license number of the applicant unless exempt pursuant to K.S.A. 1992 Supp. 32-919 and amendments thereto or applying for a commercial prairie rattlesnake harvest permit as an individual without a hunting license; and

(4) other information as required by the secretary.

(c) Each permittee shall maintain a current record of activity and shall submit a final report to the department on forms provided by the department. The report shall be submitted not later than 14 days following the end of the time period established for the taking of prairie rattlesnakes on a commercial basis.

(d) The records and reports shall include the following information:

(1) the name of the permittee;

(2) the address of the permittee;

(3) the permit number;

(4) the number of prairie rattlesnakes harvested;

(5) the location of harvest, by county;

(6) the number of prairie rattlesnakes sold;

(7) the name and address of any person to whom prairie rattlesnakes or their parts were sold; and

(8) other information as required by the secretary.

(e) Each commercial prairie rattlesnake harvest permit shall expire on December 31 of the year for which it is issued.

(f) Each commercial prairie rattlesnake harvest permittee shall only take prairie rattlesnakes during a commercial prairie rattlesnake special event permitted by the department.

(g) Any commercial prairie rattlesnake harvest permittee may possess legally-taken prairie

rattlesnake parts as long as the permittee maintains a valid permit. Live prairie rattlesnakes not otherwise disposed of shall be released live and unrestrained not later than the conclusion of the commercial prairie rattlesnake special event for which the commercial prairie rattlesnake harvest permittee was registered unless otherwise authorized by the department.

(h) Any commercial prairie rattlesnake harvest permittee may possess prairie rattlesnakes that are less than 18 inches in length. These prairie rattlesnakes shall be released live and unrestrained not later than the conclusion of the commercial prairie rattlesnake special event for which the commercial prairie rattlesnake harvest permittee was registered.

(i) Each commercial prairie rattlesnake harvest permittee shall only sell prairie rattlesnakes or their parts during a commercial prairie rattlesnake special event as authorized under a commercial prairie rattlesnake special event permit. Each commercial prairie rattlesnake harvest permittee shall register with a commercial prairie rattlesnake special event prior to selling any prairie rattlesnake or the parts of any prairie rattlesnake.

(j) Any commercial prairie rattlesnake harvest permittee may possess or possess and sell prairie rattlesnake finished products without limit in time.

(k) Each commercial prairie rattlesnake harvest permittee shall only sell prairie rattlesnakes or their parts to a person legally authorized to purchase prairie rattlesnakes. A bill of sale shall accompany each sale of prairie rattlesnakes or their parts.

(l) Any person may purchase or receive prairie rattlesnakes, their parts or finished products from a commercial prairie rattlesnake harvest permittee. However, the prairie rattlesnakes or their parts shall not be purchased or received for resale or sold. Finished products may be purchased or received for any purpose.

(m) Any commercial prairie rattlesnake dealer permittee may purchase or receive prairie rattlesnakes, their parts or finished products from a commercial prairie rattlesnake harvest permittee.

(n) In addition to other penalties prescribed by law, a commercial prairie rattlesnake harvest application or permit may be denied or may be revoked by the secretary if:

(1) the application is incomplete or contains false information;

(2) the permittee fails to meet permit requirements or violates permit conditions; or

(3) the permittee violates any provisions of law, rules or regulations related to the commercial use of prairie rattlesnakes. (Authorized by K.S.A. 1992 Supp. 32-807, as amended by L. 1993, Chapter 185, section 2 and K.S.A. 1992 Supp. 32-941, as amended by L. 1993, Chapter 139, section 1; implementing K.S.A. 1992 Supp. 32-807, as amended by L. 1993, Chapter 185, section 2, K.S.A. 1992 Supp. 32-941, as amended by L. 1993, Chapter 139, section 1, K.S.A. 1992 Supp. 32-1002, as amended by L. 1993, Chapter 185, section 9 and K.S.A. 1992 Supp. 32-1005; effective April 11, 1994.)

115-17-18. Commercial harvest of prairie rattlesnakes; open area, daily bag and possession limit. (a) The open area for the taking of prairie rattlesnakes (*Crotalus viridis viridis*) on a commercial basis shall be that portion of Kansas west of U.S. highway 283, except Morton county shall not be open for the taking of prairie rattlesnakes on a commercial basis.

(b) A commercial prairie rattlesnake harvest permittee shall not harvest more than 10 prairie rattlesnakes per day or possess more than 10 prairie rattlesnakes per day in the field during the period of time and under the conditions established for the commercial harvest of prairie rattlesnakes.

(c) A commercial prairie rattlesnake harvest permittee shall not possess more than 20 prairie rattlesnakes or the parts of more than 20 prairie rattlesnakes. (Authorized by K.S.A. 1992 Supp. 32-807, as amended by L. 1993, Chapter 185, section 2 and K.S.A. 1992 Supp. 32-941, as amended by L. 1993, Chapter 139, section 1; implementing K.S.A. 1992 Supp. 32-807, as amended by L. 1993, Chapter 185, section 2, K.S.A. 1992 Supp. 32-941, as amended by L. 1993, Chapter 139, section 1, K.S.A. 1992 Supp. 32-1002, as amended by L. 1993, Chapter 185, section 9 and K.S.A. 1992 Supp. 32-1005; effective April 11, 1994.)

115-17-19. Commercial harvest of prairie rattlesnakes; legal equipment, taking methods and general provisions. (a) Legal equipment and taking methods permitted for commercial harvest of prairie rattlesnakes (*Crotalus viridis viridis*) shall be:

(1) by hand;

(2) by noose;

(3) by snake hook, tong or fork; and

(4) by other methods as approved by the department.

(b) Holding bags, holding baskets and holding

cages may be used, provided the name and commercial prairie rattlesnake harvest permit number of the permittee is attached to each. (Authorized by K.S.A. 1992 Supp. 32-807, as amended by L. 1993, Chapter 185, section 2 and K.S.A. 1992 Supp. 32-941, as amended by L. 1993, Chapter 139, section 1; implementing K.S.A. 1992 Supp. 32-807, as amended by L. 1993, Chapter 185, section 2, K.S.A. 1992 Supp. 32-941, as amended by L. 1993, Chapter 139, section 1, K.S.A. 1992 Supp. 32-1002, as amended by L. 1993, Chapter 185, section 9 and K.S.A. 1992 Supp. 32-1005; effective April 11, 1994.)

115-17-20. Commercial prairie rattlesnake dealer permit; permit application and requirements, authority, reports, general provisions and permit revocation.

(a) Any person desiring to purchase prairie rattlesnakes (*Crotalus viridis viridis*) or their parts for resale or for export from the state or both shall make application to the secretary for a commercial prairie rattlesnake dealer permit.

(b) Each application shall be on forms provided by the department and shall provide the following information:

- (1) the name of the applicant;
- (2) the address and telephone number of the applicant;
- (3) the business location or locations of the applicant and the telephone number or numbers at the location or locations;
- (4) the location for holding prairie rattlesnakes if different from the business location or locations; and
- (5) other information as required by the secretary.

(c) Each commercial prairie rattlesnake dealer desiring to renew a commercial prairie rattlesnake dealer permit shall make application as described in subsection (b) and shall provide a description of prairie rattlesnakes or their parts on inventory at the time of renewal application.

(d) Each commercial prairie rattlesnake dealer shall only purchase or receive prairie rattlesnakes or their parts from:

- (1) a commercial prairie rattlesnake harvest permittee;
- (2) a commercial prairie rattlesnake dealer; or
- (3) a person authorized by another state to sell prairie rattlesnakes.

(e) Any commercial prairie rattlesnake dealer may sell prairie rattlesnakes, their parts or finished products to any person. A bill of sale shall

accompany each sale of prairie rattlesnakes or their parts. Finished products may be purchased for any purpose.

(f) Each commercial prairie rattlesnake dealer shall maintain records and shall submit a report to the department not later than 30 days following the close of the period of time established for the commercial taking of prairie rattlesnakes. The records and report shall be on forms provided by the department and shall include the following information:

- (1) the name of the permittee;
- (2) the address and telephone number of the permittee;
- (3) the permit number of the permittee;
- (4) a separate entry for each purchase or sale including:
 - (A) the date of purchase or sale;
 - (B) a description of items purchased or sold; and
 - (C) the name, address and permit number of each person from whom prairie rattlesnakes or their parts were purchased or to whom prairie rattlesnakes or their parts were sold; and
- (5) other information as required by the secretary.

(g) Each commercial prairie rattlesnake dealer permit shall be valid through December 31 of the year for which it is issued.

(h) Any commercial prairie rattlesnake dealer may possess prairie rattlesnakes, their parts or finished products without regard to numbers.

(i) Any commercial prairie rattlesnake dealer may sell legally acquired prairie rattlesnakes or their parts not more than 30 days after the expiration date of the permit, except a commercial prairie rattlesnake dealer may continue to possess and sell legally acquired prairie rattlesnakes or their parts if the commercial prairie rattlesnake dealer permit has been renewed.

(j) Each prairie rattlesnake that is less than 18 inches in length shall not be purchased, offered for sale or sold.

(k) In addition to other penalties prescribed by law, a commercial prairie rattlesnake dealer permit may be denied or may be revoked by the secretary if:

- (1) the application is incomplete or contains false information;
- (2) the permittee fails to meet reporting requirements or violates permit conditions; or
- (3) the permittee violates any provision of law or rules and regulations related to commercial use

of prairie rattlesnakes. (Authorized by K.S.A. 1992 Supp. 32-807, as amended by L. 1993, Chapter 185, section 2 and K.S.A. 1992 Supp. 32-941, as amended by L. 1993, Chapter 139, section 1; implementing K.S.A. 1992 Supp. 32-807, as amended by L. 1993, Chapter 185, section 2, K.S.A. 1992 Supp. 32-941, as amended by L. 1993, Chapter 139, section 1, K.S.A. 1992 Supp. 32-1002, as amended by L. 1993, Chapter 185, section 9 and K.S.A. 1992 Supp. 32-1005; effective April 11, 1994.)

115-17-21. Commercial harvest of feral pigeons. (a) Feral pigeons may be commercially harvested by any person without regard to number or season, if the person is in possession of a valid hunting license, unless exempt from the hunting license requirement by state law.

(b) Legally taken feral pigeons, or any part of a legally taken feral pigeon, may be sold, purchased, possessed, and used for any purpose. (Authorized by and implementing K.S.A. 32-807 and K.S.A. 32-1002; effective June 11, 1999.)

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 sec-

retary 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 permittee may continue to possess a permit if all of the following conditions are met:

- (1) The permit application is complete.
- (2) The permit application contains no false information.
- (3) The permittee meets the permit requirements and does not violate the permit conditions.
- (4) The permittee has not been convicted of violating local, state, or federal laws relating to the care, treatment, possession, take, or disposal of wildlife or domestic animals within the previous five years.
- (5) The permit has not expired.

The permittee shall be notified, in writing, of the cancellation of the permit by the secretary or designee. The permittee shall be provided by the secretary or designee with the opportunity to respond, in writing, within 10 days of receipt of the cancellation.

(r) Any provision of this regulation may be temporarily waived by the secretary or designee during a wildlife health crisis for the protection of public or wildlife health.

This regulation shall be effective on and after December 31, 2012. (Authorized by and imple-

menting 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.)

115-18-2. Raptor propagation permit; application, reporting, and general provisions. (a) Any person desiring to possess raptors for propagation purposes shall submit a copy of the person's application for a federal raptor propagation permit to the secretary. A letter of approval issued by the secretary shall satisfy the department's raptor propagation permit requirement, but shall not be effective until the applicant has been issued a federal raptor propagation permit by the U.S. fish and wildlife service.

(b) Each person issued a federal raptor propagation permit shall submit to the department a copy of the approved federal permit and copies of all reports required by the federal permit.

(c) Each permittee shall allow for inspection of the permittee's raptor propagation facilities and records by department officials. (Authorized by 1989 HB 2005, Sec. 9; implementing 1989 HB 2005, Sec. 9 and 114; effective Oct. 30, 1989.)

115-18-3. Scientific, educational, or exhibition permit; application, reporting, and general provisions. (a) Applications for scientific, educational, or exhibition permits shall be on forms provided by the department. Each applicant shall provide the following information:

- (1) name of applicant;
- (2) address;
- (3) number and common name of each species proposed for collecting;
- (4) counties of the state where collecting would occur;
- (5) methods of collecting;
- (6) time period for collecting;
- (7) purposes for collecting;
- (8) disposition of collected species; and
- (9) other information as required by the secretary.

(b) Each permit shall be valid during the time period as specified on the permit.

(c) Each permittee shall maintain a record of permit activity, and shall submit a report to the department on permit activity as required by provisions of the permit.

(d) Each person engaged in any activity covered by the permit shall have a copy of the permit in possession, and shall produce proof of authority to conduct permit activity if so requested by a department official.

(e) Each permittee shall conduct permitted activities only as authorized by law, rules and regulations or as authorized under provisions of the permit.

(f) Each permittee shall submit a copy of any required federal permit to the department when federally protected species are involved in scientific, educational, or exhibition permit activity.

(g) Each permittee shall submit a copy of any technical reports, publications, techniques, or other product resulting from the use of a scientific, educational, or exhibition permit.

(h) In addition to other penalties prescribed by law, the secretary may refuse to issue or may revoke a scientific, educational, or exhibition permit if:

(1) the application is incomplete or contains false information;

(2) issuance of a permit would not be in the best interest of the public; or

(3) the permittee fails to meet permit requirements or violates permit conditions. (Authorized by 1989 HB 2005, Secs. 9 and 83; implementing 1989 HB 2005, Sec. 83; effective Oct. 30, 1989.)

115-18-4. Permits for hunting from a vehicle; applications and requirements. (a) Any person with a disability as defined by K.S.A. 8-1,124, and amendments thereto, may apply to the secretary on forms provided by the department for a permit to hunt from a vehicle. Each applicant shall provide the following information:

(1) Name of applicant;

(2) address;

(3) nature of the disability;

(4) a report signed by an authority as specified in K.S.A. 8-1,125 and amendments thereto, on forms provided by the department, that describes the disability and specifies the disability duration; and

(5) other information as required by the secretary.

(b) For any person with a disability to whom an individual identification card has been issued, as defined in and under the authority of K.S.A. 8-1,125 and amendments thereto, the individual identification card shall serve as a permit to hunt from a vehicle. An individual identification card shall not be used as a permit to hunt from a vehicle under any of the following conditions:

(1) The individual identification card is no longer valid.

(2) The individual identification card was obtained through false pretenses.

(3) The disability for which the individual identification card was issued no longer exists.

(c) The permittee shall be in possession of the permit while hunting.

(d) The permit shall be valid statewide and only for the person to whom the permit was issued.

(e) The permit shall be valid for the time period specified in the permit as determined by the permanent or temporary nature of the disability.

(f) The holder of a permit to hunt from a vehicle may shoot from a nonmoving vehicle, but only in compliance with applicable state and federal laws and regulations.

(g) A permit for hunting from a vehicle may not be issued or may be revoked by the secretary for any of the following reasons:

(1) The disability does not meet the 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. If the secretary revokes a person's permit for any of the above reasons, then that person shall not use an individual identification card as a permit to hunt from a vehicle.

(h) Any person may assist the holder of a permit to hunt from a vehicle during the permit holder's hunting activity. A person assisting a holder of this permit shall not perform the actual shooting of wildlife for the permit holder. (Authorized by and implementing K.S.A. 32-931; effective Oct. 30, 1989; amended Nov. 15, 1993; amended Oct. 1, 1999.)

115-18-5. (Authorized by 1989 HB 2005, Sec. 9; implementing 1989 HB 2005, Sec. 54; effective Oct. 30, 1989; revoked Oct. 5, 2001.)

115-18-6. Vehicle permits; news media exemption for state parks and other areas requiring motor vehicle permits. (a) A park and recreation motor vehicle permit shall not be required to enter any state park, or other area requiring a motor vehicle permit, if the vehicle is used for the purpose of:

(1) reporting on newsworthy occurrences by members of the news media; or

(2) other reporting efforts by members of the news media intended to inform and educate the public.

(b) Each motor vehicle used by members of the news media for purposes as established by sections (a)(1) and (a)(2) shall display a media pass issued by the department.

(c) Media passes shall be available upon application to the department and shall be issued at no cost.

(d) A park and recreation motor vehicle permit shall not be required to enter any state park, or other area requiring a motor vehicle permit, by members of the news media when the motor vehicle is used for the purpose of attending a department approved special event, if the motor vehicle displays a media pass issued by the department. (Authorized by K.S.A. 32-807 and K.S.A. 32-901; implementing K.S.A. 32-807, K.S.A. 32-901 and K.S.A. 32-1001; effective Aug. 21, 1995.)

115-18-6a. Motor vehicle permits; school exemption for state parks and other areas requiring motor vehicle permits. (a) A park and recreation motor vehicle permit shall not be required to enter any state park, or other area requiring a motor vehicle permit, if the vehicle is used for the purpose of transporting primary and secondary students, faculty, and staff to the state park or other area requiring a motor vehicle permit.

(b) Each motor vehicle used for the purpose specified in subsection (a) shall display a school vehicle license plate or other distinctive marking signifying that the vehicle is a primary or secondary school vehicle. (Authorized by and implementing K.S.A. 2018 Supp. 32-807 and 32-901; effective Dec. 20, 2019.)

115-18-7. This regulation shall be revoked on and after January 1, 2021. (Authorized by K.S.A. 32-807, as amended by L. 2012, Ch. 47, Sec. 25, K.S.A. 2011 Supp. 32-919, as amended by L. 2012, Ch. 154, Sec. 5, and K.S.A. 2011 Supp. 32-932, as amended by L. 2012, Ch. 47, Sec. 48; implementing K.S.A. 2011 Supp. 32-932, as amended by L. 2012, Ch. 47, Sec. 48; effective Oct. 30, 1989; amended, T-115-9-9-97, Sept. 9, 1997; amended Dec. 29, 1997; amended Oct. 1, 1999; amended April 19, 2002; amended Feb. 18, 2005; amended April 11, 2008; amended May 21, 2010; amended April 19, 2013; revoked Jan. 1, 2021.)

115-18-8. Retrieval and possession of game animals, sport fish, and migratory game birds. (a) Each individual wounding or killing a game animal, sport fish, or a migratory game bird shall make a reasonable effort to retrieve the wounded or dead game animal, sport fish, or migratory game bird. The retrieved game animal, sport fish, or migratory game bird shall be

retained in the individual's bag, creel, or possession limit, unless prohibited by regulations of the secretary for the individual species taken. Nothing in this subsection shall prohibit the catch and release of live sport fish.

(b) Each game animal, sport fish, or migratory game bird retrieved shall be retained until any of the following occurs:

(1) The animal, fish, or bird is processed for consumption.

(2) The animal, fish, or bird is transported to the individual's residence, to a place of commercial preservation, or to a place of commercial processing.

(3) The animal, fish, or bird is given to another person in accordance with K.A.R. 115-3-1, K.A.R. 115-4-2, and K.A.R. 115-7-4.

(4) The animal, fish, or bird is consumed.

(c) The provisions of this regulation shall not affect any requirement of state or federal law or regulation regarding any proof of species, age, or sex and the attachment of this proof to the carcass.

(d) For the purpose of this regulation, "migratory game bird" shall mean any duck, goose, coot, merganser, rail, mourning dove, white-winged dove, snipe, woodcock, or sandhill crane for which a hunting season has been established in Kansas. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective June 8, 1992; amended Jan. 30, 1995; amended Oct. 5, 2001; amended July 25, 2003; amended Jan. 11, 2019.)

115-18-9. Furharvester license; unlicensed observer and restrictions. (a) If a non-participating observer accompanies a licensed furharvester who is engaged in furharvesting, the observer shall not be required to have a furharvester license.

(b) A non-participating observer shall be defined as an individual who, while accompanying a licensed furharvester, does not engage in or attempt to engage in any of the following:

(1) Carrying or using any equipment that is used in an activity requiring a furharvester license;

(2) controlling or training any dog that is or can be used for an activity requiring a furharvester license; or

(3) assisting a licensed furharvester in any manner that would otherwise require a furharvester license. (Authorized by K.S.A. 32-807 and K.S.A. 32-911; implementing K.S.A. 32-911; effective Dec. 27, 1993; amended Oct. 5, 2001.)

115-18-10. Importation and possession of certain wildlife; prohibition, permit requirement, and restrictions. (a) The importation, possession, or release in Kansas of the following live wildlife species shall be prohibited, except as authorized by terms of a wildlife importation permit issued by the secretary:

- (1) Walking catfish (*Clarias batrachus*);
- (2) silver carp (*Hypophthalmichthys molitrix*);
- (3) bighead carp (*Hypophthalmichthys nobilis*);
- (4) black carp (*Mylopharyngodon piceus*);
- (5) snakehead fish (all members of the family Channidae);
- (6) round goby (*Neogobius melanostomus*);
- (7) white perch (*Morone americana*);
- (8) zebra mussel (*Dreissena polymorpha*);
- (9) quagga mussel (*Dreissena bugensis*);
- (10) New Zealand mudsnail (*Potamopyrgus antipodarum*);
- (11) diploid grass carp (*Ctenopharyngodon idella*);
- (12) marbled crayfish (*Procambarus virginialis*);
- (13) monk parakeet (*Myiopsitta monachus*);
- (14) Asian raccoon dog (*Nyctereutes procyonoides*);
- (15) crucian carp (*Carassius carassius*);
- (16) largescale silver carp (*Hypophthalmichthys harmandi*);
- (17) Prussian carp (*Carassius gibelio*);
- (18) wels catfish (*Silurus glanis*);
- (19) Eurasian minnow (*Phoxinus phoxinus*);
- (20) stone moroko (*Pseudorasbora parva*);
- (21) European perch (*Perca fluviatilis*);
- (22) Nile perch (*Lates niloticus*);
- (23) roach (*Rutilus rutilus*);
- (24) amur sleeper (*Percottus glenii*);
- (25) zander (*Sander lucioperca*); and
- (26) common yabby (*Cherax destructor*).

(b) Any live member of a wildlife species listed in subsection (a) and possessed before the following dates may be retained in possession, in closed confinement, by making application to the secretary that provides information detailing the circumstances, including the location, by which the animal came into the applicant's possession:

- (1) February 1, 1978 for fish and bird species other than black carp, snakehead fish, round goby, white perch, zebra mussel, quagga mussel, New Zealand mudsnail, and diploid grass carp;
- (2) February 1, 1986 for mammal species;
- (3) October 1, 2000 for black carp;
- (4) May 1, 2003 for snakehead fish;

(5) August 1, 2004 for round goby, quagga mussel, and zebra mussel;

(6) May 15, 2005 for New Zealand mudsnail;

(7) February 15, 2007 for white perch;

(8) January 1, 2008 for diploid grass carp;

(9) January 30, 2019 for marbled crayfish; and

(10) January 1, 2021 for crucian carp, largescale silver carp, Prussian carp, wels catfish, Eurasian minnow, stone moroko, European perch, Nile perch, roach, amur sleeper, zander, and common yabby.

The manner in which the animal is to be used shall be identified in the application.

(c) Any wildlife importation permit for the importation or possession of live members of the wildlife species listed in subsection (a) may be issued by the secretary for experimental, scientific, display, or other purposes subject to any conditions and restrictions contained or referenced in the wildlife importation permit.

(d) Each individual wanting to import or possess live members of the wildlife species listed in subsection (a) shall apply to the secretary for a wildlife importation permit. The application shall be submitted on forms provided by the department and shall contain the following information:

- (1) The name, address, and telephone number of applicant;
- (2) the wildlife species to be imported or possessed and the number of wildlife involved;
- (3) the purpose or purposes for importation or possession;
- (4) a description of the facilities for holding and using the wildlife species;
- (5) a description of plans to prevent the release of the wildlife species; and
- (6) other relevant information as requested by the secretary.

(e) Each wildlife importation permit, once issued, shall be valid during the time period specified on the permit.

(f) In addition to other penalties prescribed by law, any wildlife importation permit may be refused issuance or revoked by the secretary if any of the following conditions is met:

- (1) The application is incomplete or contains false information.
- (2) Issuance of a permit would not be in the best interest of the public or of the natural resources of Kansas.
- (3) The permittee fails to meet permit requirements or violates permit conditions. (Authorized by K.S.A. 2019 Supp. 32-807 and K.S.A. 32-956; im-

plementing K.S.A. 32-956; effective Dec. 27, 1993; amended Sept. 22, 2000; amended April 18, 2003; amended July 23, 2004; amended May 20, 2005; amended Feb. 9, 2007; amended Nov. 16, 2007; amended Dec. 21, 2018; amended Dec. 25, 2020.)

115-18-12. Trout permit; requirements, restrictions, and permit duration. (a) Each individual who wants to fish or to fish for and possess trout during those periods of time on those bodies of water established by K.A.R. 115-25-14 shall be required to have a trout permit.

(b) Each trout permit shall be valid statewide for one year from the date of purchase.

(c) Each trout permit shall be validated by the signature of the permit holder written across the face of the permit. A trout permit shall not be transferable. (Authorized by and implementing K.S.A. 2019 Supp. 32-807; effective Nov. 15, 1993; amended Jan. 30, 1995; amended July 24, 1998; amended Nov. 27, 2006; amended Nov. 16, 2007; amended Dec. 22, 2017; amended Dec. 25, 2020.)

115-18-13. This regulation shall be revoked on and after June 1, 2021. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Aug. 15, 1994; amended Sept. 19, 1997; amended Sept. 25, 1998; amended Oct. 1, 1999; amended Sept. 22, 2000; amended Sept. 27, 2002; revoked June 1, 2021.)

115-18-14. Nontoxic shot; statewide. (a) Each individual hunting with a shotgun for waterfowl, coot, rail, snipe, or sandhill crane shall possess and use only nontoxic shot.

(b) The following nontoxic shot materials shall be approved for the hunting of waterfowl, coot, rail, snipe, and sandhill crane:

- (1) Steel shot;
- (2) steel shot coated with any of the following materials:
 - (A) Copper;
 - (B) nickel;
 - (C) zinc chromate; or
 - (D) zinc chloride;
- (3) bismuth-tin shot;
- (4) tungsten-iron shot alloys;
- (5) tungsten-polymer shot;
- (6) tungsten-matrix shot;
- (7) tungsten-nickel-iron shot alloys;
- (8) tungsten-iron-nickel-tin shot;
- (9) tungsten-bronze shot alloys;
- (10) tungsten-tin-bismuth shot;

- (11) tungsten-iron-copper-nickel shot; and
- (12) tungsten-tin-iron shot. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002, as amended by L. 2005, Ch. 182, Sec. 3; effective Dec. 27, 1994; amended Sept. 22, 1995; amended Dec. 29, 1997; amended Oct. 1, 1999; amended Oct. 5, 2001; amended Sept. 27, 2002; amended Nov. 29, 2004; amended Nov. 18, 2005.)

115-18-15. Disability assistance permit; application, permit, and general provisions.

(a) Any person who has a permanent physical or visual disability making that person eligible to receive a disability assistance permit and who desires to obtain a permit shall apply to the secretary. Each applicant shall provide the following information:

- (1) name of applicant;
- (2) address;
- (3) a physician's or an optometrist's signed report, either on a form provided by the department or on the physician's or optometrist's letterhead, describing the permanent disability, certifying the applicant cannot safely hunt or fish without assistance in accordance with law and rules and regulations of the department because of this disability, and indicating the hunting or fishing activities that the applicant is physically or visually unable to safely perform without assistance in accordance with law and rules and regulations of the department; and
- (4) other information, as required by the secretary.

(b) An applicant may be required by the secretary to obtain, at department expense, a report from a second physician or optometrist, as appropriate, chosen by the secretary.

(c) A disability assistance permit may be refused issuance or may be revoked by the secretary for any of the following reasons.

- (1) The physical disability does not meet qualifications.
- (2) The application is incomplete or contains false information.
- (3) The physical disability under which the disability assistance permit was issued no longer exists.

(d) The disability assistance permit shall indicate the hunting or fishing activity or activities for which the permit is valid.

(e) The disability assistance permit shall be valid from the date of issuance until and unless revoked by the secretary.

(f) In addition to other penalties prescribed by law, a disability assistance permit shall be invalid from the date of issuance if obtained by an individual through misrepresentation or unauthorized application. (Authorized by K.S.A. 32-807 and L. 1997, Ch. 127, Sec. 2; implementing L. 1997, Ch. 127, Sec. 2; effective, T-115-9-9-97, Sept. 9, 1997; effective Dec. 29, 1997.)

115-18-16. Light goose conservation order; general provisions and restrictions. (a) Light geese shall include lesser snow geese and Ross' geese.

(b) An individual may harvest light geese outside of regularly established waterfowl hunting season dates only if that individual possesses any licenses and stamps required during regularly established waterfowl hunting seasons in Kansas.

(c) In addition to regularly established waterfowl hunting seasons, harvest of light geese shall be allowed from January 1 through April 30. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807, K.S.A. 32-1002, and K.S.A. 32-1008; effective, T-115-2-17-00, Feb. 17, 2000; effective Sept. 22, 2000.)

115-18-17. Educational bird hunt permit; application, permit, and general provisions.

(a) Pen-raised, banded birds may be released and shot outside of established hunting seasons for that species if authorized by an educational bird hunt permit. An educational bird hunt permit shall not be required in order to take any species of bird during established hunting seasons for that species.

(b) Each person who desires to obtain an educational bird hunt permit shall apply to the secretary. Each applicant shall provide the following information:

- (1) The name and address of the applicant;
- (2) a description of the educational purpose to be met by the proposed hunt;
- (3) the date and location of the proposed hunt;
- (4) the anticipated number of student participants and instructor participants;
- (5) the source, species, and number of birds to be released; and
- (6) any other information as required by the secretary.

(c) Issuance of an educational bird hunt permit may be denied by the secretary for any of the following reasons:

(1) The application is incomplete or contains false information.

(2) The proposed hunt does not conform to the requirements for and restrictions governing an educational bird hunt.

(3) The proposed hunt would violate a law or another regulation.

(4) Issuance of the permit would pose an inordinate risk to the public or to wildlife resources.

(d) Each educational bird hunt shall be subject to the following requirements and restrictions:

(1) The purpose of the proposed hunt shall be to educate persons who have not had previous experience hunting upland birds.

(2) Instructor participants may shoot and take released birds, but no more than one instructor participant per student participant shall be permitted.

(3) The number of game birds harvested during an educational bird hunt shall not exceed the number of game birds released of the same species. No game bird species may be hunted during the educational bird hunt until a release of that game bird species has been made.

(4) All pen-raised birds released during an educational bird hunt shall be banded using leg bands and shall be coded with the initials "EH."

(5) Within 30 days of the conclusion of an educational bird hunt, the permittee shall report the following to the department:

(A) The number of student participants and instructor participants; and

(B) the number of birds released and the number of birds harvested, for each species released or harvested. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective July 13, 2001.)

115-18-18. Hand fishing permit; requirements, restrictions, and permit duration.

(a) Each individual who wants to hand fish for flat-head 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.)

115-18-19. Paddlefish permit; requirements, restrictions, and permit duration. (a) Each individual who wants to snag for paddlefish during those periods of time on those bodies of water established by K.A.R. 115-25-14 shall be required to have a paddlefish permit.

(b) Each paddlefish permit shall be valid statewide through December 31 of the year in which the permit is issued.

(c) Each paddlefish permit shall be validated by the signature of the permit holder written across the face of the permit. A paddlefish permit shall not be transferable.

(d) Any individual younger than 16 years of age may use an adult's paddlefish permit while accompanied by that adult with at least one unused carcass tag in possession. Each paddlefish snagged and kept by the individual younger than 16 years of age shall be included as part of the daily creel limit of the permit holder. (Authorized by and implementing K.S.A. 2016 Supp. 32-807; effective Nov. 27, 2006; amended Dec. 22, 2017.)

115-18-20. Tournament black bass pass; requirements, restrictions, and pass duration. (a) A tournament black bass pass shall be required for each individual who wants to keep up to five black bass in a daily creel limit that meet the minimum statewide length limit but that do not meet the special length limit for the specific body of water, or who wants to cull black bass after the daily creel limit has been met, during a weigh-in bass tournament as established in K.A.R. 115-7-9.

(b) Each tournament black bass pass shall be valid statewide for one year from the date of purchase.

(c) Each tournament black bass pass shall be validated by the signature of the pass holder written across the face of the pass. A tournament black bass pass shall not be transferable. (Authorized by and implementing K.S.A. 2016 Supp. 32-807; effective Nov. 27, 2006; amended Nov. 16, 2007; amended Nov. 19, 2010; amended Nov. 28, 2016; amended Dec. 22, 2017.)

115-18-21. This regulation shall be revoked on and after January 1, 2015. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 2007 Supp. 32-1002; effective Dec. 1, 2008; revoked Jan. 1, 2015.)

115-18-22. Senior pass valid for hunting and fishing; requirements, restrictions, and permit duration. (a) Any Kansas resident age 65

and older may apply to the secretary for a senior pass valid for hunting and fishing.

(b) For the purposes of this regulation, the term "resident" shall have the meaning specified in K.S.A. 32-701, and amendments thereto, except that a person shall have maintained that person's place of permanent abode in this state for not less than one year immediately preceding that person's application for a senior pass valid for hunting and fishing.

(c) A senior pass valid for hunting and fishing shall not be made invalid because the holder of that senior pass subsequently resides outside of the state.

(d) Each nonresident holder of a senior pass valid for hunting and fishing shall be eligible under the same conditions as those for a Kansas resident for a big game or wild turkey permit upon proper application to the secretary.

(e) A senior pass shall not be transferable.

(f) Each senior pass shall be valid during the life of the holder and shall expire upon the death of the holder. This regulation shall be effective on and after January 1, 2013. (Authorized by and implementing K.S.A. 32-807, as amended by L. 2012, Ch. 47, Sec. 25, and L. 2012, Ch. 154, Sec. 1; effective Jan. 1, 2013.)

Article 20.—MISCELLANEOUS REGULATIONS

115-20-1. Crows; legal equipment, taking methods, and possession. (a) Legal hunting equipment for taking crows shall consist of the following:

(1) Firearms, except fully automatic rifles and handguns and except shotguns and muzzleloading shotguns larger than 10 gauge or using other than shot ammunition;

(2) pellet and BB guns;

(3) archery equipment;

(4) falconry equipment;

(5) calls and decoys, except live decoys; and

(6) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light.

(b) The use of dogs shall be permitted while hunting.

(c) Hunting hours shall be from ½ hour before sunrise to sunset.

(d) Any type of apparel may be worn while hunting crows.

(e) Crows may be shot or pursued by falconry means while the crow is in flight, on the ground, or perched.

(f) Legally taken crows may be possessed without limit in time and number and may be disposed of in any manner. However, crows shall not be purchased, sold, bartered, or offered for purchase, sale, or barter.

(g) Blinds and stands may be used while hunting. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective July 30, 1990; amended March 20, 1995; amended July 13, 2001; amended Feb. 18, 2005.)

115-20-2. Certain wildlife; legal equipment, taking methods, possession, and license requirement. (a) Subject to federal and state laws and regulations, wildlife listed in subsection (b) may be taken for personal use on a noncommercial basis.

(b) For purposes of this regulation, wildlife shall include the following, excluding any species listed in K.A.R. 115-15-1 or K.A.R. 115-15-2:

- (1) Amphibians, except bullfrogs;
- (2) armadillo;
- (3) commensal and other rodents, excluding game and furbearing animals;
- (4) exotic doves;
- (5) feral pigeon;
- (6) gopher;
- (7) ground squirrel;
- (8) invertebrates;
- (9) kangaroo rat;
- (10) mole;
- (11) porcupine;
- (12) prairie dog;
- (13) reptiles, except common snapping turtles and soft-shelled turtles;
- (14) woodchuck; and
- (15) wood rat.

(c) Wildlife listed in subsection (b) shall be taken only with any of the following legal equipment or methods:

- (1) Bow and arrow;
- (2) crossbow;
- (3) deadfall;
- (4) dogs;
- (5) falconry;
- (6) firearms, except fully automatic firearms;
- (7) glue board;
- (8) hand;
- (9) net or seine;
- (10) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light;
- (11) pellet and BB gun;

(12) poison, poisonous gas, or smoke, if the toxicant is registered and labeled for that use and if all permit requirements for use of the poison, poisonous gas, or smoke have been met;

(13) projectiles hand-thrown or propelled by a slingshot;

(14) snare or noose; or

(15) trap.

(d) The open season for the taking of wildlife listed in subsection (b) shall be year-round.

(e) There shall be no maximum daily bag or possession limit for wildlife listed in subsection (b), except that no more than five of any one species of amphibian, reptile, or mussel may be possessed and no more than five live specimens of mussels may be possessed. Two opposing shells shall constitute one mussel.

(f) Each exotic dove possessed in excess of the aggregate daily bag limit or aggregate possession limit for migratory doves during the open season for migratory doves established in K.A.R. 115-25-19 shall retain a fully feathered wing. For the purpose of this regulation, "migratory dove" shall mean any mourning dove or white-winged dove, and "exotic dove" shall mean a Eurasian collared dove or ringed turtle dove.

(g) Legally taken wildlife listed in subsection (b) may be possessed without limit in time.

(h) A hunting license shall not be required to take invertebrates. (Authorized by K.S.A. 2016 Supp. 32-807; implementing K.S.A. 2016 Supp. 32-807 and K.S.A. 2016 Supp. 32-919; effective Sept. 10, 1990; amended Nov. 30, 1998; amended July 13, 2001; amended Nov. 22, 2002; amended Feb. 18, 2005; amended July 28, 2017.)

115-20-3. Exotic wildlife; possession, sale and requirements. (a) Subject to federal or state law or rules and regulations, exotic wildlife species may be imported, possessed, sold, offered for sale or purchased, provided the exotic wildlife was legally captured, raised, exported, possessed, sold or purchased or any combination of these activities in its place of origin.

(b) Exotic wildlife may be possessed without limit in time and number.

(c) Exotic wildlife shall be confined or controlled at all times and shall not be released onto the lands or into the waters of this state.

(d) Exotic wildlife shall only include those wildlife species which are non-migratory and are not native or indigenous to Kansas, or do not presently exist in Kansas as an established wild popula-

tion. (Authorized by K.S.A. 1990 Supp. 32-807; implementing K.S.A. 1990 Supp. 32-807 and K.S.A. 1990 Supp. 32-1002; effective Sept. 10, 1990; amended Feb. 10, 1992.)

115-20-4. Possession of certain wildlife.

(a) Any person possessing one of the following animals shall be required to obtain a possession permit:

- (1) mountain lion, *Felis concolor* Linnaeus;
- (2) wolf, *Canis lupus* Say;
- (3) black bear, *Ursus americanus* Pallas; and
- (4) grizzly bear, *Ursus arctos horribilis* Ord.

(b) Any individual may apply to the secretary for a possession permit. The applicant shall provide the following information:

- (1) the name of the applicant;
- (2) the address of the applicant;
- (3) the telephone number of the applicant;
- (4) the species and number of wildlife for which the possession permit is requested;
- (5) the purpose for which the wildlife would be possessed;
- (6) proof of purchase or receipt; and
- (7) other information as requested by the secretary.

(c) Each permittee shall submit a report to the department describing changes in wildlife possession as authorized by the possession permit. The report shall be submitted within five days after the change occurred, except that the escape of any possessed wildlife shall be reported within 24 hours. Changes for which a report shall be required include:

- (1) any possessed wildlife sold or otherwise disposed of;
- (2) any wildlife purchased or otherwise acquired;
- (3) the death of any possessed wildlife; or
- (4) the escape of any possessed wildlife.

(d) Each permittee shall only possess wildlife species and numbers as authorized in the possession permit.

(e) The possession permit shall be valid from date of issue and shall expire upon request of the permittee or as so ordered by any legal authority.

(f) The possession of wildlife listed in subsection (a) shall be subject to all federal and state laws and regulations and to all local ordinances.

(g) The provisions of this regulation shall not apply to:

- (1) zoos;
- (2) licensed veterinarians;
- (3) transportation of such wildlife through the state;

(4) possession of such wildlife when the possession shall not exceed five days; or

(5) such wildlife possessed for scientific, educational or display purposes by:

- (A) a school or university; or
- (B) a circus or other similar business enterprise offering public viewing opportunity. (Authorized by K.S.A. 1990 Supp. 32-807; implementing K.S.A. 1990 Supp. 32-807 and K.S.A. 1990 Supp. 32-1002; effective Feb. 10, 1992.)

115-20-5. Dangerous regulated animals; primary caging requirements. Each person possessing a dangerous regulated animal, as defined in L. 2006, ch. 131, sec. 1 and amendments thereto, shall confine, house, maintain, and transport the animal as follows:

(a) Mammals.

(1) Each primary holding cage shall meet the following requirements:

(A) Be constructed in a manner that prohibits physical contact with the animal by any person other than the owner, designated handler, or veterinarian providing medical attention or treatment; and

(B) be enclosed inside a perimeter fence, rail, or other physical structure that prohibits physical contact with the animal.

(2) Each gate allowing access through a perimeter fence, rail, or other physical structure surrounding any primary holding cage shall be locked at all times with a key or combination lock to prevent unauthorized entry into the area immediately surrounding the primary holding cage, except when authorized persons are present in the area.

(3) Each primary holding cage shall include a shift cage to isolate the animal from the primary holding cage to permit the feeding, cleaning, repair, or other activities that necessitate the separation or isolation of the animal. Each shift cage shall be constructed so that the animal to be isolated is able to stand, lie naturally, and turn around without touching the sides of the shift cage. If multiple animals are held within a primary holding cage, the shift cage shall be constructed so that multiple animals to be isolated are able to stand, lie naturally, and turn around without touching the sides of the shift cage.

(4) Each primary holding cage shall be accessed through a double-gated entry consisting of a completely enclosed structure, constructed of material of strength or specification equal to or greater than that of the primary holding cage,

and equipped with one primary access gate or door and a secondary access safety gate or door. Each door shall be equipped with a latch of sufficient strength and design to prevent the gate from opening accidentally, shall open only inward, and shall be equipped with stops or blocks of sufficient strength to prevent an animal from escaping by charging or striking the door. The primary access door shall be locked with a key or combination lock, separate from the latch, to prevent unauthorized entry. Additionally, the secondary door shall be equipped with either an additional latch or safety chain of sufficient strength and design to secure the door temporarily. Each person entering the primary holding cage shall enter through the primary access door and securely close the door before passing through the secondary access door. The primary access door and secondary access door shall not be open simultaneously when an animal is present in the primary holding cage.

(5) Any primary holding cage may be equipped with a maintenance gate to allow large items, including claw logs and maintenance equipment, to enter the primary holding cage. Each maintenance gate shall be securely double-latched and locked when not in operation. In addition, no maintenance gate shall be open when an animal is present in the primary holding cage.

(6) Each primary holding cage utilizing electrical power on any perimeter fence, secondary barrier, or enclosure shall have a functional, backup electrical system in place that is powered by a gas generator, solar-charged batteries, or the functional equivalent, to be used if the electrical power fails or the primary electrical source malfunctions.

(7) Each primary holding cage for any lions, leopards, jaguars, cheetahs, or mountain lions, or any hybrids of these animals, shall be constructed of materials meeting the following minimum requirements:

(A) The fencing for lions and tigers shall have the strength of a nine-gauge chain-link fence.

(B) The fencing for leopards, cheetahs, jaguars, and mountain lions shall have the strength of an eleven-gauge chain-link fence.

(C) Break-resistant glass or plastic viewing panels may be used if the material is of sufficient strength to prevent breakage by the animals confined.

(D) Each wall shall be at least eight feet in height. Except for any primary cage holding cheetahs, each primary holding cage with walls at least eight feet but not more than 13 feet in height

shall be topped with the same fencing material required for the walls for the species of animal held. Each wall greater than 13 feet in height shall be equipped with either a supported, inward-facing overhang of at least 36 inches or two electrified wires encompassing the entire perimeter of the walls, unless topped with fencing materials. Each primary holding cage for cheetahs, unless topped with fencing materials, shall be equipped with either a supported, inward-facing overhang of at least 18 inches or two electrified wires encompassing the entire perimeter of the walls.

(E) Each primary holding cage for any feline species shall have either a concrete footing extending a minimum of one foot into the ground or chain-link or welded wire fencing buried horizontally, of the equivalent strength as that of the primary cage wall, extending a minimum of three feet around the inside of the primary holding cage. All fencing material shall be securely fastened to the primary holding cage framework or to adjacent fencing or footings, in order to prevent separation from the framework or adjacent fencing materials. All fencing that is buried shall consist of nonrusting material.

(F) The vertical and horizontal fencing framework shall be constructed to effectively support the fencing materials and prevent bending or breakage of the fencing materials by the animals held in the primary holding cage.

(G) The floor space of each primary holding cage shall be at least 288 square feet for any feline species if only one animal is confined in the primary holding cage. Each additional animal confined in the same primary holding cage shall require an additional 144 square feet for that animal.

(8) Each primary holding cage for all bear species or any bear hybrids shall be constructed of materials meeting the following minimum requirements:

(A) The fencing for black bears, sloth bears, sun bears, and spectacled or Andean bears shall have the strength of a nine-gauge chain-link fence and shall be eight feet in height.

(B) The fencing for grizzly bears, brown bears, and polar bears shall have the strength of a five-gauge chain-link fence and shall be 10 feet in height.

(C) Any wall may be constructed of vertical steel bars or rods measuring $\frac{5}{8}$ inch in diameter, spaced on four-inch centers, and welded at the end to angle iron measuring $1\frac{1}{4}$ inch by $\frac{1}{4}$ inch. The horizontal angle iron shall be welded to ver-

tical posts. The bottom horizontal supports shall be not more than three inches above the concrete floor or footing and shall not be spaced more than four feet apart between the floor and the top of the cage.

(D) Break-resistant glass or plastic viewing panels may be used if the material is of sufficient strength to prevent breakage by the animals confined.

(E) Each primary holding cage with walls at least eight feet but not more than 13 feet in height shall be covered with the same fencing material as that required for the walls for the species of animal held. Each wall greater than 13 feet in height, unless topped with fencing material, shall be equipped with either a supported, inward-facing overhang of at least 36 inches or two electrified wires encompassing the entire perimeter of the walls.

(F) Each primary holding cage for all bear species shall have a reinforced concrete floor at least four inches thick or a concrete footing extending at least five feet in the ground.

(G) The vertical and horizontal fencing framework shall be constructed to effectively support the fencing materials and prevent bending or breakage of the fencing materials by the animals held in the cage.

(H) The floor space of each primary holding cage shall be at least 288 square feet for black bears, sloth bears, sun bears, and spectacled or Andean bears if only one animal is confined in the cage. Each additional animal confined in the same cage shall require an additional 144 square feet for that animal.

(I) The floor space of each primary holding cage shall be at least 432 square feet for grizzly bears, brown bears, and polar bears if only one animal is confined in the cage. Each additional animal confined in the same cage shall require an additional 288 square feet for that animal.

(9) Any animal held for sale by a person with a valid license from the United States department of agriculture and any animal held for veterinary care or quarantine may be temporarily held or caged for not more than 60 days in a cage or enclosure that does not meet the primary cage space requirements.

(A) Upon written request to the local animal control authority, this temporary holding or caging period may be extended if conditions certified by a licensed veterinarian necessitate a longer holding period for the health, safety, or welfare of the animal or the public.

(B) The medical records for any animal for which an extension is requested shall be maintained at the facility and available for review upon request.

(C) A cage for temporary care shall not be used if the animal being held is not able to stand, lie naturally, and turn around without touching the sides of the cage. In addition, each animal or cage shall be permanently marked to correlate with records indicating the date on which the animal was placed in confinement.

(10) Any newborn animal may be temporarily confined in incubation and rearing facilities that do not conform to primary cage standards.

(11) Any nursing animal may be temporarily maintained with the animal's parents without regard to primary cage standards that require increases in the square footage of the cage until the nursing animal is weaned. This period may be extended to a date certain, on the recommendation of a licensed veterinarian for the health, safety, or welfare of the animal.

(12) Any juvenile animal may be confined in an enclosure or cage smaller than a primary holding cage, if the cage is large enough for the animal to stand, lie naturally, and turn around without touching the sides of the cage.

(13) Each juvenile animal that is confined in any cage other than a primary holding cage shall be marked or clearly identifiable to prove the date on which the animal was placed in confinement and the age of the animal and shall be provided space for exercise on a daily basis.

(14) Each juvenile animal shall be transferred permanently to a primary holding cage upon reaching six months of age or twenty-five pounds in weight, whichever occurs first.

(15) Each animal that must be transported to a location other than the primary holding cage shall be transported in a fully enclosed cage that is constructed of materials meeting a standard equivalent to the minimum standard for the primary cage for the species, is not injurious to the animal, and does not allow physical contact between the animal and any person.

(b) Nonnative venomous snakes.

(1) Each primary holding container for snakes shall have an access door or opening that is securely latched and locked, have joined surfaces that meet tightly, and be structurally sound to prevent separation of the surfaces and the escape of the confined snake or snakes.

(2) Each primary holding container for snakes shall be locked within a building or other struc-

ture that is inaccessible to unauthorized persons and that is constructed and maintained to prevent the escape of each confined snake.

(3) Each primary holding container for snakes shall be constructed from material meeting one of the following minimum requirements:

(A) Laminated safety glass, plate glass, or tempered glass at least $\frac{3}{16}$ inch thick;

(B) break-resistant plastic with strength equivalent to the strength of laminated safety glass that is at least $\frac{3}{16}$ inch thick;

(C) wire-reinforced concrete;

(D) sheet metal;

(E) molded fiberglass; or

(F) plywood or interlocking lumber that has been treated to be impervious to moisture and is at least $\frac{1}{2}$ inch thick.

(4) Each primary holding container shall have adequate ventilation. Each ventilation opening shall be securely covered with double walls made of wire or fiberglass mesh measuring at least $\frac{1}{16}$ inch.

(5) The perimeter of each primary holding container for snakes less than six feet in length shall be at least $1\frac{1}{2}$ times the length of the snake. The perimeter of each container for snakes more than six feet in length shall be at least twice the length of the snake.

(6) Each primary holding container shall be labeled with the common and scientific names of the species and subspecies of snakes held and the number of snakes held. The label shall be legibly marked with the warning "poisonous" or "venomous" and the name of the appropriate antivenin for the snake species.

(7) Each primary holding container used for public exhibit or display shall have double-pane glass panels.

(8) Written emergency procedures to be followed if a snake escapes shall be posted in a prominent location in the building or structure housing the snakes, along with a written plan from a hospital stating the way that a venomous bite should be treated and a notice of the location of the nearest, most readily available source of appropriate antivenin.

(9) Each snake removed from the primary holding container for feeding or for cleaning the container shall be held in a fully enclosed and ventilated container with a secure and locked lid.

(10) Each snake that must be transported from its primary holding container to another location shall be transported in a cloth sack placed inside a break-resistant, ventilated, and locked box that

is made of wood, fiberglass, or plastic and that is clearly marked with the contents of the box. In addition, the box used shall not be injurious to the snake, shall not be subject to breaking from impact or dropping, and shall prohibit physical contact between the snake and any person. (Authorized by and implementing L. 2006, ch. 131, sec. 6; effective Nov. 27, 2006.)

115-20-6. Dangerous regulated animals; registered designated handler. Each person applying to be a registered designated handler, as defined in L. 2006, ch. 131, sec. 1 and amendments thereto, shall meet the following minimum requirements:

(a) Be 18 years of age or older;

(b) have obtained at least 200 hours of training and experience in the care, feeding, handling, and husbandry of the species for which the registration is sought or another species within the same biological order that is substantially similar in size, characteristics, care, and nutritional requirements to the species for which the registration is sought; and

(c) submit documentation of the training and experience specified in subsection (b), including a description of the training and experience acquired, the dates on which the training and experience were acquired, the location where the training and experience were acquired, and at least two references from individuals having personal knowledge of the documented training and experience. (Authorized by and implementing L. 2006, ch. 131, sec. 10; effective Nov. 27, 2006.)

115-20-7. Migratory doves; legal equipment, taking methods, and possession. (a) Legal hunting equipment for migratory doves shall consist of the following:

(1) Shotguns that are not larger than 10 gauge, use shot ammunition, and are incapable of holding more than three shells in total capacity;

(2) archery equipment;

(3) crossbows;

(4) falconry equipment;

(5) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light; and

(6) blinds, stands, calls, and decoys, except live decoys.

(b) The use of dogs shall be permitted while hunting.

(c) Any type of apparel may be worn while hunting migratory doves.

(d) Legally taken migratory doves may be possessed without limit in time and may be given to another if accompanied by an attached, dated written notice that includes the donor's printed name, signature, and address; the total number of birds; the dates the birds were killed; and the permit or license number. The person receiving the meat shall retain the notice until the meat is consumed, given to another, or otherwise disposed of.

(e) Migratory doves shall be taken only while in flight. (Authorized by and implementing K.S.A. 2018 Supp. 32-807; effective Nov. 20, 2009; amended July 20, 2012; amended July 28, 2017; amended May 31, 2019.)

Article 21.—COMMERCIAL GUIDES

115-21-1. This regulation shall be revoked on and after January 1, 2006. (Authorized by K.S.A. 32-807 and K.S.A. 2002 Supp. 32-964, as amended by 2003 SB 43, Sec. 1; implementing K.S.A. 32-964, as amended by 2003 SB 43, Sec. 1; effective Jan. 28, 1991; amended Dec. 7, 2001; amended Sept. 19, 2003; revoked Jan. 1, 2006.)

115-21-2. This regulation shall be revoked on and after January 1, 2006. (Authorized by K.S.A. 32-807 and K.S.A. 2002 Supp. 32-964, as amended by 2003 SB 43, Sec. 1; implementing K.S.A. 2002 Supp. 32-964, as amended by 2003 SB 43, Sec. 1; effective Jan. 28, 1991; amended Dec. 7, 2001; amended Sept. 19, 2003; revoked Jan. 1, 2006.)

115-21-3. (Authorized by K.S.A. 1992 Supp. 32-807 as amended by L. 1993, chapter 185, section 2 and K.S.A. 1992 Supp. 32-964 as amended by L. 1993, chapter 278, section 1; implementing K.S.A. 1992 Supp. 32-964 as amended by L. 1993, chapter 278, section 1; effective Jan. 1, 1994; revoked Dec. 7, 2001.)

115-21-4. This regulation shall be revoked on and after January 1, 2006. (Authorized by K.S.A. 32-807 and K.S.A. 32-964, as amended by L. 2001, Ch. 185, Sec. 2; implementing K.S.A. 32-964, as amended by L. 2001, Ch. 185, Sec. 2; effective Dec. 7, 2001; revoked Jan. 1, 2006.)

Article 22.—SPORT SHOOTING RANGES

115-22-1. Sport shooting ranges; generally accepted operating practices. The following

chapters and articles in “the range manual” of the national rifle association, as revised in June 1998, are hereby adopted by reference as the regulations of the department establishing generally accepted operating practices for sport shooting ranges.

(a) In the “introduction” in section one, the following articles:

- (1) “Article 1. introduction”;
- (2) “article 3. manual organization”;
- (3) “article 4. terminology”;

(b) in chapter two of section one, “safety plan,” the following articles:

- (1) “Article 1. general”;
- (2) “article 2. safety planning”;
- (3) “article 3. general administrative regulations”;

(4) “article 4. general range commands”;

(c) in chapter six of section one, “sound abatement on shooting ranges,” the following articles:

- (1) “Article 1. general”;
- (2) “article 2. definitions”;

(3) “article 3. concepts and methodology.” (Authorized by L. 2001, Ch. 185, Sec. 8; implementing L. 2001, Ch. 185, Sec. 4 and Sec. 8; effective Dec. 7, 2001.)

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.)

115-30-2. Certificate-of-number and registration; application, temporary permits and expiration date. (a) Applications for a certificate-of-number and registration shall be available at designated department offices.

(b) Vendor agents shall be authorized to issue temporary and permanent certificates-of-number and registrations.

(c) Issue of a temporary registration shall be authorized when application for and issuance of a permanent certificate-of-number and registration is pending.

(d) The certificate-of-number and registration decals shall be valid for a period of time ending three years from the date of issue.

(e) An address change addendum issued by the department pursuant to K.S.A. 1989 Supp. 32-1111 to a certificate-of-number holder shall be a part of the certificate-of-number and shall be retained by the holder with the certificate-of-number.

(f) This regulation shall be effective January 1, 1991. (Authorized by and implementing K.S.A. 1989 Supp. 32-1111; effective Jan. 1, 1991.)

115-30-3. Personal flotation devices; recreational vessels. (a) For the purposes of this article of the department's regulations, "PFD" shall mean any personal flotation device that is labeled and approved by the United States coast guard for use on recreational vessels.

(b) Each recreational vessel shall have at least one readily accessible, wearable PFD in serviceable condition on board for each individual in the vessel and at least one wearable PFD on board for each individual being towed. No operator of any recreational vessel shall operate the vessel or al-

low the vessel to be operated unless each individual 12 years of age or younger wears an approved wearable PFD while being towed behind the vessel or aboard the vessel, unless the individual is below decks or in an enclosed cabin.

(c) To meet the "serviceable condition" requirement of K.S.A. 32-1119 and amendments thereto, each required PFD shall meet the requirements of 33 C.F.R. 175.23, as in effect on April 29, 1996, which is hereby adopted by reference, and shall be of the appropriate size and fit for the individual to whom the PFD is assigned.

(d) In addition to the provisions of subsection (b), each recreational vessel 16 feet or greater in length, except canoes and kayaks, shall have at least one throwable PFD on board. Each throwable PFD shall be in serviceable condition, labeled as U.S. coast guard-approved, and readily accessible.

(e) Each PFD shall be used in accordance with the requirements of the PFD's label and in accordance with the owner's manual, if the label refers to an owner's manual.

(f) To meet the "readily accessible" requirement of K.S.A. 32-1119 and amendments thereto, each required PFD shall be in open view. A required PFD shall not be stowed in locked or closed compartments or be inside plastic or other packaging material. (Authorized by and implementing K.S.A. 2020 Supp. 32-1119 and K.S.A. 32-1129, as amended by L. 2021, ch. 68, sec. 2; effective Oct. 22, 1990; amended March 20, 1995; amended Feb. 28, 1997; amended Dec. 27, 2021.)

115-30-4. Fire extinguishers; requirements. (a) United States coast guard approved hand portable fire extinguishers of type B, size I or type B, size II or both shall be carried on board each motorboat as determined by the following classes:

(1) Class A: at least one type B, size I fire extinguisher shall be carried if any one or more of the following conditions exist:

(A) an inboard engine;

(B) closed compartments under thwarts and seats where portable fuel tanks may be stored;

(C) double bottom construction not sealed to the hull or not completely filled with flotation materials;

(D) closed compartments in which combustible or flammable materials are stored; or

(E) permanently installed fuel tanks. Fuel tanks that cannot be moved in case of fire or other emer-

gency or if the weight of the fuel tank precludes movement of the tank by an individual on board shall be considered permanently installed.

(2) The provisions of subsection (1) shall not apply if the motorboat has a United States coast guard approved built-in or affixed fire extinguisher in the motor area.

(3) Class 1: at least one type B, size I fire extinguisher shall be carried, except the provisions of this subsection shall not apply if the motorboat has a United States coast guard approved built-in or affixed fire extinguisher in the motor area.

(4) Class 2: at least two type B, size I fire extinguishers or one type B, size II fire extinguisher shall be carried, except each motorboat that has a United States coast guard approved built-in or affixed fire extinguisher in the motor area shall only be required to carry at least one type B, size I fire extinguisher.

(5) Class 3: at least three type B, size I fire extinguishers or one type B, size I fire extinguisher and one type B, size II fire extinguisher shall be carried, except each motorboat that has a United States coast guard approved built-in or affixed fire extinguisher in the motor area shall only be required to carry at least two type B, size I fire extinguishers or one type B, size II fire extinguisher.

(b) Each vessel, including each motorboat having an approved built-in or affixed fire extinguisher in the motor area, that has enclosed living spaces or galleys shall carry at least one United States coast guard approved type B, size I or type B, size II fire extinguisher in the living space or galley. (Authorized by and implementing K.S.A. 1989 Supp. 32-1119; effective Oct. 22, 1990.)

115-30-5. Boating; capacity plate and operation; calculation of person capacity. (a) A capacity plate, once installed on a vessel, shall not be removed, defaced, replaced, or altered.

(b) A vessel shall not be operated with a motor whose horsepower exceeds the maximum horsepower of the motor as specified on the capacity plate or as computed under K.A.R. 115-30-6.

(c) The person capacity for monohull vessels that are less than 20 feet in length, except sailboats, canoes, kayaks, personal watercraft, and inflatable boats, and that are without a manufacturer's capacity plate shall be calculated using the following formula:

(1) Multiply the length of the vessel, in feet, by the width of the vessel, in feet; and

(2) divide the product calculated in paragraph (c)(1) by 15.

(d) This regulation shall be effective on and after January 1, 2008. (Authorized by and implementing K.S.A. 32-1126; effective Oct. 22, 1990; amended Jan. 1, 2008.)

115-30-6. Boating; adoption by reference of certain code of federal regulations. The following parts and sections of the federal rules and regulations promulgated by the United States coast guard are hereby incorporated by reference as the rules and regulations of the department.

(a) "Identification of boats": 33 C.F.R. section 181 Subpart C, including sections 181.21, 181.23, 181.25, 181.27, and 181.29, each as in effect on August 1, 1984; sections 181.31 and 181.33, both as in effect on July 1, 1988; and section 181.35, as in effect on August 1, 1984;

(b) "Definitions": 33 C.F.R. section 183.3, except the definitions of "sailboat" and "vessel," as in effect on June 30, 1996.

(c) "Applicability": 33 C.F.R. section 183.31 as in effect on November 1, 1972;

(d) "Maximum weight capacity: inboard and inboard-outdrive boats": 33 C.F.R. section 183.33 as in effect on November 1, 1972;

(e) "Maximum weight capacity: outboard boats": 33 C.F.R. section 183.35 as in effect on January 13, 1977;

(f) "Maximum weight capacity: boats rated for manual propulsion and boats rated for motors of two horsepower or less": 33 C.F.R. section 183.37 as in effect on November 1, 1972;

(g) "Persons capacity: inboard and inboard-outdrive boats": 33 C.F.R. section 183.39 as in effect on April 3, 1985;

(h) "Persons capacity: outboard boats": 33 C.F.R. section 183.41 as in effect on April 3, 1985;

(i) "Persons capacity: boats rated for manual propulsion and boats rated for motors of 2 horsepower or less": 33 C.F.R. section 183.43 as in effect on August 1, 1980;

(j) "Applicability": 33 C.F.R. section 183.51 as in effect on November 1, 1972;

(k) "Horsepower capacity": 33 C.F.R. section 183.53 as in effect on August 1, 1987;

(l) "Requirements": 46 C.F.R. section 25.35-1 as in effect on August 28, 1991; and

(m) "Tanks and engine spaces": 46 C.F.R. section 25.40-1 as in effect on October 18, 1995. (Authorized by and implementing K.S.A. 32-1119 and K.S.A. 32-1126; effective Oct. 22, 1990; amended Feb. 28, 1997.)

115-30-7. Boating; steering and sailing requirements. (a) Each operator of a vessel shall keep the vessel to the right of the channel if it is safe and practicable to do so.

(b) When two vessels are approaching each other head-on or nearly so, each operator shall pass the other on that operator's own left side at a speed and distance so that the wake of each vessel will not endanger the other vessel.

(c) When one vessel passes another traveling in the same direction, the operator of the passing vessel shall pass when it is safe to do so and at a speed and distance that do not endanger the overtaken vessel. The operator of the overtaken vessel shall maintain its course and speed until the passing vessel has safely passed.

(d) When two vessels are approaching each other in a crossing situation that involves risk of collision, the operator of the vessel on the right shall maintain that vessel's course and speed. The operator of the vessel on the left shall direct that vessel's course to the right to cross the stern of the other vessel or shall stop and reverse if necessary to avoid collision.

(e) Each operator of a vessel propelled by machinery shall keep that vessel clear of any vessel under sail or being propelled by oars or paddles and shall maintain a speed and distance so that the wake will not endanger any vessel under sail or being propelled by oars or paddles.

(f) Each operator of a vessel shall maintain a proper look-out at all times by sight and sound as well as other available means in order to make a full appraisal of the surroundings and avoid the risk of collision.

(g) Each operator of a vessel shall proceed at a speed that is safe and appropriate under the conditions and with regard to the actual hazards then existing, in order to avoid a collision and stop within any distance necessary to avoid a collision.

(h) No operator of a vessel shall interfere with the placement or visibility of any navigational aid.

(i) No operator of a vessel shall moor the vessel to any navigation buoy except a designated mooring buoy.

(j) This regulation shall be effective on and after January 1, 2008. (Authorized by and implementing K.S.A. 2006 Supp. 32-1119; effective Oct. 22, 1990; amended Jan. 1, 2008.)

115-30-8. Boating; accident reports. (a) Each accident resulting either in property damage in excess of \$2000 or in the total loss of any vessel

shall be reported to the department by the operator of the vessel. This requirement shall include all collision-type accidents involving other vessels, floating objects, and fixed objects.

(b) Each accident report required under K.S.A. 32-1177 and amendments thereto and each accident specified in subsection (a) shall be filed with the department or a commissioned law enforcement officer by the operator of the vessel immediately after the time of the accident.

(c) An accident report shall be required in accordance with subsection (b) when a person disappears from a vessel under circumstances that indicate death, injury or other cause for disappearance.

(d) An accident report shall be required in accordance with subsection (b) when a person dies, or when a person is injured and requires medical treatment beyond first aid.

(e) Each accident report shall be submitted on forms provided by the department and shall contain the following information:

(1) The names, addresses, and telephone numbers of the vessel operator and any passengers in the operator's vessel;

(2) the names, addresses, and telephone numbers of the vessel operators and any passengers in any other vessels involved;

(3) the registration number and a description of the operator's vessel;

(4) the registration number and a description of any other vessels involved in the accident;

(5) a complete description of the accident, including any injuries or deaths; and

(6) other relevant information as required by the secretary.

(f) Any individual with knowledge of the accident, including a responding or investigating law enforcement officer, may file the required accident report if the operator is unable to file the report due to injury or death.

(g) This regulation shall be effective on and after January 1, 2008. (Authorized by and implementing K.S.A. 32-1103 and K.S.A. 32-1177; effective Oct. 22, 1990; amended Dec. 27, 1993; amended Nov. 22, 2002; amended Jan. 1, 2008.)

115-30-9. Water event permit; application and requirements. (a) A water event permit shall be required for any event as described in K.S.A. 1989 Supp. 32-1149. A special event permit issued under K.A.R. 115-8-21 shall satisfy the requirement for a water event permit on department lands and waters if processed in compli-

ance with provisions of subsections (b) and (d) of K.A.R. 115-30-9.

(b) Any person may apply to the secretary for a water event permit. The application shall be on forms provided by the department and each applicant shall provide the following information:

- (1) the name of the applicant;
- (2) the address of the applicant;
- (3) the location of the event;
- (4) the date and time of the event;
- (5) a description of the event;
- (6) estimated number of boats and individuals participating;

(7) a description of safety measures to be utilized for the protection of the public and water event participants including, but not limited to:

- (A) traffic control;
- (B) lifeguards;
- (C) patrol boats equipped with life saving equipment;
- (D) first aid equipment; and
- (E) fire extinguishers;
- (8) written approval for the event from the controlling authority of the water to be used; and
- (9) other information as required by the secretary.

(c) Each water event permit application may include multiple events if the events to be covered under the water event permit are all conducted on the same area or body of water.

(d) Each application for a water event shall be submitted not less than 30 days prior to the proposed event.

(e) A water event permit shall be valid for the period of time as specified in the permit, but shall not extend beyond December 31 of the year in which the water event permit was issued.

(f) A water event involving 25 or fewer participants shall not require payment of the water event permit fee.

(g) Each water event shall be conducted in conformance with conditions established by the department in the water event permit. (Authorized by and implementing K.S.A. 1989 Supp. 32-1149; effective Jan. 28, 1991.)

115-30-10. Personal watercraft; definition, requirements, and restrictions. (a) Personal watercraft shall mean any vessel that uses an inboard motor powering a jet pump as the vessel's primary source of propulsion and is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than the conventional manner of sitting, standing, or kneeling inside the vessel.

(b) Personal watercraft shall be subject to all applicable laws and regulations that govern the operation, equipment, registration, numbering, and all other matters relating to vessels whenever a personal watercraft is operated on the waters of this state, except as follows:

(1) A personal watercraft shall not be operated unless each person aboard the personal watercraft is wearing a type I, type II, type III, or type V United States coast guard-approved personal floatation device.

(2) Each person operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch shall attach the lanyard to the operator's person, clothing, or personal floatation device, as appropriate.

(3) A person shall not operate a personal watercraft between sunset and sunrise.

(4) Each person shall operate a personal watercraft at no-wake speeds of five miles per hour or less when within 200 feet of the following:

- (A) A dock;
- (B) a boat ramp;
- (C) a person swimming;
- (D) a bridge structure;
- (E) a moored or anchored vessel;
- (F) a sewage pump-out facility;
- (G) a nonmotorized watercraft;
- (H) a boat storage facility; or
- (I) a concessionaire's facility.

(5) A person shall operate a personal watercraft in a reasonable and prudent manner. Maneuvers that endanger life, limb, or property shall be prohibited. This prohibition shall include weaving through congested vessel traffic or jumping the wake produced by another vessel at an unsafe distance.

(6) A person shall not operate a personal watercraft unless the person is facing forward.

(7) A person shall not operate or use a personal watercraft to tow a person on waterskis, kneeboards, inflatable crafts, or any other device unless the personal watercraft is designed to accommodate more than one person.

(8) No person in possession of a personal watercraft shall permit another person to operate the personal watercraft unless that person has met the boater education requirements as specified in K.S.A. 32-1139 and amendments thereto.

(c) A boat livery shall not lease, hire, or rent a personal watercraft to, or for the operation by, any person who has not met the boater education requirements as specified in K.S.A. 32-1139 and amendments thereto.

(d) The provisions of paragraphs (b) (4), (5), (6), and (8) shall not apply to a person participating in a regatta, race, marine parade, tournament, or exhibition that has been authorized or permitted by the department or is otherwise exempt from this authorization or permit requirement.

(e) This regulation shall be effective on and after January 1, 2008. (Authorized by and implementing K.S.A. 32-1103 and K.S.A. 2006 Supp. 32-1119; effective June 13, 1994; amended June 11, 1999; amended Jan. 1, 2008.)

115-30-11. Exemption for numbering. The secretary having determined, pursuant to K.S.A. 32-1113(5), that numbering will not materially aid in identification of certain vessels and that such vessels are exempt from numbering under federal law, numbering shall not be required for any vessel, as defined by K.S.A. 32-1102, and amendments thereto, while actually engaged in water events authorized by K.S.A. 32-1149, and amendments thereto, and by K.A.R. 115-30-9, if that vessel is designed for racing and is operated exclusively in competitive racing, racing demonstrations or special racing exhibitions. (Authorized by K.S.A. 32-1103; implementing K.S.A. 32-1113; effective Aug. 21, 1995.)

115-30-12. Marine sanitation devices; vessel requirements. (a) Each person owning, operating, launching, mooring, docking, or using any vessel equipped with a marine sanitation device on the waters of the state shall meet the following requirements:

(1) Ensure that all valves capable of allowing the discharge of sewage into the water are locked in a closed position by the use of a nonreleasing locking device approved by the department or by removing the handle of the valve after the valve has been placed in the closed position; and

(2) make any necessary modifications to securely lock any overboard sewage discharge valve into the closed position or use any other means listed in paragraph (a)(1).

(b) No person may alter or remove any department-approved locking device once installed by a department employee or authorized agent of the department, unless the person notifies the department in writing before the alteration or removal and includes the following information:

(1) The vessel's registration number or documentation number;

(2) the vessel's hull identification number;

(3) the vessel owner's name and address;

(4) the purpose for altering or removing the locking device; and

(5) the name of the individual or business performing the alteration or removal.

(c) This regulation shall be effective on and after January 1, 2008. (Authorized by and implementing K.S.A. 32-1103; effective Jan. 1, 2008.)

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 35.—LOCAL GOVERNMENT OUTDOOR RECREATION GRANT PROGRAM

115-35-1. Local government outdoor recreation grant program; application and criteria. (a) Any local government desiring to receive a local government outdoor recreation grant shall apply to the secretary, using a form provided by the department. An application that is incomplete or contains false information may be denied consideration by the secretary.

(b) Grant applications shall be evaluated according to the parameters established by L. 1998, Ch. 70, §2 and §3. In addition, grant applications shall be further evaluated based on the following criteria:

(1) The application demonstrates a local need for the proposed project and a strong likelihood of ongoing local involvement and support.

(2) The proposed project would provide new outdoor recreational opportunities to a significant population or geographic area, or the proposed project would enhance existing outdoor recreation facilities and would improve facilities for users with a wide range of physical abilities, or both.

(3) The applicant's matching funds are available to the applicant at the time of the grant award.

(4) The proposed project has a likelihood of completion within one year from the time of award.

(5) The grant request would not constitute more than 25% of funds appropriated for the grant program in a given fiscal year.

(6) The proposed project would meet applicable environmental standards and would be compatible with existing land use capabilities and surrounding uses.

(7) The application is consistent with “focus 2002: a plan for Kansas wildlife and parks,” as published by the department. (Authorized by and implementing L. 1998, Ch. 70, §1, §2, and §3; effective Nov. 30, 1998.)

Article 40.—AGRITOURISM

115-40-1. Definitions. As used in this article and for purposes of administering the act, each of the following terms shall have the meaning specified in this regulation:

(a) “Act” means agritourism promotion act, K.S.A. 2012 Supp. 32-1430 through K.S.A. 2012 Supp. 32-1438 and amendments thereto.

(b) “Cost” means an expenditure directly related to insuring any agritourism activity.

(c) “Department” means department of wildlife, parks, and tourism.

(d) “Liability insurance” means a policy insuring against the following:

(1) Loss, expense, or liability by reason of bodily injury or death by accident, for which the insured could be liable or have assumed liability and loss; and

(2) damage to any goods on the premises of the insured, or the loss of or damage to the property of another for which the insured is liable. (Authorized by and implementing K.S.A. 2012 Supp. 32-1438 and 32-1438a; effective July 26, 2013.)

115-40-2. Registration. (a) Each provider of an agritourism activity wanting to register the activity with the secretary pursuant to the act shall provide the information requested by the department. Upon request, a registration form shall be mailed to the provider. Although no charge is made for registration, no registration shall be deemed complete until the operator provides all of the information requested by the department.

(b) If an incomplete registration form is returned to the department, a request for the missing information shall be sent to the applicant. The applicant shall have 10 business days to respond to the request. If there is no response within this period, the registration form shall be returned, and the applicant’s operation shall be considered not to be registered.

(c) The social security number from any registration form shall not be disclosed by the depart-

ment. (Authorized by K.S.A. 2012 Supp. 32-807; implementing K.S.A. 2012 Supp. 32-1433; effective July 26, 2013.)

115-40-3. Liability insurance; costs qualifying for tax credits. The following costs associated with liability insurance shall be eligible for the tax credits authorized by the act:

(a) The cost of a rider with a separate premium for specific risk for an agritourism activity; and

(b) the amount that an insurance agent certified on a tax credit form provided to the registered agritourism operator by the department of revenue and filed for the operator that represents the cost of the liability insurance covering the registered agritourism activity. (Authorized by and implementing K.S.A. 2012 Supp. 32-807, 32-1438, and 32-1438a; effective July 26, 2013.)

115-40-4. Tax credits. (a) No costs of liability insurance specified in K.A.R. 115-40-3 shall be allowed for consideration for tax credits, unless the registered agritourism operator or the operator’s authorized attorney or insurance agent provides the department of revenue with the following information and documents:

(1) The name of the registered agritourism operator’s liability insurance company;

(2) the liability insurance policy number;

(3) the name, complete address, and phone number of the liability insurance company’s agent; and

(4) a copy of the completed tax credit form provided to the registered agritourism operator under K.A.R. 115-40-3(b).

(b) If, during the first five years that an agritourism operator is registered under the act, the secretary believes for any reason that the registered agritourism operator has not complied, or is not complying, with these regulations and through such noncompliance could have jeopardized the operator’s eligibility for tax benefits under the act, all relevant information shall be forwarded by the secretary to the secretary of revenue. (Authorized by and implementing K.S.A. 2012 Supp. 32-807, 32-1438, and 32-1438a; effective July 26, 2013.)

115-40-5. New registration form. If a registered agritourism operator changes the agritourism activities at the registered agritourism operator’s facility, that individual shall file a new registration form for the agritourism activity with the department in accordance with K.A.R. 115-

40-2. (Authorized by K.S.A. 2012 Supp. 32-807; implementing K.S.A. 2012 Supp. 32-1433; effective July 26, 2013.)

115-40-6. Contracts. Each written contract or agreement with a participant shall contain the

warning notice specified in K.S.A. 2012 Supp. 32-1434(b), and amendments thereto. This warning notice shall be printed in at least 10-point font. (Authorized by K.S.A. 2012 Supp. 32-807; implementing K.S.A. 2012 Supp. 32-1434; effective July 26, 2013.)

Agency 116

Kansas State Fair Board

Articles

- 116-1. CEREAL MALT BEVERAGES.
- 116-2. FAIRGROUNDS.
- 116-3. SOLICITING AND ADVERTISING.
- 116-4. TENT CAMPING.

Article 1.—CEREAL MALT BEVERAGES

116-1-1. Definitions. (a) “Fairgrounds” means the property owned by the State of Kansas generally referred to as the Kansas state fairgrounds, located in the city of Hutchinson, Reno County, Kansas.

(b) “Board” means the Kansas state fair board.

(c) “General manager” means the general manager of the Kansas state fair.

(d) “Cereal malt beverage” means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than 3.2% alcohol by weight.

(e) “Retailer” means any person who sells or offers for sale any cereal malt beverage for use or consumption and not for resale in any form and who has contracted with the Board for a space contract.

(f) “Space contract” means a contract between a retailer and the board for space or a location that has been designated as a space or location on the fairgrounds for the sale and consumption of cereal malt beverages. (Authorized by and implementing K.S.A. 1988 Supp. 74-523; effective, T-116-8-22-89, Aug. 22, 1989; effective Sept. 18, 1989.)

116-1-2. Sale and consumption of cereal malt beverages on fairgrounds. (a) Cereal malt beverages shall be sold or consumed or both on the fairgrounds only at spaces or locations designated by the board through its general manager.

(b) Applicants for a space contract to sell cereal malt beverages on the fairgrounds shall complete an application on a form prepared and provided by the board.

(c) Applicants for a space contract to sell cereal malt beverages on the fairgrounds shall hold a retailer’s license issued by the city of Hutchinson to sell cereal malt beverages.

(d) Retailers who hold a space contract with the board shall comply with all Kansas statutes and administrative regulations concerning cereal malt beverages.

(e) No person shall possess or consume cereal malt beverages on the fairgrounds, except at those spaces or locations designated on the fairgrounds for that purpose. (Authorized by and implementing K.S.A. 1988 Supp. 74-523; effective, T-116-8-22-89, Aug. 22, 1989; effective Sept. 18, 1989.)

Article 2.—FAIRGROUNDS

116-2-1. Pets. No dogs, cats, or other pets, except seeing-eye dogs, hearing assistance dogs, and dogs trained to assist the handicapped shall be permitted on the fairgrounds during the annual state fair, except in areas designated by the board. (Authorized by and implementing K.S.A. 1988 Supp. 74-523; effective, T-116-8-22-89, Sept. 18, 1989; amended Aug. 13, 1990.)

Article 3.—SOLICITING AND ADVERTISING

116-3-1. Definitions. “Non-fair event” means an event held during times other than the dates of the Kansas state fair in which a contract, lease or agreement is entered into permitting the use of all or a portion of the state fairgrounds for uses and with conditions agreed upon by both parties. (Authorized by and implementing K.S.A. 74-523; effective Sept. 20, 1993.)

116-3-2. Soliciting and advertising. All persons, groups or firms that desire to sell, exhibit or distribute materials during the annual state fair or any non-fair event shall do so only from a fixed location on the fairgrounds as authorized by lease or agreement with the Kansas state fair. (a) The sale, posting or distribution of any merchandise, products, promotional items, or printed or

written material, except as authorized by contract or agreement with the Kansas State Fair shall be prohibited. Authorized merchandise, products, promotional items and printed or written materials may be offered to any state fair patron, employee, guest or visitor from the fixed location.

(b) The operation or parking of any sound trucks, or vehicles upon which any advertising signs, political or otherwise, have been affixed in any manner shall be prohibited inside and outside of the fenced-off areas of the state fairgrounds. Nothing in this rule shall be construed as applicable to lettered service trucks advertising a firm or its products while making necessary deliveries of merchandise or service to concessionaires, commercial or institutional exhibitors on the state fairgrounds, or the normal advertising on bumpers and windows of motor vehicles. (Authorized by and implementing K.S.A. 74-523; effective Sept. 20, 1993.)

Article 4.—TENT CAMPING

116-4-1. Definitions. (a) “Fairgrounds proper” means an area on the Kansas state fairgrounds, located in Hutchinson, Kansas, that is enclosed by the security fence. This area is approximately 110

acres and contains the major physical plant, exhibit, show, and attraction facilities.

(b) “Fairgrounds” means the property owned by the state of Kansas generally referred to as the Kansas state fairgrounds, located in the city of Hutchinson, Reno county, Kansas.

(c) “Non-fair event” means an event held during times other than the dates of the Kansas state fair in which a contract, lease or agreement is entered into for use of all or a portion of the state fairgrounds for purposes and conditions agreed upon by both parties. (Authorized by and implementing K.S.A. 74-523; effective Aug. 1, 1994.)

116-4-2. Tent camping. (a) Tent camping on the fairgrounds proper shall not be permitted during the period of the annual Kansas state fair.

(b) Tent camping on the Kansas state fairgrounds during periods other than the annual Kansas state fair, also known as the non-fair period, shall not be permitted unless approved in advance and in writing by the management of the Kansas state fair. Approval may be granted for a non-fair event when the tent camping is supervised and secured by management personnel of the non-fair event. (Authorized by and implementing K.S.A. 74-523; effective Aug. 1, 1994.)

Agency 117

Real Estate Appraisal Board

Editor's Note:

The Real Estate Appraisal Board was established on April 19, 1990. See K.S.A. 58-4104.

Articles

- 117-1. DEFINITIONS.
- 117-2. QUALIFICATIONS CRITERIA—RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION.
- 117-3. QUALIFICATIONS CRITERIA—GENERAL APPRAISER CLASSIFICATION.
- 117-4. QUALIFICATIONS CRITERIA—CERTIFIED RESIDENTIAL APPRAISER CLASSIFICATION.
- 117-5. QUALIFICATIONS CRITERIA—PROVISIONAL CLASSIFICATION.
- 117-6. CONTINUING EDUCATION.
- 117-7. FEES.
- 117-8. UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE.
- 117-9. TEMPORARY PRACTICE.
- 117-10. INACTIVE STATUS.
- 117-20. APPRAISAL MANAGEMENT COMPANY REGISTRATION.

Article 1.—DEFINITIONS

117-1-1. Definitions. (a) “Act” means the state certified and licensed real property appraisers act.

(b) “Appraisal foundation” means the appraisal foundation established on November 30, 1987 as a not-for-profit corporation under the laws of Illinois.

(c) “Appraiser” means a state licensed or certified appraiser.

(d) “Board” means real estate appraisal board.

(e) “Classroom hour” means 50 minutes within a 60-minute segment. This definition reflects the traditional educational practice of having 50 minutes of instruction and 10 minutes of break time for each scheduled hour of instruction. The prescribed number of classroom hours shall include time devoted to examinations, which are considered to be part of the course.

(f) “Course” means any educational offering.

(g) “Course objectives” means the board’s document titled “supervisory appraiser/trainee appraiser course objectives and outline,” dated September 3, 2014, which is hereby adopted by reference.

(h) “Distance education” means any type of education during which the student and instructor are geographically separated.

(i) “General classification” means the certified general real property appraiser classification.

(j) “Good standing” means that both of the following conditions are met:

(1) The appraiser is not currently subject to a consent agreement or other comparable document that affects the appraiser’s legal eligibility to engage in appraisal practice by an appraisal regulatory agency in this or any other jurisdiction.

(2) The appraiser is not currently subject to a summary order or final order that affects the appraiser’s legal eligibility to engage in appraisal practice by an appraisal regulatory agency in this or any other jurisdiction.

(k) “Licensed classification” means the state licensed real property appraiser classification.

(l) “National uniform standards of professional appraisal practice course” means the uniform standards of professional appraisal practice course developed by the appraisal foundation.

(m) “Provisional classification” means the state provisional licensed real property appraiser classification.

(n) “Residential classification” means the certified residential real property appraiser classification.

(o) “Sponsor” means any of the following entities, which may request course approval from the board or offer a course approved by the board for credit toward any education requirement of the act:

- (1) Colleges or universities;

- (2) community or junior colleges;
- (3) real estate appraisal or real estate-related organizations;
- (4) state or federal agencies or commissions;
- (5) proprietary schools;
- (6) other providers approved by the board; and
- (7) the appraisal foundation or its board. (Authorized by and implementing K.S.A. 2016 Supp. 58-4105; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 24, 1993; amended Aug. 15, 1994; amended May 3, 1996; amended May 23, 2003; amended Jan. 1, 2008; amended April 17, 2009; amended June 17, 2016; amended May 26, 2017.)

**Article 2.—QUALIFICATIONS
CRITERIA—RESIDENTIAL REAL
ESTATE APPRAISER CLASSIFICATION**

117-2-1. Licensed classification; education requirements. (a) Each applicant shall meet the following requirements:

- (1) Have received credit for 150 classroom hours in the following subjects, as specified:
 - (A) 30 classroom hours in basic appraisal principles;
 - (B) 30 classroom hours in basic appraisal procedures;
 - (C) 15 classroom hours in the national uniform standards of professional appraisal practice (USPAP) course or its equivalent. The applicant shall be required to pass this examination. There shall be no alternative to successful completion of the USPAP course and examination;
 - (D) 15 classroom hours in market analysis and highest and best use;
 - (E) 15 classroom hours in residential appraisal site valuation and cost approach;
 - (F) 30 classroom hours in residential sales comparison and income approaches; and
 - (G) 15 classroom hours in residential report writing and case studies; and
- (2) provide evidence, satisfactory to the board, of one of the following:
 - (A) Successful completion of courses approved by the board as specified in paragraph (a)(1); or
 - (B) successful completion of courses not approved by the board, with evidence that the education covered all of the requirements specified in paragraph (a)(1).
- (b) Credit toward the education requirements specified in paragraph (a)(1) may also be obtained by completing a degree in real estate from an

accredited degree-granting college or university approved by the association to advance collegiate schools of business or a national accreditation agency recognized by the U.S. secretary of education or Kansas board of regents if the college or university has had its curriculum reviewed and approved by the appraiser qualifications board (AQB).

(c) Classroom hours may be obtained only if both of the following conditions are met:

- (1) The minimum length of the educational offering is at least 15 classroom hours.
- (2) The applicant successfully completes an approved closed-book examination pertinent to that educational offering.

(d) A distance education course may be deemed to meet the classroom hour requirement specified in paragraph (a)(1) if all of the following conditions are met:

- (1) The course provides an environment in which the student has verbal or written communication with the instructor.
- (2) The sponsor obtains course content approval from any of the following:
 - (A) The appraiser qualifications board;
 - (B) an appraiser licensing or certifying agency in this or any other state; or
 - (C) an accredited college, community college, or university that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or an accrediting agency that is recognized by the U.S. secretary of education or the Kansas board of regents. Each non-academic credit college course provided by a college shall be approved by the appraiser qualifications board or the appraiser licensing or certifying agency in this or any other state.
- (3) The course design and delivery are approved by one of the following sources:
 - (A) An appraiser qualifications board-approved organization;
 - (B) a college that qualifies for course content approval as specified in paragraph (d)(2)(C) and awards academic credit for the distance education course; or
 - (C) a college that qualifies for course content approval as specified in paragraph (d)(2)(C) with a distance education delivery program that approves the course design and includes a delivery system incorporating interactivity.
- (e) Each distance education course intended for use as qualifying education shall include a written

examination proctored by an official approved by the college or university or by the sponsor.

(f) Any applicant who has completed two or more courses generally comparable in content, meaning topics covered, may receive credit only for the longest of the comparable courses completed. The national uniform standards of professional appraisal practice (USPAP) course taken in different years shall not be considered repetitive. (Authorized by and implementing K.S.A. 58-4109; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 24, 1993; amended Jan. 9, 1998; amended March 26, 1999; amended May 23, 2003; amended Jan. 1, 2008; amended April 16, 2010; amended Jan. 1, 2015; amended Nov. 30, 2018.)

117-2-2. Licensed classification; appraisal experience requirement. (a)(1) Each applicant for the licensed classification shall have 1,000 hours of appraisal experience obtained in at least six months.

(2) At least six hours of real property appraisal experience shall be on an improved property.

(3) Acceptable appraisal experience shall include at least 750 hours of real property appraisal experience.

(4) Acceptable appraisal experience may include an aggregate maximum of 250 experience hours in the following appraisal categories:

- (A) Mass appraisal;
- (B) real estate consulting;
- (C) review appraisal;
- (D) highest and best use analysis; and
- (E) feasibility analysis study.

(5) Experience hours may be granted for appraisals performed without a traditional client. However, appraisal experience gained from work without a traditional client shall not exceed 50 percent of the total appraisal experience requirement. Practicum courses that are approved by the appraiser qualifications board's course-approval program or by a state appraiser regulatory agency may also be used to meet the requirement for non-traditional client experience. Each practicum course shall include the generally applicable methods of appraisal practice for the licensed classification. The course content shall include the following:

(A) Requiring the student to produce credible appraisals that utilize an actual subject property;

(B) performing market research containing sales analysis; and

(C) applying and reporting the applicable appraisal approaches in conformity with the uniform standards of professional appraisal practice.

Each assignment shall require problem-solving skills for a variety of property types for the licensed classification. Experience credit shall be granted for the actual number of classroom hours of instruction and hours of documented research and analysis as awarded from the practicum course approval process.

(6) For the purposes of this regulation, "traditional client" shall mean a client who hires an appraiser for a business purpose.

(b) All appraisal experience shall be in compliance with the uniform standards of professional appraisal practice (USPAP), as required by K.S.A. 58-4121 and amendments thereto. Each applicant's experience shall be appraisal work conforming to standards 1, 2, 3, 5, and 6, in which the applicant demonstrates proficiency in the appraisal principles, methodology, procedures, and reporting conclusions.

(c) The real property appraisal experience requirement specified in paragraph (a)(3) shall be met by time involved in the appraisal process. The appraisal process shall consist of the following:

- (1) Analyzing factors that affect value;
- (2) defining the problem;
- (3) gathering and analyzing data;
- (4) applying the appropriate analysis and methodology; and
- (5) arriving at an opinion and correctly reporting the opinion in compliance with USPAP.

(d)(1) In order for the board to determine whether or not the experience requirements have been satisfied, each applicant shall submit appraisal experience log sheets, in a format prescribed by the board, listing the appraisal reports completed by the applicant within the five-year period preceding the date of application. Each appraisal report shall be signed by the applicant or the preparer of the report who supervised the applicant. If the applicant does not sign the appraisal report, the preparer shall indicate whether or not the applicant provided significant professional assistance in the appraisal process.

(2) Each applicant shall maintain a record of the actual number of hours involved in completing an appraisal. Unless the board approves a greater number of experience hours for a particular appraisal based upon the unusually difficult or complex nature of the appraisal, the maximum number of experience hours for each appraisal

shall be in accordance with the board's document titled "experience hours table," dated December 1, 2017, which is hereby adopted by reference.

(3) Each applicant shall maintain a separate log of appraisals completed with each supervising appraiser.

Each page of each supervised experience log shall include the certification number and the signature of the applicant's supervising appraiser, which shall serve as verification of the accuracy of the information.

(e) Upon request of the board, each applicant shall submit at least three appraisal reports selected by the board from the applicant's log sheet and one appraisal report selected by the applicant from the log sheet. The selected appraisal reports shall be reviewed in accordance with standard rule 3 by the board or the board's designee for competency, within the scope of practice of the appraisal work authorized for the licensed classification, by using the criteria specified in K.S.A. 58-4109(d) and amendments thereto and, in particular, standards 1 and 2 of the edition of USPAP in effect when the appraisal was performed. Approval of an applicant's experience hours shall be subject to board approval of the requisite number of experience hours and board approval of the selected appraisal reports. (Authorized by and implementing K.S.A. 58-4109; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended July 25, 1994; amended June 5, 1995; amended March 7, 1997; amended March 26, 1999; amended Oct. 8, 2004; amended Sept. 1, 2006; amended Jan. 1, 2008; amended April 16, 2010; amended Aug. 24, 2012; amended Aug. 22, 2014; amended Jan. 1, 2015; amended June 17, 2016; amended May 26, 2017; amended Nov. 30, 2018.)

117-2-2a. Licensed classification; experience supervision requirements. (a) In order for an applicant's experience to be approved by the board when the applicant is applying for the licensed classification, the experience shall have been supervised by an appraiser according to all of the following conditions:

(1) The supervising appraiser was a certified appraiser in good standing for the three years immediately preceding supervision and during the period of supervision.

(2) The supervising appraiser did not supervise more than three provisional licensed appraisers or unlicensed appraiser applicants at the same time.

(3) The supervising appraiser maintained responsibility for supervision of the applicant by meeting both of the following requirements:

(A) Before signing the certification section or addendum, the supervising appraiser reviewed each appraisal report that the applicant prepared or provided assistance in developing, preparing, or communicating.

(B) The supervising appraiser met the following requirements:

(i) Ensured that at least the first 25 properties for which the applicant provided assistance in developing, preparing, or communicating an appraisal report were personally inspected by a supervising appraiser; and

(ii) continued to personally inspect each property for which the applicant provided assistance in developing, preparing, or communicating an appraisal report until the supervising appraiser was satisfied that the applicant was competent to appraise the property type, in accordance with the competency provision of the uniform standards of professional appraisal practice (USPAP) as required by K.S.A. 58-4121 and amendments thereto.

(4) Before beginning supervision, the supervising appraiser completed a course that, at a minimum, meets the course objectives adopted by reference in K.A.R. 117-1-1. The supervising appraiser shall submit proof of completion of the course to the board office before beginning supervision.

(b) Each applicant shall be permitted to have more than one supervising appraiser.

(c) The supervising appraiser shall supervise the work of an applicant on appraisal reports performed on properties only if both of the following conditions are met:

(1) The supervising appraiser is permitted by the supervising appraiser's current credential to appraise the properties.

(2) The supervising appraiser is competent to appraise the properties. (Authorized by and implementing K.S.A. 58-4109; effective July 1, 2007; amended Jan. 18, 2008; amended April 17, 2009; amended Aug. 24, 2012; amended Jan. 1, 2015; amended May 26, 2017.)

117-2-3. Licensed classification; examination requirement. (a) Except as specified in subsection (b), each applicant for the licensed classification shall be required to successfully complete the national uniform appraiser exam-

ination designated by the board for the licensed classification within 24 months from the date of the board's approval of that applicant to take the examination. The board's approval shall be based upon the applicant's completion of the education requirements in K.A.R. 117-2-1 and experience requirements in K.A.R. 117-2-2.

The applicant's successful completion of the examination shall be valid for 24 months.

(b) The only alternative to successful completion of the licensed classification examination shall be the successful completion of the residential or general classification examination.

This regulation shall be effective on and after January 1, 2015. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended, T-117-7-1-05, July 1, 2005; amended Oct. 28, 2005; amended Jan. 1, 2008; amended Jan. 1, 2015.)

117-2-4. Licensed classification; scope of practice. (a)(1) The licensed classification shall apply to the appraisal of the following:

(A) Non-complex one- to four-family residential units having a transaction value of less than \$1,000,000; and

(B) complex one- to four-family residential units having a transaction value of \$250,000 or less.

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

(A) A complex one- to four-family residential property appraisal shall mean an appraisal in which the property to be appraised, the form of ownership, or the market conditions are atypical.

(B) For non-federally related transaction appraisals, transaction value shall mean market value.

(b) The licensed classification shall include the appraisal of vacant or unimproved land that is utilized for one- to four-family purposes and where the highest and best use is for one- to four-family purposes. The licensed classification shall not include the appraisal of subdivisions in which a development analysis or appraisal is necessary and utilized.

(c) The licensed classification may also apply to the appraisal of any other property permitted by the regulations of the applicable federal financial institution's regulatory agency, other agency, or regulatory body.

(d) Each licensed appraiser shall comply with the competency rule of the uniform standards of professional appraisal practice (USPAP), as required by K.S.A. 58-4121 and amendments thereto.

(e) Each licensed appraiser shall perform and practice in compliance with the USPAP, as required by K.S.A. 58-4121 and amendments thereto. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended May 24, 1993; amended Jan. 1, 2008; amended June 17, 2016.)

Article 3.—QUALIFICATIONS CRITERIA—GENERAL APPRAISER CLASSIFICATION

117-3-1. General classification; education requirements. (a) Each applicant shall meet the following requirements:

(1) Have a bachelor's degree or higher from an accredited college or university;

(2) have received credit for 300 classroom hours in the following subjects, as specified:

(A) 30 classroom hours in basic appraisal principles;

(B) 30 classroom hours in basic appraisal procedures;

(C) 15 classroom hours in the national uniform standards of professional appraisal practice course or its equivalent;

(D) 30 classroom hours in general appraisal market analysis and highest and best use;

(E) 15 classroom hours in statistics, modeling, and finance;

(F) 30 classroom hours in the general appraisal sales comparison approach;

(G) 30 classroom hours in the general appraisal site valuation and cost approach;

(H) 60 classroom hours in the general appraisal income approach;

(I) 30 classroom hours in general appraisal report writing and case studies; and

(J) 30 classroom hours in appraisal subject matter electives, which may include hours over the minimum specified in paragraphs (a)(2)(A) through (I); and

(3) provide evidence, satisfactory to the board, of one of the following:

(A) Successful completion of courses approved by the board as specified in paragraph (a)(2); or

(B) successful completion of courses not approved by the board, with evidence that the education covered all of the requirements specified in paragraph (a)(2).

(b) Credit toward the education requirements specified in paragraph (a)(2) may also be obtained by completing a degree in real estate from an

accredited degree-granting college or university approved by the association to advance collegiate schools of business or a regional or national accreditation agency recognized by the U.S. secretary of education if the college or university has had its curriculum reviewed and approved by the appraiser qualifications board (AQB).

(c) Classroom hours may be obtained only if both of the following conditions are met:

(1) The length of the educational offering is at least 15 classroom hours.

(2) The applicant successfully completes an approved closed-book examination pertinent to that educational offering.

(d) The 300 classroom hours specified in paragraph (a)(2) may include a portion of the 150 classroom hours required for the licensed classification or the 200 classroom hours required for the residential classification.

(e)(1) Any appraiser holding a valid state license as a real property appraiser may meet the educational requirements for the general classification by performing the following:

(A) Satisfying the college-level educational requirements as specified in paragraph (a)(1); and

(B) completing an additional 150 educational hours in the following subjects:

(i) 15 hours of general appraiser market analysis and highest and best use;

(ii) 15 hours of statistics, modeling, and finance;

(iii) 15 hours of general appraiser sales comparison approach;

(iv) 15 hours of general appraiser site valuation and cost approach;

(v) 45 hours of general appraiser income approach;

(vi) 15 hours of general appraiser report writing and case studies; and

(vii) 30 hours of appraisal subject matter electives.

(2) Any appraiser holding a valid residential real property appraiser credential may meet the educational requirements for the general classification by performing the following:

(A) Satisfying the college-level educational requirements as specified in paragraph (a)(1); and

(B) completing an additional 100 educational hours in the following subjects:

(i) 15 hours of general appraiser market analysis and highest and best use;

(ii) 15 hours of general appraiser sales comparison approach;

(iii) 15 hours of general appraiser site valuation and cost approach;

(iv) 45 hours of general appraiser income approach; and

(v) 10 hours of general appraiser report writing and case studies.

(f) A distance education course may be deemed to meet the classroom hour requirement specified in paragraph (a)(2) if all of the following conditions are met:

(1) The course provides an environment in which the student has verbal or written communication with the instructor.

(2) The sponsor obtains course content approval from any of the following:

(A) The appraiser qualifications board;

(B) an appraiser licensing or certifying agency in this or any other state; or

(C) an accredited college, community college, or university that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or an accrediting agency that is recognized by the U.S. secretary of education. Each non-academic credit college course provided by a college shall be approved by the appraiser qualifications board or the appraiser licensing or certifying agency in this or any other state.

(3) The course design and delivery are approved by one of the following sources:

(A) An appraiser qualifications board-approved organization;

(B) a college that qualifies for course content approval as specified in paragraph (f)(2)(C) that awards academic credit for the distance education course; or

(C) a college that qualifies for course content approval as specified in paragraph (f)(2)(C) with a distance education delivery program that approves the course design and includes a delivery system incorporating interactivity.

(g) Each distance education course intended for use as qualifying education shall include a written examination proctored by an official approved by the college or university or by the sponsor.

(h) Any applicant who has completed two or more courses generally comparable in content, meaning topics covered, may receive credit only for the longest of the comparable courses completed. The national uniform standards of professional appraisal practice course (USPAP) taken in different years shall not be considered repetitive.

This regulation shall be effective on and after January 1, 2015. (Authorized by and implementing K.S.A. 58-4109; effective Jan. 21, 1991; amend-

ed, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 24, 1993; amended Jan. 9, 1998; amended March 26, 1999; amended May 23, 2003; amended Jan. 1, 2008; amended July 10, 2009; amended April 16, 2010; amended Jan. 1, 2015.)

117-3-2. General classification; appraisal experience requirement. (a)(1) Each applicant for the general classification shall have 3,000 hours of appraisal experience obtained over a period of at least 18 months.

(2) At least six hours of real property appraisal experience shall be on an improved property.

(3) At least 1,500 hours of real property appraisal experience shall have been nonresidential appraisal work. For purposes of this regulation, "residential" shall be defined as residential units for one to four families.

(4) Acceptable appraisal experience shall include at least 1,500 experience hours of real property appraisal experience.

(5) Acceptable appraisal experience may include either of the following:

(A) 1,500 experience hours in mass appraisal; or
(B) an aggregate maximum of 750 experience hours in the following appraisal categories:

- (i) Real estate consulting;
- (ii) review appraisal;
- (iii) highest and best use analysis; and
- (iv) feasibility analysis study.

(6) Experience hours may be granted for appraisals performed without a traditional client. However, appraisal experience gained from work without a traditional client shall not exceed 50 percent of the total appraisal experience requirement. Practicum courses that are approved by the appraiser qualifications board's course-approval program or by a state appraiser regulatory agency may also be used to meet the requirement for non-traditional client experience. Each practicum course shall include the generally applicable methods of appraisal practice for the general classification. The course content shall include the following:

- (A) Requiring the student to produce credible appraisals that utilize an actual subject property;
- (B) performing market research containing sales analysis; and
- (C) applying and reporting the applicable appraisal approaches in conformity with the uniform standards of professional appraisal practice.

Each practicum course assignment shall require problem-solving skills for a variety of property

types for the general classification. Experience credit shall be granted for the actual number of classroom hours of instruction and hours of documented research and analysis as awarded from the practicum course approval process.

(7) For the purposes of this regulation, "traditional client" shall mean a client who hires an appraiser for a business purpose.

(b) All appraisal experience shall be in compliance with the uniform standards of professional appraisal practice (USPAP), as required by K.S.A. 58-4121 and amendments thereto. Each applicant's experience shall be appraisal work conforming to standards 1, 2, 3, 5, and 6, in which the applicant demonstrates proficiency in the appraisal principles, methodology, procedures, and report conclusions.

(c) The real property appraisal experience requirement specified in paragraph (a)(4) shall be met by time involved in the appraisal process. The appraisal process shall consist of the following:

- (1) Analyzing factors that affect value;
- (2) defining the problem;
- (3) gathering and analyzing data;
- (4) applying the appropriate analysis and methodology; and
- (5) arriving at an opinion and correctly reporting the opinion in compliance with USPAP.

(d)(1) In order for the board to determine whether or not the experience requirements have been met, each applicant shall submit appraisal experience log sheets, in a format prescribed by the board, listing the appraisal reports completed by the applicant within the five-year period preceding the date of application. Each appraisal report shall be signed by the applicant or the preparer of the report who supervised the applicant. If the applicant does not sign the appraisal report, the preparer shall indicate whether or not the applicant provided significant professional assistance in the appraisal process.

(2) Each applicant shall maintain a record of the actual number of hours involved in completing an appraisal. Unless the board approves a greater number of experience hours for a particular appraisal based upon the unusually difficult or complex nature of the appraisal, the maximum number of experience hours for each appraisal shall be in accordance with the board's document titled "experience hours table," which is adopted by reference in K.A.R. 117-2-2.

(3) If an applicant has both supervised experience and unsupervised experience, the applicant

shall maintain a separate log of appraisals for each type of experience.

When logging supervised experience, the applicant shall maintain a separate log of appraisals completed with each supervising appraiser. Each page of each supervised experience log shall include the certification number and the signature of that applicant's supervising appraiser, which shall serve as verification of the accuracy of the information.

(e) Upon request of the board, each applicant shall submit at least three appraisal reports selected by the board from the applicant's log sheet and one appraisal report selected by the applicant from the log sheet. The selected appraisal reports shall be reviewed by the board or the board's designee, in accordance with standard rule 3, for competency within the scope of practice of the appraisal work authorized for the general classification, by using the criteria specified in K.S.A. 58-4109(d) and amendments thereto and, in particular, standard rules 1 and 2 of the edition of USPAP in effect when the appraisal was performed. Approval of an applicant's experience hours shall be subject to board approval of the requisite number of experience hours and board approval of the selected appraisal reports. (Authorized by and implementing K.S.A. 58-4109; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended July 25, 1994; amended June 5, 1995; amended March 7, 1997; amended Jan. 9, 1998; amended March 26, 1999; amended Oct. 8, 2004; amended Sept. 1, 2006; amended Jan. 1, 2008; amended April 16, 2010; amended Aug. 24, 2012; amended Aug. 22, 2014; amended Jan. 1, 2015; amended June 17, 2016; amended May 26, 2017; amended Nov. 30, 2018.)

117-3-2a. General classification; experience supervision requirements. (a) In order for an applicant's experience to be approved by the board when the applicant is applying for the general classification, all experience attained by an unlicensed or uncertified individual or by a licensed or certified appraiser whose experience is outside that appraiser's scope of practice shall have been supervised by an appraiser according to the following conditions:

(1) The supervising appraiser was a certified appraiser in good standing for the three years immediately preceding supervision and during the period of supervision.

(2) The supervising appraiser did not supervise more than three provisional licensed appraisers or unlicensed appraiser applicants at the same time.

(3) The supervising appraiser maintained responsibility for supervision of the applicant by meeting both of the following requirements:

(A) Before signing the certification section or addendum, the supervising appraiser reviewed each appraisal report that the applicant prepared or provided assistance in developing, preparing, or communicating.

(B) The supervising appraiser met the following requirements:

(i) Ensured that at least the first 25 properties for which the applicant provided assistance in developing, preparing, or communicating an appraisal report were personally inspected by a supervising appraiser; and

(ii) continued to personally inspect each property for which the applicant provided assistance in developing, preparing, or communicating an appraisal report until the supervisor was satisfied that the applicant was competent to appraise the property type, in accordance with the competency provision of the uniform standards of professional appraisal practice (USPAP) as required by K.S.A. 58-4121 and amendments thereto.

(4) Before beginning supervision, the supervising appraiser completed a course that, at a minimum, meets the course objectives adopted by reference in K.A.R. 117-1-1. The supervising appraiser shall submit proof of completion of the course to the board office before beginning supervision.

(b) Each applicant shall be permitted to have more than one supervising appraiser.

(c) The supervising appraiser shall supervise the work of an applicant on appraisal reports performed on properties only if both of the following conditions are met:

(1) The supervising appraiser is permitted by the supervising appraiser's current credential to appraise the properties.

(2) The supervising appraiser is competent to appraise the properties. (Authorized by and implementing K.S.A. 58-4109; effective July 1, 2007; amended July 1, 2007; amended Jan. 18, 2008; amended April 17, 2009; amended Aug. 24, 2012; amended Jan. 1, 2015; amended May 26, 2017.)

117-3-3. General classification; examination requirement. Each applicant for the general classification shall be required to successfully

complete the national uniform appraiser examination designated by the board for the general classification within 24 months from the date of the board's approval of that applicant to take the examination. The board's approval shall be based upon the applicant's completion of the education requirements in K.A.R. 117-3-1 and experience requirements in K.A.R. 117-3-2.

The applicant's successful completion of the examination shall be valid for 24 months.

This regulation shall be effective on and after January 1, 2015. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended, T-117-7-1-05, July 1, 2005; amended Oct. 28, 2005; amended Jan. 1, 2015.)

117-3-4. General classification; scope of practice. (a) The general classification shall apply to the appraisal of all types of real property.

(b) Each certified general appraiser shall comply with the competency rule of the uniform standards of professional appraisal practice (USPAP), as required by K.S.A. 58-4121 and amendments thereto.

(c) Each certified general appraiser shall perform and practice in compliance with the USPAP, as required by K.S.A. 58-4121 and amendments thereto. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended Jan. 1, 2008; amended June 17, 2016.)

**Article 4.—QUALIFICATIONS
CRITERIA—CERTIFIED RESIDENTIAL
APPRAISER CLASSIFICATION**

117-4-1. Residential classification; education requirements. (a) Each applicant shall meet one of the following requirements:

(1) Have a bachelor's degree or higher from an accredited four-year college or university;

(2) have an associate's degree in a field of study related to one of the following:

- (A) Business administration;
- (B) accounting;
- (C) finance;
- (D) economics; or
- (E) real estate;

(3) successfully complete 30 semester hours of college-level courses in the following subjects, with at least three semester hours in each subject:

- (A) English composition;

- (B) microeconomics;
- (C) macroeconomics;
- (D) finance;
- (E) algebra, geometry, or higher mathematics;
- (F) statistics;
- (G) principles of management;
- (H) business or real estate law; and
- (I) two elective courses in any of the following

subjects:

- (i) Accounting;
- (ii) geography;
- (iii) agricultural economics;
- (iv) business management; or
- (v) real estate;
- (4) successfully complete at least 30 hours of college-level examination program (CLEP) examinations in the following subjects:

- (A) English composition;
- (B) microeconomics;
- (C) macroeconomics;
- (D) finance;
- (E) algebra, geometry, or higher mathematics;
- (F) statistics;
- (G) computer science;
- (H) principles of management; and
- (I) any two of the following:

- (i) Accounting;
- (ii) geography;
- (iii) agricultural economics;
- (iv) business management; or
- (v) real estate; or
- (5) successfully complete any combination of paragraphs (a)(3) and (4) that includes all of the subjects listed in those paragraphs.

(b) Each applicant shall meet the following requirements:

(1) Have received credit for 200 classroom hours in the following subjects, as specified:

(A) 30 classroom hours in basic appraisal principles;

(B) 30 classroom hours in basic appraisal procedures;

(C) 15 classroom hours in the national uniform standards of professional appraisal practice course or its equivalent;

(D) 15 classroom hours in residential market analysis and highest and best use;

(E) 15 classroom hours in the residential appraiser site valuation and cost approach;

(F) 30 classroom hours in residential sales comparison and income approaches;

(G) 15 classroom hours in residential report writing and case studies;

(H) 15 classroom hours in statistics, modeling, and finance;

(I) 15 classroom hours in advanced residential applications and case studies; and

(J) 20 classroom hours in appraisal subject matter electives, which may include hours over the minimum specified in paragraph (b)(1); and

(2) provide evidence, satisfactory to the board, of one of the following:

(A) Successful completion of courses approved by the board as specified in paragraph (b)(1); or

(B) successful completion of courses not approved by the board, with evidence that the education covered all of the requirements specified in paragraph (b)(1).

(c) Credit toward the education requirements specified in paragraph (b)(1) may also be obtained by completing a degree in real estate from an accredited degree-granting college or university approved by the association to advance collegiate schools of business or a regional or national accreditation agency recognized by the U.S. secretary of education if the college or university has had its curriculum reviewed and approved by the appraiser qualifications board (AQB).

(d) Classroom hours may be obtained only if both of the following conditions are met:

(1) The length of the educational offering is at least 15 classroom hours.

(2) The applicant successfully completes an approved closed-book examination pertinent to that educational offering.

(e) Any appraiser holding a valid state license as a real property appraiser may meet the educational requirements for the certified residential classification by performing the following:

(1)(A) Satisfying the college-level educational requirements as specified in subsection (a); or

(B) having a state license for at least five years immediately preceding the date of application if there has been no final adjudicated disciplinary action affecting the state licensed appraiser's legal eligibility to engage in appraisal practice; and

(2) completing an additional 50 hours of classroom or distance education, or both in the following subjects:

(A) 15 hours of statistics, modeling, and finance;

(B) 15 hours of advanced residential applications and case studies; and

(C) 20 hours of appraisal subject matter electives.

(f) The 200 classroom hours specified in paragraph (b)(1) may include a portion of the 150

classroom hours required for the licensed classification.

(g) A distance education course may be deemed to meet the classroom hour requirement specified in paragraph (b)(1) if all of the following conditions are met:

(1) The course provides an environment in which the student has verbal or written communication with the instructor.

(2) The sponsor obtains course content approval from any of the following:

(A) The appraiser qualifications board;

(B) an appraiser licensing or certifying agency in this or any other state; or

(C) an accredited college, community college, or university that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or an accrediting agency that is recognized by the U.S. secretary of education. Each non-academic credit college course provided by a college shall be approved by the appraiser qualifications board or the appraiser licensing or certifying agency in this or any other state.

(3) The course design and delivery are approved by one of the following sources:

(A) An appraiser qualifications board-approved organization;

(B) a college that qualifies for course content approval as specified in paragraph (g)(2)(C) and awards academic credit for the distance education course; or

(C) a college that qualifies for course content approval as specified in paragraph (g)(2)(C) with a distance education delivery program that approves the course design and includes a delivery system incorporating interactivity.

(h) Each distance education course intended for use as qualifying education shall include a written examination proctored by an official approved by the college or university or by the sponsor.

(i) Any applicant who has completed two or more courses generally comparable in content, meaning topics covered, may receive credit only for the longest of the comparable courses completed. The national uniform standards of professional appraisal practice (USPAP) course taken in different years shall not be considered repetitive. (Authorized by and implementing K.S.A. 58-4109; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 24, 1993; amended Jan. 1, 1994; amended Jan. 9, 1998; amended March 26, 1999; amended

May 23, 2003; amended Jan. 1, 2008; amended July 10, 2009; amended April 16, 2010; amended Jan. 1, 2015; amended June 17, 2016; amended Nov. 30, 2018.)

117-4-2. Residential classification; appraisal experience requirement. (a)(1) Each applicant for the residential classification shall have 1,500 hours of appraisal experience obtained over a period of at least 12 months.

(2) At least six hours of real property appraisal experience shall be on an improved property.

(3) Acceptable appraisal experience shall include at least 1,125 experience hours of real property appraisal experience.

(4) Acceptable appraisal experience may include an aggregate maximum of 375 experience hours in the following appraisal categories:

- (A) Mass appraisal;
- (B) real estate consulting;
- (C) review appraisal;
- (D) highest and best use analysis; and
- (E) feasibility analysis study.

(5) Experience hours may be granted for appraisals performed without a traditional client. However, appraisal experience gained from work without a traditional client shall not exceed 50 percent of the total appraisal experience requirement. Practicum courses that are approved by the appraiser qualifications board's course-approval program or by a state appraiser regulatory agency may also be used to meet the requirement for non-traditional client experience. Each practicum course shall include the generally applicable methods of appraisal practice for the residential classification. The course content shall include the following:

(A) Requiring the student to produce credible appraisals that utilize an actual subject property;

(B) performing market research containing sales analysis; and

(C) applying and reporting the applicable appraisal approaches in conformity with the uniform standards of professional appraisal practice.

Each assignment shall require problem-solving skills for a variety of property types for the residential classification. Experience credit shall be granted for the actual classroom hours of instruction and hours of documented research and analysis as awarded from the practicum course approval process.

(6) For the purposes of this regulation, "traditional client" shall mean a client who hires an appraiser for a business purpose.

(b) All appraisal experience shall be in compliance with the uniform standards of professional appraisal practice (USPAP), as required by K.S.A. 58-4121 and amendments thereto. Each applicant's experience shall be appraisal work conforming to standards 1, 2, 3, 5, and 6, in which the applicant demonstrates proficiency in the appraisal principles, methodology, procedures, and report conclusions.

(c) The real property appraisal experience requirement specified in paragraph (a)(3) shall be met by time involved in the appraisal process. The appraisal process shall consist of the following:

(1) Analyzing factors that affect value;

(2) defining the problem;

(3) gathering and analyzing data;

(4) applying the appropriate analysis and methodology; and

(5) arriving at an opinion and correctly reporting the opinion in compliance with USPAP.

(d)(1) In order for the board to determine whether or not the experience requirements have been met, each applicant shall submit appraisal experience log sheets, in a format prescribed by the board, listing the appraisal reports completed by the applicant within the five-year period preceding the date of application. Each appraisal report shall be signed by the applicant or the preparer of the report who supervised the applicant. If the applicant does not sign the appraisal report, the preparer shall indicate whether or not the applicant provided significant professional assistance in the appraisal process.

(2) Each applicant shall maintain a record of the actual number of hours involved in completing an appraisal. Unless the board approves a greater number of experience hours for a particular appraisal based upon the unusually difficult or complex nature of the appraisal, the maximum number of experience hours for each appraisal shall be in accordance with the board's document titled "experience hours table," which is adopted by reference in K.A.R. 117-2-2.

(3) Each applicant shall maintain a separate log of appraisals for supervised experience and for unsupervised experience.

When logging supervised experience, the applicant shall maintain a separate log of appraisals completed with each supervising appraiser. Each page of each supervised experience log shall include the certification number and the signature of that applicant's supervising appraiser, which shall serve as verification of the accuracy of the information.

(e) Upon request of the board, each applicant shall submit at least three appraisal reports selected by the board from the applicant's log sheet and one appraisal report selected by the applicant from the log sheet. The selected appraisal reports shall be reviewed by the board or the board's designee, in accordance with standard rule 3 for competency within the scope of practice of the appraisal work authorized for the residential classification, by using the criteria specified in K.S.A. 58-4109(d) and amendments thereto and, in particular, standard rules 1 and 2 of the edition of USPAP in effect when the appraisal was performed. Approval of an applicant's experience hours shall be subject to board approval of the requisite number of experience hours and board approval of the selected appraisal reports. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended July 25, 1994; amended June 5, 1995; amended March 7, 1997; amended Jan. 9, 1998; amended March 26, 1999; amended Oct. 8, 2004; amended Sept. 1, 2006; amended Jan. 1, 2008; amended April 16, 2010; amended Aug. 24, 2012; amended Aug. 22, 2014; amended Jan. 1, 2015; amended June 17, 2016; amended May 26, 2017; amended Nov. 30, 2018.)

117-4-2a. Residential classification; experience supervision requirements. (a) In order for an applicant's experience to be approved by the board when the applicant is applying for the residential classification, all experience attained by an unlicensed individual or by a licensed appraiser whose experience is outside that appraiser's scope of practice shall have been supervised by an appraiser according to all of the following conditions:

(1) The supervising appraiser was a certified appraiser in good standing for the three years immediately preceding supervision and during the period of supervision.

(2) The supervising appraiser did not supervise more than three provisional licensed appraisers or unlicensed appraiser applicants at the same time.

(3) The supervising appraiser maintained responsibility for supervision of the applicant by meeting both of the following requirements:

(A) Before signing the certification section or addendum, the supervising appraiser reviewed each appraisal report that the applicant prepared or provided assistance in developing, preparing, or communicating.

(B) The supervising appraiser met the following requirements:

(i) Ensured that at least the first 25 properties for which the applicant provided assistance in developing, preparing, or communicating an appraisal report were personally inspected by a supervising appraiser; and

(ii) continued to personally inspect each property for which the applicant provided assistance in developing, preparing, or communicating an appraisal report until the supervising appraiser was satisfied that the applicant was competent to appraise the property type, in accordance with the competency provision of the uniform standards of professional appraisal practice (USPAP) as required by K.S.A. 58-4121 and amendments thereto.

(4) Before beginning supervision, the supervising appraiser completed a course that, at a minimum, meets the course objectives adopted by reference in K.A.R. 117-1-1. The supervising appraiser shall submit proof of completion of the course to the board office before beginning supervision.

(b) Each applicant shall be permitted to have more than one supervising appraiser.

(c) The supervising appraiser shall supervise the work of an applicant on appraisal reports performed on properties only if both of the following conditions are met:

(1) The supervising appraiser is permitted by the supervising appraiser's current credential to appraise the properties.

(2) The supervising appraiser is competent to appraise the properties. (Authorized by and implementing K.S.A. 58-4109; effective July 1, 2007; amended July 1, 2007; amended Jan. 18, 2008; amended April 17, 2009; amended Aug. 24, 2012; amended Jan. 1, 2015; amended May 26, 2017.)

117-4-3. Residential classification; examination requirement. (a) Except as specified in subsection (b), each applicant for the residential classification shall be required to successfully complete the national uniform appraiser examination designated by the board for the residential classification within 24 months from the date of the board's approval of that applicant to take the examination. The board's approval shall be based upon the applicant's completion of the education requirements in K.A.R. 117-4-1 and experience requirements in K.A.R. 117-4-2.

The applicant's successful completion of the examination shall be valid for 24 months.

(b) The only alternative to the successful completion of the residential classification examination shall be the successful completion of the general classification examination.

This regulation shall be effective on and after January 1, 2015. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended, T-117-7-1-05, July 1, 2005; amended Oct. 28, 2005; amended Jan. 1, 2008; amended Jan. 1, 2015.)

117-4-4. Residential classification; scope of practice. (a) The residential classification shall apply to the appraisal of residential units for one to four families without regard to transaction value or complexity.

(b) The residential classification shall include the appraisal of vacant or unimproved land that is utilized for one-family to four-family purposes and where the highest and best use is for one-family to four-family purposes. The residential classification shall not include the appraisal of subdivisions in which a development analysis or appraisal is necessary and utilized.

(c) The residential classification may also apply to the appraisal of any other property permitted by the regulations of the applicable federal financial institution's regulatory agency, other agency, or regulatory body.

(d) Each certified residential appraiser shall comply with the competency rule of the uniform standards of professional appraisal practice (USPAP), as required by K.S.A. 58-4121 and amendments thereto.

(e) Each certified residential appraiser shall perform and practice in compliance with the USPAP, as required by K.S.A. 58-4121 and amendments thereto. (Authorized by and implementing K.S.A. 58-4109; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended May 24, 1993; amended Jan. 1, 2008; amended June 17, 2016.)

Article 5.—QUALIFICATIONS CRITERIA—PROVISIONAL CLASSIFICATION

117-5-1. Provisional classification; education requirements. In order to be eligible for the provisional classification, each applicant shall meet the education requirements specified in the following:

(a) K.A.R. 117-3-1(a)(1) or K.A.R. 117-4-1(a)(1) through (5); and

(b) within the five years preceding the date of application, K.A.R. 117-2-1(a)(1), K.A.R. 117-3-1(a)(2), or K.A.R. 117-4-1(b)(1). (Authorized by and implementing K.S.A. 58-4109; effective Aug. 15, 1994; amended April 24, 1998; amended Sept. 1, 2006; amended Jan. 1, 2015; amended Nov. 30, 2018.)

117-5-2. Provisional classification; supervised experience requirements. (a) Each provisional licensed appraiser's work in developing, preparing, or communicating an appraisal report shall be directly supervised by a supervising appraiser as specified in K.A.R. 117-5-2a.

(b) Before beginning supervised experience, each provisional licensed appraiser shall have completed a course that, at a minimum, meets the requirements contained in the board's document titled "supervisory appraiser/trainee appraiser course objectives and outline," dated September 3, 2014, which is hereby adopted by reference. Each provisional licensed appraiser shall submit proof of completion of the course to the board office before commencing supervised experience.

(c) Each appraisal report shall be signed by the provisional licensed appraiser or by the preparer of the report who supervised the provisional licensed appraiser, certifying that the report is in compliance with the uniform standards of professional appraisal practice of the appraisal foundation in effect at the time of the appraisal.

(d) If the provisional licensed appraiser does not sign the appraisal report, the preparer of the report who supervised the provisional licensed appraiser shall describe, in the certification section or in the dated and signed addendum to the certification page of the appraisal report, the extent to which the provisional licensed appraiser provided assistance in developing, preparing, or communicating the appraisal through generally accepted appraisal methods and techniques.

(e) Each provisional licensed appraiser shall be permitted to have more than one supervising appraiser.

(f) In order to be licensed as a real property appraiser, certified as a general real property appraiser, or certified as a residential real property appraiser, the provisional licensed appraiser shall complete the experience requirements in K.A.R. 117-2-2, K.A.R. 117-3-2, or K.A.R. 117-4-2.

(g) The requirements for real property appraisal experience specified in K.A.R. 117-2-2, K.A.R. 117-3-2, and K.A.R. 117-4-2 shall be met by time

involved in the appraisal process. The appraisal process shall consist of the following:

- (1) Analyzing factors that affect value;
- (2) defining the problem;
- (3) gathering and analyzing data;
- (4) applying the appropriate analysis and methodology; and
- (5) arriving at an opinion and correctly reporting the opinion in compliance with the national uniform standards of professional appraisal practice.

(h)(1) In order for the board to determine whether or not the experience requirements have been satisfied, each provisional licensed appraiser shall submit appraisal experience log sheets, in a format prescribed by the board, listing the appraisal reports completed by the applicant within the five-year period preceding the date of application.

(2) Each page of the log shall include the certification number and the signature of the supervising appraiser, which shall serve as verification of the accuracy of the information.

(3) Each applicant shall maintain a record of the actual number of hours involved in completing an appraisal. Unless the board approves a greater number of experience hours for a particular appraisal based upon the unusually difficult or complex nature of the appraisal, the maximum number of experience hours for each appraisal shall be in accordance with the board's document titled "experience hours table," dated April 25, 2014, which is hereby adopted by reference.

(i) Each provisional licensed appraiser shall maintain a separate log of appraisals completed with each supervising appraiser.

This regulation shall be effective on and after January 1, 2015. (Authorized by and implementing K.S.A. 58-4109; effective April 24, 1998; amended Dec. 5, 2003; amended April 17, 2009; amended Aug. 24, 2012; amended Aug. 22, 2014; amended Jan. 1, 2015.)

117-5-2a. Provisional classification; supervisor requirements. (a) In order for a provisional licensed appraiser's experience to be approved by the board, that individual's experience shall have been supervised by an appraiser according to all of the following conditions:

(1) The supervising appraiser was a certified appraiser in good standing for the three years immediately preceding supervision and during the period of supervision.

(2) The supervising appraiser did not supervise more than three provisional licensed appraisers or unlicensed appraiser applicants at the same time.

(3) The supervising appraiser maintained responsibility for supervision of the provisional licensed appraiser by meeting both of the following requirements:

(A) Before signing the certification section or addendum, the supervising appraiser reviewed each appraisal report that the applicant prepared or provided assistance in developing, preparing, or communicating.

(B) The supervising appraiser met the following requirements:

(i) Ensured that at least the first 25 properties for which the applicant provided assistance in developing, preparing, or communicating an appraisal report were personally inspected by a supervising appraiser; and

(ii) continued to personally inspect each property for which the applicant provided assistance in developing, preparing, or communicating an appraisal report until the supervising appraiser was satisfied that the applicant was competent to appraise the property type, in accordance with the competency provision of the uniform standards of professional appraisal practice (USPAP).

(4) The supervising appraiser has completed the course required in K.A.R. 117-5-2(b). The supervising appraiser shall submit proof of completion of the course to the board office before beginning supervision.

(b) The supervising appraiser shall supervise the work of a provisional licensed appraiser on appraisal reports performed on properties only if both of the following conditions are met:

(1) The supervising appraiser is permitted by the supervising appraiser's current credential to appraise the properties.

(2) The supervising appraiser is competent to appraise the properties. (Authorized by and implementing K.S.A. 58-4109; effective July 1, 2007; amended Jan. 18, 2008; amended April 17, 2009; amended Aug. 24, 2012; amended Jan. 1, 2015; amended May 26, 2017.)

117-5-3. Provisional classification; scope of practice. The provisional licensed classification shall apply to the appraisal of the properties that the supervising appraiser is permitted to appraise. (Authorized by and implementing K.S.A. 58-4109; effective April 24, 1998.)

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 in-

structors may receive credit for attending or instructing any subsequent offering of the course after attending or teaching the course during the same education cycle shall be any update of the ethics and standards of professional practice course.

This regulation shall be effective on and after January 1, 2015. (Authorized by K.S.A. 2013 Supp. 58-4105; implementing K.S.A. 58-4109, K.S.A. 2013 Supp. 58-4112, and K.S.A. 2013 Supp. 58-4117; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended May 24, 1993; amended Feb. 6, 1995; amended May 23, 2003; amended Sept. 1, 2006; amended Jan. 1, 2008; amended Jan. 1, 2015.)

117-6-3. Education; obtaining course approval. (a) To request board approval of a course to meet any education requirement of the act or portion of it, for each course the sponsor shall perform the following:

(1) Appoint a coordinator, who shall monitor the course and ensure compliance with the appropriate statutes and regulations;

(2) submit all information, materials, and fees required by the board for course approval at least 30 days before the first scheduled class session, including the following:

(A) A completed application for course registration on a form prescribed by the board;

(B) the procedure for maintaining attendance records;

(C) the proposed dates and times of the course offering;

(D) the total amount of the attendance fee;

(E) the total number of class sessions and the length of time per session;

(F) the total number of hours in the course and the number of credit hours requested;

(G) if approval of the course is requested according to K.A.R. 117-2-1, 117-3-1, or 117-4-1, the amount of time allotted for the required examination;

(H) a course syllabus, including a detailed course outline and course objectives;

(I) an instructor resume, demonstrating that the instructor meets the qualifications in relation to knowledge of the subject matter and ability to teach;

(J) the methods of instruction or teaching techniques to be used in the course;

(K) a copy of any textbook or manual that will be used;

(L) a copy of all handout materials that will be used; and

(M) the course approval fee prescribed by K.A.R. 117-7-1.

(b) For continuing education purposes, each instructor shall demonstrate knowledge of the subject matter as indicated by either of the following:

(1) A college degree in an academic area related to the course; or

(2) at least three years of experience in a subject area directly related to the course.

(c) For prelicensing education or qualifying education purposes, according to K.A.R. 117-2-1, 117-3-1, and 117-4-1, each instructor shall demonstrate knowledge of the subject matter as indicated by any of the following:

(1) A current appraiser's license or certification pursuant to K.S.A. 58-4109(a)(1), (2), or (3), and amendments thereto;

(2) a current appraiser's license or certification issued by another state;

(3) a college degree in an academic area related to the course; or

(4) (A) Evidence of completion of all the required courses specified in K.A.R. 117-2-1, 117-3-1, or 117-4-1 within the past five years; and

(B) an appraisal log sheet that shows the equivalent of two years of appraisal experience within the past five calendar years in the subject area related to the course. One thousand hours shall constitute one year of appraisal experience.

(d) For purposes of continuing education or prelicensing education on the "uniform standards of professional appraisal practice" (USPAP), the only courses that will be accepted by the board for either prelicensing or continuing education shall be the "national uniform standards of professional appraisal practice" and "national uniform standards of professional appraisal practice update" courses that meet any of the following conditions:

(1) Have been developed by the appraisal foundation; or

(2) have been approved by the appraiser qualifications board or by an alternate entity specified by the appraiser qualifications board as being equivalent to these courses, if the requirements of subsections (a), (b), and (c) have been met.

Each instructor shall have a current certified residential or certified general classification in this or any other jurisdiction and be certified as a USPAP instructor by the appraiser qualifications board.

(e) For prelicensing education or qualifying education purposes, according to K.A.R. 117-

2-1, 117-3-1, and 117-4-1, the ability to teach effectively shall be demonstrated by one of the following:

(1) Within the preceding two years, completing a board-approved program for instructors that is designed to develop the ability to communicate;

(2) holding a current teaching certificate issued by any state department of education or an equivalent agency;

(3) holding a four-year undergraduate degree in education; or

(4) having experience teaching in schools, seminars, or an equivalent setting.

(f) Each instructor shall perform the following:

(1) Comply with all laws and regulations pertaining to appraiser continuing education;

(2) provide students with the most current and accurate information;

(3) maintain an atmosphere conducive to learning in a classroom; and

(4) provide assistance to the students and respond to questions relating to course material.

(g) Course approvals shall expire on December 31 of each year. On or before November 15 a notification that includes the necessary forms shall be sent by the board, informing each sponsor that an application for renewal is necessary. The course renewal applications and necessary forms shall be received by the board before the following April 1, or the course approvals shall not be renewed. After notice and opportunity for a hearing, course approval or renewal of a course approval may be denied or revoked by the board under either of the following conditions:

(1) The course sponsor procured or attempted to procure course approval by knowingly making a false statement, submitting false information, or refusing to provide complete information in response to a question in an application for course approval or renewal of course approval.

(2) The course sponsor engages in any form of fraud or misrepresentation.

(h) The sponsor shall not advertise a course as approved unless written approval has been granted by the board.

(i) The sponsor shall conduct each course in a classroom or other facility that is adequate to comfortably accommodate the number of students enrolled.

(j) Each sponsor shall maintain, for at least five years, accurate records relating to course offerings, instructors, and student attendance. If a sponsor ceases operations, the coordinator ap-

pointed 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.)

117-6-4. Education; denial or revocation of course approval. (a) After notice and opportunity for a hearing, approval of a course that is offered to meet the precicensing requirements may be denied or revoked by the board if the course does not fulfill the requirements listed in K.A.R. 117-2-1, K.A.R. 117-3-1, or K.A.R. 117-4-1.

(b) After notice and opportunity for a hearing, approval or renewal of a course that is offered to meet the continuing education requirements may be denied or revoked by the board if the course does not fulfill the requirements listed in K.A.R. 117-6-2 and K.A.R. 117-6-3. (Authorized by K.S.A. 58-4105(a); implementing K.S.A. 58-4109, K.S.A. 1999 Supp. 58-4112, and K.S.A. 58-4117; effective June 15, 2001.)

Article 7.—FEES

117-7-1. Fees. The following fees shall be submitted to the board: (a) For application for certification or licensure, the fee shall be \$50.

(b) For original certification or licensure, the fee shall be \$225.

(c) For renewal of a certificate or license, the fee shall be \$150.

(d) For late renewal of a certificate or license, the fee shall be the amount specified in subsection (c) and an additional \$50.

(e) Except as provided in subsection (h), for approval of a course of instruction to meet any portion of the education requirements of K.A.R. 117-2-1, 117-3-1, or 117-4-1, the fee shall be \$100.

(f) Except as provided in subsection (h), for approval of a course of instruction to meet the continuing education requirements of K.A.R. 117-6-1, the fee shall be \$50.

(g) Except as provided in subsection (h), for renewal of any course of instruction, the fee shall be \$25.

(h) For approval or renewal of any course of instruction that is endorsed by the appraiser qualifications board, the fee shall be \$10.

(i) For reinstatement of an inactive certificate or license, the fee shall be \$50. (Authorized by and implementing K.S.A. 2014 Supp. 58-4107; effective Jan. 21, 1991; amended, T-117-6-10-91, June 10, 1991; amended Aug. 5, 1991; amended, T-117-4-22-92, April 22, 1992; amended June 22, 1992; amended Feb. 6, 1995; amended Jan. 28, 2000; amended June 15, 2001; amended Feb. 4, 2005; amended Jan. 18, 2008; amended April 17, 2009; amended Feb. 18, 2011; amended June 8, 2012; amended March 15, 2013; amended May 23, 2014; amended May 15, 2015.)

Article 8.—UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

117-8-1. (Authorized by K.S.A. 2008 Supp. 58-4105; implementing K.S.A. 2008 Supp. 58-4105 and K.S.A. 58-4121; effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended May 24, 1993; amended Feb. 6, 1995; amended May 3, 1996; amended Jan. 9, 1998; amended, T-117-3-6-98, March 6, 1998; amended Aug. 14, 1998; amended July 16, 1999; amended April 21, 2000; amended July 6, 2001; amended May 17, 2002; amended May 23, 2003; amended April 2, 2004; amended Feb. 4, 2005; amended July 7, 2006; amended Jan. 18, 2008; amended April 16, 2010; revoked Aug. 24, 2012.)

117-8-2. Confidentiality provisions. An appraiser shall not be considered to violate the provision of the uniform standards of professional appraisal practice that requires an appraiser to protect the confidential nature of the appraiser-client relationship, if the appraiser discloses confidential factual data obtained from a client or the results of an assignment prepared for the client to any of the following:

- (a) The client and persons specifically authorized by the client;
- (b) any third parties that may be authorized by due process of law;
- (c) a duly authorized professional peer review committee; or
- (d) the board in relation to a complaint made against another appraiser. (Authorized by and

implementing K.S.A. 58-4105; effective Nov. 30, 1998.)

117-8-3. “Uniform standards of professional appraisal practice”; adoption by reference. The 2020-2021 edition of the “uniform standards of professional appraisal practice,” as published by the appraisal standards board of the appraisal foundation and effective January 1, 2020, is hereby adopted by reference, except for the following:

- (a) All materials before page 1; and
- (b) standards 7, 8, 9, and 10. (Authorized by K.S.A. 2019 Supp. 58-4105; implementing K.S.A. 2019 Supp. 58-4105 and K.S.A. 2019 Supp. 58-4121; effective March 25, 2016; amended Feb. 23, 2018; amended June 11, 2021.)

Article 9.—TEMPORARY PRACTICE

117-9-1. Temporary practice. (a) Any appraiser from another state who is licensed or certified by the appraiser licensing or certifying agency in that or any other state may register to receive temporary licensing or certification privileges in this state, if the appraiser is in good standing with each agency, by performing the following:

- (1) Paying a \$50 fee; and
 - (2) filing with the board a registration form obtained from the board.
- (b) For the purpose of this regulation, “good standing” shall mean that all of the following conditions are met:

- (1) The certified or licensed appraiser is not subject to a disciplinary action.
- (2) The certified or licensed appraiser is not subject to a summary order or final order.
- (3) The appraiser’s license or certificate is not suspended or revoked.

(c) Within five days of receipt of the fee and a properly completed registration form, written notification of acceptance of the registration shall be mailed to the appraiser by the board. (Authorized by K.S.A. 58-4105; implementing K.S.A. 58-4103(b) and K.S.A. 2002 Supp. 58-4107(c); effective, T-117-6-10-91, June 10, 1991; effective Aug. 5, 1991; amended Jan. 28, 2000; amended Feb. 20, 2004.)

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 pre-

scribed 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 118

State Historical Society

Articles

- 118-1. KANSAS STATE HISTORICAL SOCIETY DEACCESSIONING ACT.
- 118-2. REMOVAL OF HUMAN REMAINS AND ASSOCIATED BURIAL GOODS FROM THE KANSAS STATE HISTORICAL SOCIETY COLLECTIONS ACT.
- 118-3. REVIEW OF PROJECTS AFFECTING HISTORIC PROPERTIES AND THEIR ENVIRONS.
- 118-4. LAND SURVEY REFERENCE REPORTS.
- 118-5. STATE REHABILITATION TAX CREDIT PROGRAM.

Article 1.—KANSAS STATE HISTORICAL SOCIETY DEACCESSIONING ACT

118-1-1. Removal of property from the collection holdings of the state historical society.

(a) Disposition of certain holdings in the state archives that is regulated by K.S.A. 75-3501 et seq., and K.S.A. 45-401 et seq., and amendments thereto, shall not be subject to these regulations.

(b) The disposition of unassociated funerary objects, sacred objects, and objects of cultural patrimony, as defined in 43 CFR Part 10, as amended on January 13, 1997, shall not be subject to these regulations.

(c) Definitions.

(1) "Collection holdings or properties" means historical materials, including architectural drawings, artworks, artifacts, audiovisual materials, books, computer tapes or discs, governmental records, manuscripts, maps, newspapers, pamphlets, periodicals, photographs, and other tangible objects held for public use by the state historical society as the trustee of the state.

(2) "Deaccession" means to formally remove property from the state historical society collection holdings by following established professional procedures.

(3) "Deed of gift or accession record" means the legal document describing the property and transferring the title for that property to the state historical society.

(4) "Disposition" means the transfer or termination of title to and physical custody of property removed from the state historical society collection holdings.

(5) "Documentation" means recorded information held by the society pertaining to the property, including its history, condition, changes in owner-

ship or custody, use in research or education, and disposition.

(6) "Donation" means the surrender of physical possession and title to property for which no compensation, monetary or otherwise, is received.

(7) "Historical material" means tangible property that has historical or scientific value or significance to researchers or the general public.

(8) "Professional procedures" means those procedures utilized by the state historical society staff based on professional training and experience that are considered ethical, legal, and responsible and that are generally accepted by other professionals in that field. (Authorized by and implementing K.S.A. 75-2701; effective Aug. 24, 1992; amended Oct. 23, 1998.)

118-1-2. Review committee. A committee shall review the property being considered for removal from the collection holdings of the society. This committee shall be known as the deaccession review committee. (a) The deaccession review committee shall consist of the following professionals who are not society staff members:

- (1) One archivist;
- (2) one historian;
- (3) one archeologist;
- (4) one museum professional;
- (5) one librarian; and
- (6) one genealogist.

(b) The deaccession review committee shall also include the executive director of the society and the assistant executive director of the society.

(1) The executive director of the society or the executive director's designee shall function as chairperson of the deaccession review committee.

(2) The assistant executive director of the society shall function as secretary to the committee.

(c) Each deaccession review committee member shall be appointed to a renewable two-year term. Appointments to the deaccession review committee shall be made by the executive director of the society.

(d) The deaccession review committee shall meet upon call of the chairperson. (Authorized by and implementing K.S.A. 75-2701; effective Aug. 24, 1992; amended Oct. 23, 1998.)

118-1-3. Types of property. Property to be considered for removal from the society's collection holdings shall be defined as follows. (a) "Duplicate properties" means two or more tangible objects of the collection holdings that are identical or nearly identical in physical characteristics or informational content and that are deemed by established professional standards and institutional needs and programs to be of limited value or use due to that duplication.

(b) "Property outside of the society's scope of collections" means any property that does not fall into subject areas for research, reference, and other educational purposes as outlined by K.S.A. 75-2701, K.S.A. 75-2702, K.S.A. 75-2703, K.S.A. 75-2704, and amendments thereto, and the mission statement adopted by the state historical society.

(c) "Property with insufficient research, educational, or exhibit value" means property that meets either of the following criteria:

(1) Lacks sufficient background information to be of use; or

(2) (A) through accident, vandalism, natural disaster, or deterioration because of age, environment, or inherent vice, has become embrittled, discolored, or misshapen beyond being useful for research, reference, or other educational purposes;

(B) cannot be repaired or conserved through reasonable expenditures of time, materials, and money; and

(C) is considered to be damaged or deteriorated property.

(d) "Hazardous property" means property composed of or containing materials that by nature or through the process of deterioration present an environmental or health hazard to state historical society patrons, visitors, staff, volunteers, physical plant, or collection holdings. (Authorized by and implementing K.S.A. 75-2701; effective Aug. 24, 1992; amended Oct. 23, 1998.)

118-1-4. Procedures for removal of property from the society collection holdings. The manner of disposition of property from society collections holdings shall be in the best interests of the state historical society and the public that it serves and represents in owning the property. Property to be considered for removal from collection holdings shall undergo the following procedures. (a)(1) Documentation relating to the property being considered for removal shall be assembled by the society staff member responsible for the property. This documentation may include deeds of gift or accession records, contracts, photographs, signed authorizations, correspondence, or advertisements.

(2) Clear title to the property shall be established by the staff member responsible for the property, subject to the provisions of K.S.A. 58-4001 through 58-4013, and amendments thereto. For manuscript materials and images of artworks, this may apply to the tangible property rights only.

(3) Property for which the donor has taken a charitable donation tax deduction shall not be removed by the society from collection holdings except in accordance with federal tax law and regulations, unless the property presents a clear and present hazard to society staff, patrons, visitors, volunteers, collection holdings, or physical plant.

(4) In the course of normal processing of collections, duplicates and extraneous materials may be removed and shall be exempt from deaccessioning procedures.

(b) When property that has been donated by an individual is being considered for removal from the society's collection holdings within 20 years of the donation, reasonable effort shall be made to notify the donor or the donor's immediate family of this decision.

(1) A letter offering to return this property to the donor shall be sent to the last known address of the donor.

(2) If the letter is returned and no forwarding address is available, and the identity and addresses of immediate family members, spouse or children are unknown to society staff, then deaccessioning of the property shall be undertaken by the society. If one or more family members are identified, the notification shall be sent to each of them.

(c) If historical materials have been micrographically or electronically recorded and meet the following criteria, then the original materials shall be considered duplicate properties and may be considered for removal from the collection holdings.

(1) The micrographic form shall have two copies: one security negative and one copy negative or positive. Electronically recorded copies shall be made according to established standards. The security negative may remain in the possession of an outside vendor who has performed the micrographic reproduction and retains the security negative.

(2) Before removal of the original historical materials from the collection holdings, a properly trained person shall inspect the micrographic copies to determine that they are satisfactory substitutes for the originals. This shall include refilming or appropriate treatment for redox and other forms of deterioration.

(3) The security copies shall be periodically inspected for deterioration, and that deterioration shall be controlled.

(d) The internal committees for collection review shall review the property being considered for removal from the collection holdings of that division. A list of property agreed upon for removal shall be forwarded to the society's assistant executive director.

(e) The deaccession review committee shall review the property being recommended for removal from the collection holdings. Duplicate properties shall be exempt from deaccession review committee review, but duplicate properties that are deaccessioned shall be disposed of in accordance with the procedures described in 118-1-4(f).

(1) A list of property, including appropriate documentation and rationalization for removal of the property from the collection holdings, being considered for removal from the society's collection holdings shall be provided by the society's assistant executive director to the deaccession review committee members. Public notice of the availability of that list for public review shall also be provided by the society's assistant executive director. The deaccession review committee shall also receive a mail ballot to be returned to the society's assistant executive director within 30 days of receipt. For each item on the list, there shall be two choices: deaccession review committee members may either authorize the item for deaccession or defer the item for discussion at a meeting of the deaccession review committee. A unanimous vote by mail ballot returned by the due date shall be required to authorize property for deaccession from the society's collection holdings.

(2) If the mail ballot is not unanimous, a meeting of the deaccession review committee shall be called by the society's assistant executive director.

Five members shall constitute a quorum. The deaccession review committee shall reach a two-thirds majority agreement of members present before property may be removed from the society's collection holdings. If a two-thirds majority agreement cannot be reached to remove property, the property shall be retained in the society's collection holdings.

(f) Property determined by the deaccession review committee to be appropriate for removal from the society's collection holdings shall be disposed of by one of the following methods. Preference shall be for the property to remain in public ownership or domain.

(1) Hazardous property shall be disposed of according to existing state and federal laws or guidelines from appropriate state and federal regulatory agencies.

(2) Kansas newspapers shall be offered to historical or genealogical societies, or both, or other appropriate institutions of the county or area in which the newspaper was originally published. If competing entities are requesting newspapers and the matter cannot be resolved locally, the deaccession review committee shall make the final decision.

(3) When possible, property may be traded to a public or private institution or individual for property that the society wishes to obtain.

(4) Property may be offered for donation or sale to Kansas libraries, museums, archives, historical and genealogical societies, educational institutions, and other not-for-profit repositories for historical materials, public or private. Notification of the availability of deaccessioned materials shall be provided by first-class mail to local institutions within Kansas when these materials have local research, educational, or exhibit value. Appropriate institutions shall be selected by staff for notification from the membership directory of the Kansas museums association or the directory of historical and genealogical societies in Kansas published by the Kansas state historical society.

(5) When appropriate, property may be offered for donation or sale to out-of-state libraries, museums, archives, historical and genealogical societies, educational institutions, and other not-for-profit repositories for historical materials, public or private.

(6) Property may be sold to the general public.

(7) Property not disposed of by trade, donation, or sale may be destroyed by burning, shredding, recycling, depositing in a landfill, or by other methods.

(8) Documentation relating to the property removed from the collection holdings shall be amended to include the date and method of disposition. The documentation shall be accessible upon request during the society's regular business hours. Some donor information may be restricted as provided for in K.S.A. 45-221, paragraph (a)(8), and amendments thereto.

(9) Property offered for sale to the general public shall not be purchased by society employees or officers or deaccession review committee members. (Authorized by and implementing K.S.A. 75-2701; effective Aug. 24, 1992; amended Oct. 23, 1998.)

**Article 2.—REMOVAL OF
HUMAN REMAINS AND ASSOCIATED
BURIAL GOODS FROM THE
KANSAS STATE HISTORICAL
SOCIETY COLLECTIONS ACT**

118-2-1. Removal of human skeletal remains from the collection holdings of the state historical society. (a) As used in this rule and regulation:

(1) "Property," as defined in K.S.A. 1991 Supp. 75-2701, shall not include human skeletal remains and associated burial goods.

(2) Human skeletal remains and associated burial goods shall be disposed of according to the provisions of K.S.A. 75-2741 through 75-2754.

(3) Nothing in this regulation shall be read to exempt these human remains and associated burial goods from the provisions of or procedures set forth in K.S.A. 75-2748(b). (Authorized by and implementing K.S.A. 1991 Supp. 75-2701; effective June 1, 1992.)

**Article 3.—REVIEW OF PROJECTS
AFFECTING HISTORIC PROPERTIES
AND THEIR ENVIRONS**

118-3-1. Definitions. For the purposes of Article 3, these terms shall have the following meanings. (a) "Boundaries of a historic property" means the limits or extent of a geographic area included in the state or national registers of historic places.

(b) "Character-defining features" means those physical characteristics and elements that indicate the integrity, design, and materials of the listed historic property.

(c) "Demolition" means the partial or complete removal of a building or structure, the compo-

nents of a building or structure, or the man-made components of the site on which the building or structure is located, including walks, driveways, retaining walls, and fences.

(d) "Environs" means the historic property's associated surroundings and the elements or conditions that serve to characterize a specific place, neighborhood, district, or area, which takes into account all relevant factors, including the following:

(1) The use of the area;

(2) the significance of the historical property;

(3) the scope of the project;

(4) surrounding buildings, structures, and foliage; and

(5) the topography of the surrounding area.

A project need not be adjacent to a historic property for it to be in the historic property's environs.

(e) "Feasible and prudent alternative" means an alternative solution that can be reasonably accomplished and that is sensible or realistic. Factors that shall be considered when determining whether or not a feasible and prudent alternative exists include the following:

(1) Technical issues;

(2) design issues;

(3) the project's relationship to the community-wide plan, if any; and

(4) economic issues.

(f) "Governmental entity" means the "state or any political subdivision of the state," as that term is defined by K.S.A. 75-2714, and amendments thereto.

(g) "Ground-disturbing project" means a project that changes the existing grade, shape, or contour of a property or involves drilling into or excavation of earth from a piece of property where there is the potential to disturb archeological remains.

(h) "Historic property" means any property included on "the national register of historic places" or "the register of historic Kansas places."

(i) "Program includes all possible planning" means that the written evidence and materials submitted by a governmental entity to the state historic preservation officer clearly identify all alternative solutions that have been investigated, compare the differences among the alternative solutions and their effects, and describe mitigation measures proposed by the project proponent that address an adverse effect determination of the state historic preservation officer.

(j) "Relevant factors" means pertinent information submitted by project proponents or

project opponents in written form, including evidence supporting their positions. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-2. Notice of projects directly undertaken by a governmental entity or supported by a governmental entity. (a) Projects undertaken directly by a governmental entity or projects undertaken by a person but supported by a governmental entity, for which notice shall be given when required by K.S.A. 75-2724(a), and amendments thereto, shall include any of the following:

(1) Exterior or interior projects involving the listed historic property, including any of the following:

- (A) Construction of one or more structures;
- (B) site improvements;
- (C) repair work;
- (D) alterations or additions to the listed historic property;

(E) partial or total demolition of any structure on the listed historic property; or

(F) ground-disturbing projects;

(2) projects carried out within the environs of a listed historic property, including the following:

(A) Construction or alteration of any existing structures;

(B) demolition or removal of structures;

(C) public improvements, including improvements to streets, curbs, sidewalks, parking areas, parks, and other public amenities;

(D) vacation of streets, alleys, or both; or

(E) ground-disturbing projects; or

(3) any other project that is determined by the state historic preservation officer to have the potential to encroach upon, damage, or destroy a listed historic property or its environs.

(b) Projects involving emergency repair work. Each governmental entity shall give notice of emergency work, including water or sewer line repair or protective work required immediately for structures damaged by fire, tornado, or other disaster, if the project would be covered by subsection (a) of this regulation. A review of the emergency repair work shall be expedited by the state historic preservation officer and shall be handled by telephone or FAX when possible. If, after reasonable but unsuccessful efforts to notify the state historic preservation officer, emergency repair work must be completed, the work shall be

performed in a manner that minimizes the effect on the historic property or its environs. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-3. Notice of projects involving the issuance of a lease, permit, license, certificate, or other entitlement for use to any person by a governmental entity. (a) Projects for which a governmental entity issues a lease, permit, license, certificate, or other entitlement for use to any person for which notice shall be given when required by K.S.A. 75-2724(a), and amendments thereto, shall include the following:

(1) Projects directly or indirectly affecting any listed historic building, structure, object, district, or site, including any of the following:

(A) Exterior or interior projects involving the listed historical property, including any of the following:

(i) Construction of one or more structures;

(ii) site improvements;

(iii) repair work;

(iv) alterations or additions to the listed historic property, including signage;

(v) partial or total demolition of any structure on the listed historic property; or

(vi) ground-disturbing projects; or

(B) rezoning;

(C) special use or conditional use permits;

(D) subdivision of property; or

(E) vacation of streets or alleys; and

(2) projects requiring permits that would affect the environs of a listed historic property, including any of the following:

(A) Rezoning;

(B) special use or conditional use permits;

(C) subdivision of property;

(D) vacation of streets or alleys; or

(E) exterior projects that affect any building, structure, object, or site in the environs of a historic property, including any of the following:

(i) Construction of one or more structures;

(ii) site improvements;

(iii) repair work;

(iv) alterations or additions to structures in the environs, including signage; or

(v) partial or total demolition of a structure.

(b) Exceptions. Notice shall not be required when the issued lease, permit, license, certificate, or other entitlement is for interior projects in the environs of a listed property. In addition, notice

shall not be required for any exterior projects in the environs of a listed property for replacement of deteriorated existing materials with new, matching materials, known as replacement-in-kind. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-4. Content of notice to state historic preservation officer. Each governmental entity required to give notice to the state historic preservation officer under K.S.A. 75-2724, and amendments thereto, and K.A.R. 118-3-2 and K.A.R. 118-3-3, shall provide notice in accordance with this regulation before undertaking a project. (a) At a minimum, the following documentation shall be submitted with the initial notification for all projects:

(1) A written transmittal or letter that contains the following elements from the governmental entity:

(A) A request for the state historic preservation officer's comments on the proposed project in accordance with K.S.A. 75-2724, and amendments thereto; and

(B) an identification of the work to be done, the property address, its legal description, and the project contact person;

(2) complete architectural drawings as required by the governmental entity for issuance of a building permit, or sufficient documentation to clearly explain the proposed project, including floor plans, elevations, wall or building sections and detail drawings, as applicable. For additions or new construction, the property owner shall also furnish a site plan showing all existing structures and the location of the proposed new construction. If no documentation is required by the city or county, the property owner shall supply to the state historic preservation officer sufficient documentation to clearly explain the proposed project.

(b) If a project is reviewed to assess its effects on one or more listed historic properties, the documentation shall include photographs accurately and fully depicting the site and setting of the historic structure, including the following perspectives:

(1) A general overall view from the street;

(2) the relevant exterior elevations;

(3) detailed close-ups of the specific exterior or interior architectural features, including windows, doors, porches, and stairs; and

(4) the interior views of rooms that will be affected by the proposed project.

(c) If a project is reviewed to assess its effects on the environs of one or more listed historic properties, the documentation shall include a vicinity map showing the proximity of the proposed project to the listed historic property, existing structures in the environs, and clear, sharp photographs that fully depict the project and the listed property's environs, including the following:

(1) Views from the proposed project to the historic property;

(2) views from the historic property to the proposed project;

(3) views that show the conditions and character of the environs; and

(4) the relevant exterior elevations.

(d) The governmental entity shall provide in writing all revisions, amendments, or clarifications to previously submitted project documents.

(e) Any of these requirements to submit documentation may be waived by the state historic preservation officer if adequate and recent information is already in the state historic preservation officer's files to complete the review. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-5. Notice of revisions or modifications. After the state historic preservation officer has initiated an investigation of a project, the governmental entity providing notice shall keep the state historic preservation officer informed of any revisions or modifications to the project by forwarding any changes to the proposed project submitted by the project proponent within five working days of receiving them from the project proponent. The governmental entity shall forward the documentation described in K.A.R. 118-3-4 with this notice. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-6. Notice required before project may proceed. If the state historic preservation officer determines that a project will encroach upon, damage, or destroy a listed historic property or its environs and if the appropriate governmental entity subsequently makes the findings required under K.S.A. 75-2724, and amendments thereto, to permit a project to proceed, the governmental entity shall notify the state historic preservation officer of the determination by certified mail. The governmental entity shall not issue

any permit or authorize the project to begin for five working days after it gives notice of its determination. This notice shall include the following: (a) A written transmittal or letter from the appropriate governmental entity informing the state historic preservation officer of the findings made by the governmental entity;

(b) a written copy of the minutes of the meeting where the project was discussed; and

(c) a copy of all relevant written information upon which the appropriate unit of government based its decision. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-7. Investigations without notice. If the state historic preservation officer initiates an investigation of a project that may encroach upon, damage, or destroy the environs of a historic property but for which no notice is required from a governmental entity, notice of the investigation shall be given by the state historic preservation officer to the governmental entity. The investigation shall then proceed as if it were a project for which the governmental entity is obligated to provide notice, and the governmental entity shall provide documentation to the state historic preservation officer. A determination shall be made accordingly by the state historic preservation officer. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-8. Standards and guidelines utilized by the state historic preservation officer. The following standards and guidelines shall be used by the state historic preservation officer when reviewing projects. (a) “The secretary of the interior’s standards for the treatment of historic properties with guidelines for preserving, rehabilitating, restoring & reconstructing historic buildings,” 1995 edition, is adopted by reference as a guide to determine whether or not proposed projects encroach upon, damage, or destroy listed historic properties.

(b) The “treatment of archeological properties: a handbook,” endorsed by the advisory council on historic preservation, Washington, D.C., on November 5, 1980, is adopted by reference as a guide for identifying and evaluating archeological sites using the criteria of eligibility for listing sites on the national register of historic places.

(c) The Kansas state historical society’s “standards and guidelines for evaluating the effect of projects on environs,” 1998 edition, is adopted by reference as a guide to determine whether or not proposed projects encroach upon, damage, or destroy the environs of listed historic properties. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-9. Official response. An official response shall be provided by the state historic preservation officer within 30 days of receiving notice of a project. Official responses that may be issued by the state historic preservation officer may include any of the following. (a) The state historic preservation officer is initiating an investigation, and additional information is required.

(b) The project does not encroach upon, damage, or destroy the listed historic property or its environs.

(c) The project does encroach upon, damage, or destroy the listed historic property or its environs.

(d) No investigation will be initiated, and the 30-day waiting period is waived. (Authorized by 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-10. Initiating an investigation. “The state historic preservation officer is initiating an investigation, and additional information is required” response may be issued when any of these conditions is met. (a) The state historic preservation officer has determined that insufficient information was included in the submittal and additional information is necessary to complete the required review.

(b) The project is likely to encroach upon, damage, or destroy the listed historic property or its environs, and the state historic preservation officer desires to suggest alterations to the proposed project so that the proponent can revise the proposal to meet the standards and guidelines set out in K.A.R. 118-3-8.

(c) The state historic preservation officer desires to solicit the advice and recommendations of the historic sites board of review.

(d) The state historic preservation officer directs that a public hearing or hearings be held on a proposed project. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-11. “Project does not encroach” response. A “project does not encroach upon, damage, or destroy the listed historic property or its environs” response shall be issued when the state historic preservation officer determines that the proposed project meets the standards and guidelines established in K.A.R. 118-3-8. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-12. “Project does encroach” response. (a) A “project does encroach upon, damage, or destroy the listed historic property or its environs” response shall be issued when the state historic preservation officer determines that the proposed project does not meet the standards and guidelines established in K.A.R. 118-3-8 and the project will encroach upon, damage, or destroy the listed historic property or its environs. The state historic preservation officer’s response letter shall state why the project will have an adverse effect, outline the standards and guidelines that are not met, and describe the responsibilities of the appropriate governing body under the state preservation statute.

(b)(1) A “project does encroach” response may also include “suggestions for approval.” If, in the state historic preservation officer’s opinion, the project could be revised in order to meet the standards and guidelines, suggested conditions for approval may be indicated in the response.

(2) If the project proponent incorporates the suggestions for approval in a revised proposal, the additional information shall be submitted to the state historic preservation officer and a new response shall be issued, the resolution of which shall depend on the adequacy of the revisions to the project. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-13. Executive review of project. After a governmental entity notifies the state historic preservation officer that the governing body has complied with K.S.A. 75-2715, et seq., and amendments thereto, and has made the proper findings, the governing body’s decision shall be reviewed by the state historic preservation officer within five working days of receipt of notice. The findings of the governing body shall be reviewed by the state historic preservation officer, and determination of whether or not further action is

required shall be made by this individual. Acknowledgement that the state historic preservation officer received the governing body’s findings shall be provided to the governing body. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-14. Reconsideration of official response. In response to additional information, a new official response may be issued by the state historic preservation officer. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-15. Provisions for transfer of authority. An agreement authorizing any city, county, or state educational institution under the control and supervision of the board of regents to make recommendations or to perform any or all of the review responsibilities of the state historic preservation officer, within the jurisdiction of that city, county, or state educational institution, may be entered into by the state historic preservation officer. (a) In order to transfer authority to a city or county, a determination shall be made by the state historic preservation officer that the city or county meets each of the following conditions.

(1) It has enacted a comprehensive, local historic preservation ordinance.

(2) It has established a qualified, local historic preservation board or commission.

(3) It is actively engaged in a local historic preservation program.

(b) In order to transfer authority to a state educational institution under the control and supervision of the board of regents, a determination shall be made by the state historic preservation officer that the institution meets both of the following conditions.

(1) It has constituted a qualified, local historic preservation board or commission.

(2) It is actively engaged in a campus historic preservation program. (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

118-3-16. Transfer of authority agreement. (a) Each agreement between the state historic preservation officer and a city or county shall specify the following information:

(1) The authority delegated;

- (2) the standards for project review;
- (3) the manner in which decisions are to be reported to the state historic preservation officer;
- (4) the conditions under which assistance from the state historic preservation officer can be requested;
- (5) an appeal procedure and designation of the governing body with jurisdiction;
- (6) an amendment procedure;
- (7) the length of time the agreement is valid;
- (8) provisions for termination of the agreement; and
- (9) the state historic preservation officer's authority under K.S.A. 75-2724(e), and amendments thereto.

(b) Each agreement between the state historic preservation officer and a state educational institution under the control and supervision of the board of regents shall specify the following:

- (1) The authority delegated;
 - (2) the standards for project review;
 - (3) the manner in which decisions are to be reported to the state historic preservation officer;
 - (4) the conditions under which assistance from the state historic preservation officer can be requested;
 - (5) an appeal procedure and designation of the governing body with jurisdiction;
 - (6) an amendment procedure;
 - (7) the length of time the agreement is valid; and
 - (8) provisions for termination of the agreement.
- (Authorized by K.S.A. 75-2721(b); implementing K.S.A. 75-2724; effective, T-118-5-1-98, May 1, 1998; effective Oct. 23, 1998.)

Article 4.—LAND SURVEY REFERENCE REPORTS

118-4-1. Surveys originating from public land survey corners. (a) Whenever a survey originates from a United States public land survey corner marker or any related accessory, the land surveyor shall file a reference report, as described in K.A.R. 118-4-3, with the Kansas state historical society and with the county surveyor for the county or counties in which the survey corner exists. "Accessory" means any object positioned above, upon, or near a United States public survey corner for the purpose of facilitating locations when the actual United States public land survey marker is not accessible.

(b) If a survey originates from more than one corner, the land surveyor shall file multiple refer-

ence reports. (Authorized by K.S.A. 58-2009; implementing K.S.A. 58-2011; effective June 4, 1999.)

118-4-2. Endangered corners. (a) When it is likely that any activity will occur by which a United States public land survey corner marker or accessory will be altered, removed, or damaged, and when a person qualified to practice land surveying establishes reference points for its restoration, reestablishment, or replacement, the land surveyor shall file a reference report with the Kansas state historical society and with the county surveyor for the county or counties in which the survey corner exists. The land surveyor shall file a separate reference report for each endangered section corner marker.

(b) Upon completion of the activity, the surveyor shall file a restoration report within 30 days identifying the reference report to which it relates and indicating one of the following:

- (1) That no damage or alteration has occurred; or
- (2) that damage or alteration has occurred and that the corner marker has been restored. The restoration report shall set forth the applicable information required by K.A.R. 118-4-3. (Authorized by K.S.A. 58-2009; implementing K.S.A. 58-2011; effective June 4, 1999.)

118-4-3. Reference reports. (a) The land surveyor shall file reference reports on forms provided or approved by the Kansas state historical society. The land surveyor shall file a separate reference report for each township affected. Each reference report shall include the following information:

- (1) The name, license number, seal, signature, and business address of the surveyor responsible for the survey;
- (2) the telephone number of the surveyor;
- (3) the name or job number reference of the survey;
- (4) the date of the survey;
- (5) the county, township, range, and section where the corner is located;
- (6) the approximate location of the corner within the section, by standard identification;
- (7) if known, the datum and the north and east coordinates of the marker; and
- (8) descriptions of and measurements to witness corners.

(b) If an original marker is being restored or reestablished, the following information shall be provided:

(1) A description of the corner evidence found or a concise statement of the method used to re-establish the corner; and

(2) a brief sketch and description of the monument and accessories used to perpetuate the location of the corner. The land surveyor shall attach this information to the reference report. (Authorized by K.S.A. 58-2009; implementing K.S.A. 58-2011; effective June 4, 1999.)

118-4-4. Fees. (a) The fee for filing each reference report with the Kansas state historical society, pursuant to K.A.R. 118-4-1 or 118-4-2, shall be \$4.00 for each corner to which reference is made.

(b)(1) The fees for information requests, pursuant to K.S.A. 58-2011 and amendments thereto, shall be as follows:

(A) Requests for copies of reference reports only:

(i) Reports from one, two, or three sections: \$10.00; and

(ii) reports from each additional section: \$5.00;

(B) requests for copies of any combination of field notes, plats, and maps: \$15.00 for each section;

(C) copying fee: \$1.00 for each page in addition to the fees specified in paragraphs (b)(1)(A) and (B);

(D) fax fee: \$1.00 for each page faxed, in addition to the fees specified in paragraphs (b)(1)(A) and (B); and

(E) requests for any copy to be certified: \$2.00 for each copy.

(2) The fees listed in paragraphs (b)(1)(A) and (B) shall be charged whether or not information is found or copies are made. (Authorized by and implementing K.S.A. 58-2009 and K.S.A. 58-2011; effective June 4, 1999; amended Jan. 26, 2007.)

Article 5.—STATE REHABILITATION TAX CREDIT PROGRAM

118-5-1. Definitions. For the purposes of this article, these terms shall have the following meanings. (a) “Certification” means the process whereby the reviewing entity determines that a historic structure is a qualified historic structure or that a rehabilitation plan is a qualified rehabilitation plan, or both.

(b) “Qualified expenditures” means any of the following:

(1) For rehabilitation of income-producing properties that qualify for the federal rehabilitation tax credit program, the costs and expenses

incurred by a qualified taxpayer, as defined in L. 2001, ch. 108, sec. 1 and amendments thereto, in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan, which are defined as qualified rehabilitation expenditures by section 47 (c) (2) of the federal internal revenue code as in effect July 1, 2001, and hereby adopted by reference;

(2) for rehabilitation of income-producing properties that do not qualify for the federal rehabilitation tax credit program, the costs and expenses incurred by a qualified taxpayer in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan. These expenses shall be deemed to have been incurred when the project is certified by the reviewing entity as a completed qualified rehabilitation; or

(3) for non-income-producing properties, the costs and expenses incurred by a qualified taxpayer in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan. These expenses shall be deemed to have been incurred when the project is certified by the reviewing entity as a completed qualified rehabilitation.

(c) “Reviewing entity” means the state historic preservation officer or the local government official who signs an agreement with the state historic preservation office to carry out review procedures. (Authorized by and implementing L. 2001, ch. 108, sec. 1; effective, T-118-9-5-01, Sept. 5, 2001; effective Aug. 2, 2002).

118-5-2. Authorizing a local government as a reviewing entity. An agreement authorizing a city or county to make recommendations and to carry out review procedures under the state rehabilitation tax credit program may be entered into by the state historic preservation officer if the state historic preservation officer determines that the city or county has enacted a comprehensive local historic preservation ordinance, established a local historic preservation board or commission, and is actively engaged in a local historic preservation program. The agreement shall specify the authority delegated to the city or county by the state historic preservation officer, the requirements for those performing the responsibilities, and the manner in which the city or county will report its decisions to the state historic preservation officer. (Authorized by and implementing L. 2001, ch. 108, sec. 1; effective, T-118-9-5-01, Sept. 5, 2001; effective Aug. 2, 2002.)

118-5-3. Certifications. (a) Before a rehabilitation plan may be certified by the reviewing entity as a qualified rehabilitation plan, the structure shall be certified as a qualified historic structure. Except as otherwise specified in these regulations, part 1 of the rehabilitation certification application shall be used by the reviewing entity to determine whether a structure can be certified as a qualified historic structure.

(b) A qualified rehabilitation plan shall mean a plan that complies with the secretary of the interior's standards for rehabilitation, 36 C.F.R. Part 67, as in effect July 1, 2001, which is hereby adopted by reference except for 36 C.F.R. 67.7(b)(8). Except as otherwise specified in these regulations, part 2 of the rehabilitation certification application shall be used by the reviewing entity to determine whether the plan for a proposed project involving a qualified historic structure constitutes a qualified rehabilitation plan. Part 3 of the rehabilitation certification application shall be used by the reviewing entity to determine whether the applicant completed the rehabilitation as presented in part 2 of the application, which shall have been previously approved. (Authorized by and implementing L. 2001, ch. 108, sec. 1; effective, T-118-9-5-01, Sept. 5, 2001; effective Aug. 2, 2002.)

118-5-4. Application. (a) Applicant criteria. Each applicant seeking the state rehabilitation tax credit shall be either the owner or long-term lessee of the property in question. Lessee expenditures shall qualify if the term of the lease is more than the recovery period of the building for depreciation as set forth in IRS regulation 26 C.F.R. 1.48-12(c)(7)(v), as in effect July 1, 2001, and hereby adopted by reference.

(b) Application procedure.

(1) Each application shall be made on forms available from the reviewing entity according to instructions accompanying the application.

(2) Each request for certification shall be sent to the reviewing entity.

(3) Only complete applications shall be reviewed by the reviewing entity.

(4) The review of each submission of a rehabilitation certification application shall be concluded within 30 calendar days of receipt of each complete, adequately documented application. If adequate documentation is not provided, the applicant shall be notified of the additional information needed to undertake or complete the review.

(c) Application, part 1.

(1) Except as specified in K.A.R. 118-5-5(b), to submit a request for certification of a structure as a qualified historic structure, each applicant shall complete part 1 of the rehabilitation certification application provided by the reviewing entity, according to the instructions accompanying the application. The applicant shall submit the application to the reviewing entity.

(2) Part 1 of the rehabilitation certification application may be submitted before submitting part 2 or at the same time as submitting part 2 of the application. However, certification of the qualified historic structure shall be required before certification of the qualified rehabilitation plan.

(d) Application, part 2.

(1) Except as specified in K.A.R. 118-5-7(a)(2), to submit a request for certification of a qualified rehabilitation plan, each applicant shall complete part 2 of the rehabilitation certification application, on a form provided by the reviewing entity and according to the instructions accompanying the application. The applicant shall submit the application to the reviewing entity.

(2) Part 2 of the rehabilitation certification application may be submitted when the applicant submits part 1 of the application. However, certification of the qualified historic structure shall be required before certification of the qualified rehabilitation plan.

(3) Before part 2 is reviewed, the applicant shall submit a fee to the reviewing entity, as specified in K.A.R. 118-5-10.

(4) Each applicant seeking the state tax credit but not the federal rehabilitation tax credit shall submit part 2 of the application and receive the approval of the reviewing entity or state historic preservation office before commencing work.

(5) Each applicant seeking both the federal and state credit shall comply with the requirements set forth in IRS regulations 26 C.F.R. 1.48-12, as in effect July 1, 2001, and hereby adopted by reference.

(e) Application procedure, part 3.

(1) Each applicant shall complete part 3 of the rehabilitation certification application.

(2) The tax credit shall not be claimed until the project has been certified as having been completed according to the qualified rehabilitation plan certified by the reviewing entity. To request final certification of a qualified rehabilitation plan, the applicant shall complete part 3 of the rehabilitation certification application, on a form provided

by the reviewing entity and according to the instructions accompanying the application, and submit it to the reviewing entity.

(3) Part 3 shall not be submitted for review until the rehabilitation project detailed in part 2 is completed. (Authorized by and implementing L. 2001, ch. 108, sec. 1; effective, T-118-9-5-01, Sept. 5, 2001; effective Aug. 2, 2002.)

118-5-5. Standards for certifying a qualified historic structure. The following standards for certifying a qualified historic structure shall be applied by the reviewing entity. (a) Structures, both income-producing and non-income-producing, for which the federal rehabilitation tax credit is not sought but for which only the state tax credit is sought shall be listed on the national register of historic places or the register of Kansas historic places, or shall be certified as located in and contributing to a district listed on the national register of historic places or the register of Kansas historic places before commencing the project.

(b) Structures that are individually listed on the national register of historic places or the register of Kansas historic places shall be deemed already certified as qualified historic structures. An applicant whose structure is already listed on the register of Kansas historic places or national register of historic places shall not be required to complete part 1 of the application.

(c) An applicant who is also applying for the federal rehabilitation tax credit program shall not be required to complete part 1 of the application process for the state rehabilitation tax credit program.

(d) Structures located within districts listed on the register of Kansas historic places or the national register of historic places, both income-producing and non-income-producing, for which the federal rehabilitation tax credit is not sought but for which only state tax credit is sought shall be certified as qualified historic structures within historic districts as specified in K.A.R. 118-5-6. Each applicant for a project involving one of these structures shall be required to complete part 1 of the application for the state rehabilitation tax credit program. (Authorized by and implementing L. 2001, ch. 108, sec. 1; effective, T-118-9-5-01, Sept. 5, 2001; effective Aug. 2, 2002.)

118-5-6. Standards for certifying a qualified historic structure within a historic district. Each structure for which certification is

sought that is located within a district listed on the register of historic Kansas places or national register of historic places shall be reviewed by the reviewing entity to determine if the structure contributes to the historic significance of the district by applying the following standards for evaluating significance within a registered historic district: (a) A structure contributing to the historic significance of a district shall be defined as one that by location, design, setting, materials, workmanship, feeling, and association adds to the district's sense of time and place, and historical development.

(b) A structure not contributing to the historic significance of a district shall be defined as either of the following:

(1) One that does not add to the district's sense of time and place, and historical development; or

(2) one in which the location, design, setting, materials, workmanship, feeling, and association have been so altered or are so deteriorated that the overall integrity of the building has been irretrievably lost.

(c) A structure that has been built within the past 50 years shall not be considered to contribute to the significance of a district unless a strong justification concerning the structure's historical or architectural merit is given or the historical attributes of the district are considered to be less than 50 years old.

(d) If a rehabilitation tax credit is sought, a certification of significance shall be made based on the appearance and condition of the property before the rehabilitation was begun.

(e) If a nonhistoric surface material obscures a facade, the applicant may be required to remove a portion of the surface material before requesting certification so that a determination of historic significance can be made. After the material has been removed, if the obscured facade has retained substantial historic integrity and the property otherwise contributes to the historic district, the structure shall be determined to be a qualified historic structure. (Authorized by and implementing L. 2001, ch. 108, sec. 1; effective, T-118-9-5-01, Sept. 5, 2001; effective Aug. 2, 2002.)

118-5-7. Requirements for certifying a qualified rehabilitation plan. (a)(1) For projects on structures, both income-producing and non-income-producing, for which the federal rehabilitation tax credit is not sought but for which only the state tax credit is sought, a qualified rehabilitation plan shall be certified before the ap-

applicant commences work on the structure. The applicant shall submit part 2 of the application for the state rehabilitation tax credit.

(2) An applicant who submits part 2 of the federal historic preservation certification application shall not be required to submit part 2 of the application for the state rehabilitation tax credit program.

(b) The following requirements shall be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

(1) The structure shall be used for its historic purpose or shall be placed in a new use that requires minimal change to the defining characteristics of the structure and its site and environment.

(2) The historic character of the structure shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize the structure shall be avoided.

(3) Each structure shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historic development, including adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(4) Most structures change over time; however, those changes that have acquired historic significance in their own right shall be retained and preserved.

(5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the historic structure shall be preserved.

(6) Deteriorated historic features shall be repaired rather than replaced. If the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, if possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(7) Chemical or physical treatments, including sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(8) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize a structure. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the structure and its environment.

(9) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic structure and its environment would be unimpaired.

(c) All elements of the rehabilitation project shall meet the secretary of the interior's nine standards for rehabilitation adopted by reference in K.A.R. 118-5-3(b); portions of the rehabilitation project not in conformance with the standards shall not be exempted. An owner undertaking a rehabilitation project shall not be held responsible for prior rehabilitation work that is not part of the current project, or for rehabilitation work that was undertaken by previous owners or third parties.

(d) Conformance to the standards shall be determined on the basis of the application documentation and other available information by evaluating the structure as it existed before the commencement of the rehabilitation project, regardless of when the structure becomes a certified historic structure.

(e) If necessary documentation is not provided, review and evaluation shall not be completed, and a denial of certification shall be issued on the basis of lack of information. Because the circumstances of each rehabilitation project are unique to the particular historic structure, certifications that have been granted to other rehabilitation projects shall not be deemed relevant and shall not be relied on by applicants as relevant to other projects.

(f) A project shall not be certified as a qualified rehabilitation until the project is completed and so designated by the reviewing entity. A determination that the completed rehabilitation of a structure not yet designated a qualified historic structure meets the secretary's standards for rehabilitation shall not constitute a certification of rehabilitation.

(g) A rehabilitation project for certification purposes shall encompass all work on the interior and exterior of the qualified historic structure or structures and the site and environment, as well as related demolition, new construction, or rehabilitation work that may affect the historic qualities, integrity of the site, landscape features, and environment of the certified historic structure or structures.

(h) For rehabilitation projects involving more than one certified historic structure in which the structures are judged by the reviewing entity to have been functionally related historically to serve an overall purpose, including a mill complex or a

residence and carriage house, rehabilitation certification shall be determined based on the merits of the overall project rather than for each structure or individual component. For rehabilitation projects in which there is no historic functional relationship between or among the structures, the certification decision shall be made for each separate certified historic structure regardless of how they are grouped for ownership or development purposes.

(i) Demolition of a structure as part of a rehabilitation project involving multiple structures may result in denial of certification of the rehabilitation plan. In projects in which there is no historic functional relationship between or among the structures being rehabilitated, related new construction that physically expands one certified historic structure undergoing rehabilitation and, therefore, directly causes the demolition of an adjacent structure shall result in denial of certification of the rehabilitation plan unless a determination has been made that the building to be demolished is not a certified historic structure. In rehabilitation projects in which the structures have been determined to be functionally related historically, demolition of a component may be approved if one of the following conditions is met:

(1) The component is outside the period of significance of the structure or district.

(2) The component is so deteriorated or altered that its integrity has been irretrievably lost.

(3) The component is a secondary one that is deemed to lack historic, engineering, or architectural significance or does not occupy a major portion of the site, and persuasive evidence is present to show that retention of the component is not technically or economically feasible.

(j) In situations involving rehabilitation of a certified historic structure in a historic district, the rehabilitation project shall be reviewed by the reviewing entity first as it affects the certified historic structure and second as it affects the district. A certification decision shall be made by the reviewing entity accordingly.

(k) Upon the reviewing entity's receipt of the complete application describing the rehabilitation project, a determination of whether the project is consistent with the standards for rehabilitation shall be made by the reviewing entity. If the project does not meet the standards for rehabilitation, the applicant shall be advised of that fact in writing and, if possible, shall be advised of necessary revisions to meet these standards.

(l) Once a proposed or ongoing project has been approved, the applicant shall promptly submit to the reviewing entity, in writing, any substantive changes to the rehabilitation plan that the applicant proposes to make. The applicant shall be notified by the reviewing entity, in writing, of whether the proposed changes to the rehabilitation plan may be certified.

(m) If a proposed, ongoing, or completed rehabilitation does not meet the standards for rehabilitation, an explanatory letter shall be sent to the applicant.

(n) Each applicant shall submit part 3 of the rehabilitation certification application for the state rehabilitation tax credit program as specified in K.A.R. 118-5-4. (Authorized by and implementing L. 2001, ch. 108, sec. 1; effective, T-118-9-5-01, Sept. 5, 2001; effective Aug. 2, 2002.)

118-5-8. Rehabilitation project phases.

(a) There shall be no phased projects under the state rehabilitation tax credit program. For purposes of the state rehabilitation tax credit program, each phase of a phased federal rehabilitation tax credit project shall be considered a separate project.

(b) A separate rehabilitation certification application shall be required for each phase of a project that is certified through the federal rehabilitation tax credit program as a phased project. The qualified rehabilitation expenditures for each phase shall equal or exceed \$5,000. (Authorized by and implementing L. 2001, ch. 108, sec. 1; effective, T-118-9-5-01, Sept. 5, 2001; effective Aug. 2, 2002.)

118-5-9. Review. (a) (1) The owner, or duly authorized representative as appropriate, may appeal any denial of certification made according to this article. Each appeal shall be submitted in writing and received by the division director of the cultural resources division of the Kansas state historical society, within 30 days of the owner's receipt of the decision that is the subject of the appeal. The appellant may request an opportunity for a meeting to discuss the appeal, but all information that the appellant wishes the division director to consider shall be submitted in writing.

(2) The record of the decision in question, any further written submissions by the appellant, and other available information shall be considered by the division director. The appellant shall be provided with a written decision as promptly as circumstances permit.

(b) In considering each appeal, alleged errors in professional judgment or alleged prejudicial procedural errors by cultural resources division officials may be taken into account by the division director. The division director's decision shall consist of either of the following:

- (1) A reversal of the appealed decision; or
- (2) an affirmation of the appealed decision.

The division director's decision may be based in whole or part on matters or factors not discussed in the decision appealed. Authorization to issue the certifications specified in this article shall rest with the division director if the division director determines that the requested certification meets the applicable statutory standards set forth in this article. (Authorized by and implementing L. 2001, ch. 108, sec. 1; effective, T-118-9-5-01, Sept. 5, 2001; effective Aug. 2, 2002.)

118-5-10. Fees. (a) The fees specified in subsection (b) shall be charged for reviewing rehabilitation certification applications.

(b) Payment shall not be made until requested by the reviewing entity. A certification decision shall not be issued on an application until the appropriate remittance is received. Each fee shall be nonrefundable.

Amount of qualified expenditures	Fee amount
\$5,000–\$25,000	\$200
\$25,001–\$50,000	\$350
\$50,001–\$100,000	\$500
\$100,001–\$500,000	\$900
\$500,001–\$1,000,000	\$1,500
over \$1,000,000	\$2,000

(c) Each sale, assignment, conveyance, and transfer of tax credits pursuant to K.S.A. 79-32,211(c) and amendments thereto shall be subject to the fees specified in this subsection, in addition to the fees specified in subsection (b). A separate, nonrefundable fee shall be charged for each new taxpayer acquiring any tax credits under this subsection.

Amount of qualified expenditures	Fee amount
\$5,000–\$50,000	\$0
over \$50,000	\$300

(d) Each rehabilitation of a separate qualified historic structure shall be considered a separate project for purposes of computing the fee. (Authorized by and implementing K.S.A. 2004 Supp. 79-32,211; effective, T-118-9-5-01, Sept. 5, 2001; effective Aug. 2, 2002; amended Nov. 4, 2005.)

Agency 120

Health Care Data Governing Board

Editor's Note:

The Health Care Data Governing Board was abolished on January 1, 2006. Powers, duties and functions were transferred to the Kansas Health Policy Authority. See L. 2005, Ch. 187.

Articles

120-1. *CLIENT ASSESSMENT, REFERRAL, AND EVALUATION (CARE) PROGRAM. (Not in active use.)*

**Article 1.—CLIENT ASSESSMENT,
REFERRAL, AND EVALUATION
(CARE) PROGRAM**

T-120-8-22-05, Aug. 22, 2005; revoked Dec. 2, 2005.)

120-1-1. (Authorized by and implementing K.S.A. 39-931a, as amended by L. 1994, Ch. 147, sec. 1; effective Dec. 27, 1994; revoked,

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

State Department of Credit Unions

Articles

- 121-1. LOW-INCOME/COMMUNITY DEVELOPMENT CREDIT UNIONS.
- 121-2. BUSINESS RECOVERY—CONTINGENCY PLANNING.
- 121-3. CREDIT UNION SERVICES ORGANIZATION (CUSO).
- 121-4. TRUST SUPERVISION.
- 121-5. CREDIT UNION DETERIORATING CONDITION.
- 121-6. REPORTING PLACE OF BUSINESS FOR CREDIT UNIONS.
- 121-7. INCIDENTAL POWERS OF CREDIT UNIONS.
- 121-8. CREDIT UNION UNSAFE AND UNSOUND PRACTICES.
- 121-9. FOREIGN CREDIT UNIONS.
- 121-10. CREDIT UNION ANNUAL AUDIT REQUIREMENTS.
- 121-11. MERGER OF CREDIT UNIONS.
- 121-12. CREDIT UNION BRANCHES.

Article 1.—LOW-INCOME/COMMUNITY DEVELOPMENT CREDIT UNIONS

121-1-1. Low-income credit union non-member shares. (a) Designation of low-income status. A credit union may apply to the administrator for designation as a low-income credit union. A credit union may be designated by the administrator as a low-income credit union if the administrator determines that it is in the public interest that the administrator designate the credit union as a low-income credit union and that:

(1) a majority of members of the credit union are low-income members; or

(2) the credit union's field of membership is limited to geographic areas in which the majority of the residents, if members of the credit union, would be low-income members.

(b) Requirements. A credit union designated by the administrator as a "low-income credit union" may accept payments on shares from non-members of the credit union only if:

(1) the credit union has adopted and follows a written plan meeting the requirements of K.A.R. 121-1-1(e);

(2) the administrator approves the plan;

(3) at or before the time the credit union first receives a payment on shares from any non-member, and annually thereafter, the credit union provides to each non-member shareholder a written share account disclosure statement meeting the requirements of K.A.R. 121-1-1(f);

(4) except as provided in K.A.R. 121-1-1(g), the maximum amount of non-member shares outstanding at any time does not exceed 20 percent of the total shares of the credit union or \$1,500,000, whichever is greater; and

(5) the administrator has not revoked the designation of the credit union as a "low-income credit union."

(c) Maturity. Shares from non-members may be issued either with a fixed maturity not to exceed five years or without a fixed maturity. For shares issued without a fixed maturity, the terms of account required by K.A.R. 121-1-1(e) shall provide the credit union with the right to require up to 60 days advance notice before such shares may be withdrawn from the credit union.

(d) Uses. Except as limited by K.A.R. 121-1-1(g), a low-income credit union may use the payments on shares from non-members for any purpose permitted by law.

(e) Plan for non-member shares. Each plan for non-member shares shall include:

(1) a detailed statement specifying the credit union's need for, amount of, and sources and intended uses of non-member shares;

(2) the terms of the account, including maturity, dividend rate and calculation disclosures, withdrawal restrictions, and balance requirements;

(3) the credit union's loan and investment policies;

(4) the credit union's latest income statement and balance sheet;

(5) a pro forma income statement and balance sheet reflecting the issuance and uses of the amount of non-member shares specified in K.A.R. 121-1-1(e)(1); and

(6) a copy of the credit union's proposed disclosure statement meeting the requirements of K.A.R. 121-1-1(f).

(f) Required disclosure. Each non-member share account disclosure statement shall include:

(1) a statement that non-member shares do not provide the owner with membership or voting rights in the credit union;

(2) a statement that non-member shares are subject to the same statutory provisions as other shares of the credit union, including:

(A) the credit union's lien and right of set-off on non-member shares and dividends thereon;

(B) the proportionate reduction in the liability of the credit union to shareholders in accordance with the provisions of K.S.A. 17-2225 and amendments thereto;

(C) the priority in liquidation or dissolution of the credit union; and

(D) limitations on the credit union's ability to pay dividends; and

(3) the terms of the non-member share account, including the maturity, dividend rate and calculation disclosure, withdrawal restrictions and account balance requirements.

(g) Authority to receive additional payment on non-member shares. A low-income credit union may accept payments on shares from non-members in excess of the limitations provided in K.A.R. 121-1-1(b)(4) only if:

(1) the amounts in excess of the limits imposed by K.A.R. 121-1-1(b)(4) are used to fund loans to members; and

(2) the maximum amount of non-member shares outstanding at any time does not exceed \$5,000,000.

(h) Removal of designation as low-income credit union.

(1) The designation of a credit union as a low-income credit union may be removed by the administrator:

(A) at the request of the credit union if the administrator determines that such action will not adversely affect the members of the credit union and that such action would be in the public interest; or

(B) if, following notice to the credit union and the opportunity for a hearing, the administrator determines that the credit union no longer meets the

criteria to be a low-income credit union and that removal of the designation is in the public interest.

(2) Immediately following the removal of the designation as a low-income credit union, the credit union shall give written notice to all members of the removal of the designation.

(i) Redemption of non-member shares. If the designation as a low-income credit union is removed in accordance with K.A.R. 121-1-1(h), the credit union shall give written notice to each non-member shareholder:

(1) that the credit union is no longer eligible to receive payments on shares from non-members;

(2) that all non-member share accounts will be closed;

(3) that all shares of non-members will be redeemed without any early withdrawal penalty; and

(4) of the date of the redemption. The redemption date shall be as follows.

(A) The redemption date for shares issued either with a fixed maturity or with a notice period prior to withdrawal, shall be no later than the maturity date of such shares, or if the non-member gives or has given the required notice of withdrawal, the date on which such shares would be redeemed in accordance with the terms of the account for such shares, or 90 days after the effective date of removal of the designation as a low-income credit union, whichever occurs first;

(B) The redemption rate for shares issued without a fixed maturity shall be no later than the date the non-member requests withdrawal of such shares in accordance with the terms of account for such shares, or 90 days after the effective date of removal of the designation as a low-income credit union, whichever occurs first. (Authorized by K.S.A. 1994 Supp. 17-2204, as amended by 1995 SB 33, Sec. 1; implementing K.S.A. 1994 Supp. 17-2231, as amended by 1995 SB 33, Sec. 2; effective Sept. 15, 1995.)

Article 2.—BUSINESS RECOVERY— CONTINGENCY PLANNING

121-2-1. Contingency plan. (a) Plan establishment. Each credit union's board of directors shall develop and maintain a current written contingency and business recovery plan, which shall be referred to as "the plan" in this regulation, meeting the requirements of subsection (b). The plan shall provide an established basis for action if the credit union is affected by a disaster, whether natural, human, or technical, that causes a disruption of operations.

(b) Plan requirements. The plan shall establish specific processes and procedures to ensure a timely resumption of services and minimize financial loss to the credit union. The plan shall meet the following requirements:

(1) Identify critical products and services, including physical, technical, and human, provided by the credit union and by third-party service providers;

(2) identify, assess, and prioritize the credit union's exposure to specific and general risks, including the failure of credit union operating systems and the interruption of service from third-party service providers;

(3) state the key assumptions on which the plan is predicated;

(4) state the credit union's response to each identified risk, including steps to minimize the potential impact of the disruption;

(5) address data reconstruction and provide for secure and remote backup storage of data files, programs, and records;

(6) state the alternative responses to each event that could cause the interruption of service, if the credit union's response is dependent upon the anticipated duration of the service interruption;

(7) provide for the relocation of the credit union, recovery of necessary data and operating systems, and resumption of key or critical products and services; and

(8) provide for alternate methods to communicate with employees, members, business partners, third-party vendors, the news media, regulators, and other outside parties.

(c) Testing. Each credit union's board of directors shall annually conduct one or more operational tests of the plan for each identified key or critical product or service. The board of directors shall document the results of the test or tests, including identified weaknesses and corrective action taken.

(d) Plan review. Each credit union's board of directors shall at least annually review and approve the plan. The review and approval shall be reflected in the minutes of the credit union. (Authorized by K.S.A. 2006 Supp. 17-2206(a) and K.S.A. 17-2260; implementing K.S.A. 2006 Supp. 17-2206(a); effective June 21, 1996; amended Dec. 28, 2007.)

Article 3.—CREDIT UNION SERVICES ORGANIZATION (CUSO)

121-3-1. Credit union services organization (CUSO). (a) Organization. The board of directors of a credit union may invest in or make

loans to a CUSO only if the CUSO is legally established under Kansas law as a corporation, a limited partnership, or a limited liability company, is operated as a legal entity separate from the credit union, and meets the following requirements:

(1) Ensuring that the CUSO's business transactions, accounts, and records are not intermingled with those of an investing or lending credit union;

(2) observing the formalities of the CUSO's separate corporate procedures;

(3) ensuring that the CUSO is adequately financed as a separate entity for obligations reasonably foreseeable in a business of its size and character;

(4) identifying the CUSO to the public as an enterprise separate from the investing or lending credit union;

(5) not operating as a department of an investing or lending credit union; and

(6) in the absence of a credit union-guaranteed loan to the CUSO, ensuring that all borrowings by the CUSO indicate that the credit union is not liable for an amount greater than the credit union's loan or investment to the CUSO.

(b) In order to document and verify the required separation, the board of directors of each investing credit union and the board of directors of each lending credit union that intends to invest in or loan to a CUSO on or after February 1, 2008 shall obtain a written legal advice or opinion regarding whether the CUSO is established in a manner that will limit potential exposure of the credit union to no more than the loss of funds invested in, or lent to, the CUSO. The written advice or opinion shall also address the following factors:

(1) Whether the legal identity of the CUSO is separate from that of the investing or lending credit union;

(2) whether the boards of directors and employees are persons in common;

(3) whether one entity has control over the other; and

(4) whether separate books and records are maintained.

(c) Investments and loans. The board of directors of a credit union may invest in or make loans to a CUSO if all of the following conditions are met:

(1) The CUSO engages only in permissible operational and financial services that are primarily provided to the investing or lending credit union, the investing or lending credit union's members, or another credit union and its members.

(2) The investing or lending credit union requires notification by the CUSO when a change in CUSO capital stock or ownership that is greater than 51 percent occurs.

(3) The CUSO does not engage in activities prohibited by subsections (e) or (f).

(4) The CUSO complies with subsections (g), (h), and (i).

(d) Permissible services. The board of directors of a credit union may invest in or make loans to a CUSO that provides one or more of the following general services:

- (1) Checking and currency services;
- (2) clerical, professional, and management services;
- (3) electronic transaction services;
- (4) financial counseling services;
- (5) loan support services;
- (6) record retention, security, and disaster recovery services;
- (7) shared credit union branch or service center operations; or
- (8) trust and trust-related services.

Each CUSO's president or chief executive officer shall ensure the CUSO's compliance with applicable federal, state, and local laws when engaging in any of the services specified in paragraphs (d)(1) through (8). Each service that is not authorized in paragraphs (d)(1) through (8) shall be required to be approved by the administrator of the Kansas department of credit unions as a financial or operational service before a CUSO may offer that service. Each request for approval shall include a full explanation of the proposed service and how that service would provide a financial or operational benefit to the investing or lending credit union, the investing or lending credit union's members, or another credit union and its members.

(e) Prohibited activities. The board of directors of a credit union shall not invest in or make loans to a CUSO that has acquired control, directly or indirectly, of another financial institution or has invested in shares, stocks, or obligations of an insurance company, trade association, liquidity facility, or similar organization. The board of directors of a credit union shall not engage in any activity, contract for, or enter into any form or manner of arrangement with a CUSO that would cause the credit union to be committed or liable for an amount in excess of its investment in or loan to the CUSO.

(f) Conflict of interest.

(1) For purposes of this subsection, the following definitions shall apply:

(A) "Official" means a director or committee member of a credit union.

(B) "Senior management employee" means a chief executive officer, assistant chief executive officer, or chief financial officer of a credit union. This term shall include the president, treasurer, manager, assistant president, vice president, assistant treasurer, and assistant manager of a credit union.

(C) "Immediate family member" means a spouse, parent, adult sibling, or other family member who lives in the same household.

(2) An official or senior management employee of a credit union that invests in or makes loans to a CUSO, and any immediate family member of the individual, shall not receive any salary, commission, investment income, or other income or compensation from a CUSO either directly or indirectly, or from any person being served through the CUSO. This paragraph shall not prohibit an official or senior management employee of a credit union from providing occasional minor assistance in the operation of a CUSO, if the individual is not compensated by the CUSO. The CUSO may reimburse the credit union for the services provided by the officials and senior management employees only if the account receivable of the credit union due from the CUSO is paid in full at least every 60 days.

All transactions with business associates or with individuals not specifically prohibited by paragraph (f)(1)(C) shall be conducted at arm's length and in the interest of the credit union.

(g) Accounting procedures. The board of directors of each credit union shall follow generally accepted accounting principles to record any investment in, loan to, or other transactions with a CUSO. The CUSO's president or chief executive officer shall agree in writing with any credit union for which the CUSO provides financial or operational services to follow generally accepted accounting principles.

(h) Financial statements. The board of directors of each credit union shall obtain the following from any CUSO with which the credit union has an outstanding loan or investment:

(1) A certified public accountant's opinion audit of the CUSO's financial statements conducted in accordance with generally accepted auditing standards on at least an annual basis; and

(2) quarterly financial statements, including a balance sheet and income statement.

(i) Access to records. The board of directors of a credit union shall not invest in or make loans to a CUSO whose chief executive officer has not agreed, in writing, with that credit union's board of directors to provide representatives of the Kansas department of credit unions with complete access to any of the books and records of the CUSO as the administrator may request. (Authorized by K.S.A. 2006 Supp. 17-2204a, as amended by L. 2007, ch. 71, sec. 1, and K.S.A. 17-2260; implementing K.S.A. 17-2204a, as amended by L. 2007, ch. 71, sec. 1; effective Oct. 11, 1996; amended Dec. 28, 2007.)

Article 4.—TRUST SUPERVISION

121-4-1. Definitions. For the purposes of this article, the following definitions shall apply:

(a) "Account" means the trust or other fiduciary relationship which has been established with the corporate credit union.

(b) "Collective investment fund" means funds held by a corporate credit union as fiduciary and invested collectively in either of the following types of funds:

(1) a common trust fund maintained by the corporate credit union exclusively for the collective investment and reinvestment of moneys contributed to the fund by the corporate credit union in its capacity as trustee; or

(2) a fund consisting solely of assets of retirement, pension, profit-sharing, stock bonus or other trusts, if all such assets are only from retirement, pension, profit-sharing, stock bonus or other trusts that provide the corporate credit union with a certification of exemption from federal income tax under the internal revenue code.

(c) "Corporate credit union" means a corporate credit union as defined in K.S.A. 17-2231 which has been authorized by the administrator, pursuant to K.A.R. 121-4-2, to exercise fiduciary powers.

(d) "Fiduciary" means a corporate credit union undertaking to act alone or jointly with others primarily for the benefit of another in all matters connected with its undertaking as trustee.

(e) "Fiduciary powers" means the powers of a trustee to act as specified in the instrument establishing the trust.

(f) "Fiduciary records" means all documents which are written, transcribed, recorded, received or otherwise come into possession of a corporate credit union and which are necessary to preserve information concerning the acts and events rele-

vant to the exercise of fiduciary powers by a corporate credit union.

(g) "Investment authority" means the responsibility conferred by action of law or a provision of an appropriate governing instrument to make, select or change investments, review investment decisions made by others, or to provide investment advice or counsel to others.

(h) "Investment discretion" means the authority of a corporate credit union, as trustee, to determine what securities, property, or other investments will be purchased or sold by or for an account.

(i) "Security" means any interest or instrument commonly known as a "security," whether in the nature of debt or equity.

(1) The term security includes the following:

(A) any stock, bond, note, debenture, or evidence of indebtedness; or

(B) any participation in or right to subscribe to or purchase any of these instruments.

(2) The term "security" does not include:

(A) any deposit or share account in a federally or state-insured bank or credit union;

(B) any loan participation;

(C) any letter of credit or other form of corporate credit union indebtedness incurred in the ordinary course of business;

(D) currency;

(E) any note, draft, bill of exchange, or banker's acceptance which has a maturity at the time of issuance of not more than nine months, exclusive of days of grace, or any renewal of such an instrument with a maturity which is likewise limited;

(F) units of a collective investment fund; or

(G) U.S. savings bonds.

(j) "Trust committee" means:

(1) the board of directors of the corporate credit union; or

(2) any committee of the board charged, by the board of directors, with the responsibility for administration and supervision of the trust activities of the corporate credit union.

The trust committee may assign authority to other committees or individuals, as necessary and appropriate to carry out the committee's responsibility. (Authorized by and implementing K.S.A. 17-2214; effective Jan. 31, 1997.)

121-4-2. Authorization. (a) Upon application to and approval by the administrator, any corporate credit union may exercise fiduciary powers with respect to any trust established by or for the

benefit of one or more shareholders of the corporate credit union.

(b) A trust may be and remain a member of a corporate credit union if:

(1) The persons eligible for membership in the corporate credit union include trusts for which the corporate credit union exercises fiduciary powers;

(2) the corporate credit union is the trustee for the trust;

(3) the instrument creating the trust irrevocably waives the right of the trust, as a member of the corporate credit union, to vote at any meeting of members and irrevocably instructs the trustee to not vote for or on behalf of the trust at any meeting of members; and

(4) the trust is admitted into membership by and complies with any membership requirements of the corporate credit union. (Authorized by and implementing K.S.A. 17-2214; effective Jan. 31, 1997.)

121-4-3. Administration of fiduciary powers. (a) The board of directors of each corporate credit union shall be responsible for the proper exercise of fiduciary powers by the corporate credit union.

(1) The board of directors of each corporate credit union shall be responsible for all matters pertinent to the proper exercise of fiduciary powers, including determining policies, investing and disposing of property held in a fiduciary capacity, and directing and reviewing the actions of all officers, employees, and committees utilized by the corporate credit union in the exercise of its fiduciary powers.

(2) In discharging this responsibility, the board of directors may assign the administration of any of the corporate credit union's fiduciary powers to any designated officer, employee, or committee. The board of directors shall make such an assignment by action of the board duly entered in its minutes.

(3) A corporate credit union shall not accept an account without the prior approval of the board, or the board's designee. Each corporate credit union shall make a written record of the acceptance of each account and of the relinquishment or closing of any account. Each corporate credit union shall, upon the acceptance of an account, promptly verify that assets received have been properly placed on accounting records and documented.

The board shall ensure that at least once during every calendar year, and within 15 months of the

last review, all assets held in fiduciary accounts where the corporate credit union has investment discretion, are reviewed to determine the advisability of retaining or disposing of such assets.

(b) The trust committee of each corporate credit union shall:

(1) consist of at least three directors;

(2) keep minutes of its actions, and if not comprised of the entire board of directors, periodically report its actions to the board of directors; and

(3) ensure that each officer and employee exercising investment discretion is bonded.

(c) Each corporate credit union exercising fiduciary powers shall designate, employ or retain legal counsel who shall be readily available to review fiduciary matters and to advise the corporate credit union.

(d) Each corporate credit union exercising fiduciary powers shall adopt written policies and procedures to ensure that each decision or recommendation to purchase or sell any security complies with the applicable federal and state securities laws. Such policies and procedures shall ensure that the corporate credit union does not use material inside information in connection with any decision or recommendation to purchase or sell any security. (Authorized by and implementing K.S.A. 17-2214; effective Jan. 31, 1997.)

121-4-4. Books and accounts. (a) Each corporate credit union exercising fiduciary powers shall retain fiduciary records which shall be kept separate and distinct from other records of the corporate credit union.

(b) Each corporate credit union shall keep an adequate record of all pending litigation to which it is a party in connection with its exercise of fiduciary powers.

(c) Each corporate credit union shall keep a record of all written complaints and related correspondence concerning any account.

(d) Each corporate credit union shall retain the records required by this article for such periods of time as shall be specified in a records retention policy adopted by the corporate credit union and approved by the administrator. (Authorized by and implementing K.S.A. 17-2214; effective Jan. 31, 1997.)

121-4-5. Audit of trust activities. (a) At least once each calendar year, each corporate credit union's supervisory committee shall cause an audit to be made of the books, records, funds

and investments held in accounts. The audit shall be made by an independent certified public accountant. The supervisory committee shall make or cause to be made such supplementary audits as it deems necessary or as may be ordered by the administrator. A report of each audit shall be provided to the board of directors.

(b) Each account subject to this article shall be exempt from the certification requirements of K.S.A. 17-2211(e). (Authorized by and implementing K.S.A. 17-2214; effective Jan. 31, 1997.)

121-4-6. Funds awaiting investment or distribution. (a) Funds in an account which are awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account.

(1) Each corporate credit union exercising fiduciary powers shall adopt and follow written policies and procedures intended to provide a rate of return on investment of funds in an account that is:

(A) prudent given the rate of return available for trust-quality, short-term investments; and

(B) consistent with the requirements of the governing instrument and local law.

(2) These policies and procedures shall take into consideration all relevant factors, including the following:

(A) the anticipated return that could be obtained while the cash remains uninvested or undistributed;

(B) the cost of investing the funds;

(C) the anticipated need for the funds; and

(D) the costs and operational complexities of implementing and maintaining the investments for the corporate credit union.

(b)(1) Any corporate credit union may invest funds it holds in trust which are awaiting investment or distribution in the share or share certificate accounts of the corporate credit union when:

(A) the trust is a member of the corporate credit union; and

(B) the instrument creating the trust does not prohibit such an investment.

(2) Except as provided in paragraph (3), the maximum amount of funds in an account that may be invested in share or share certificate accounts of the corporate credit union shall be an amount equal to the insurance coverage provided by the national credit union share insurance fund for such accounts.

(3) If the instrument creating the trust expressly authorizes investments in such share and share certificate accounts and also specifies the maximum amount or percentage of trust assets that may be invested in such share and share certificate accounts, the corporate credit union may invest an amount up to the maximum amount specified in the instrument creating the trust. (Authorized by and implementing K.S.A. 17-2214; effective Jan. 31, 1997.)

121-4-7. Investment of funds held as fiduciary. Funds held in an account shall be invested in accordance with any one or more of the following: (a) the instrument establishing the fiduciary relationship;

(b) any and all applicable Kansas statutes and regulations, including K.S.A. 17-5004, and K.A.R. 121-4-10 and amendments thereto. (Authorized by and implementing K.S.A. 17-2214; effective Jan. 31, 1997.)

121-4-8. Self-dealing. (a) Unless lawfully authorized by the instrument creating the relationship, by court order, or by the laws of the state of Kansas, a corporate credit union shall not invest funds from an account in stock or obligations of, or property acquired from any of the following:

(1) the corporate credit union, or its directors, officers, or employees, or from individuals associated with such persons;

(2) organizations in which there exists an interest which might affect the exercise of the best judgment of the corporate credit union in acquiring the property; or

(3) affiliates of the corporate credit union, or their directors, officers or employees.

(b) Except as provided in subsection (c), property held by a corporate credit union as fiduciary shall not be sold at private sale or transferred, by loan, or otherwise to any of the following:

(1) the corporate credit union, or its directors, officers, or employees, or any individual associated with such persons;

(2) organizations in which there exists an interest which might affect the exercise of the best judgment of the corporate credit union in selling or transferring the property; or

(3) affiliates of the corporate credit union or their directors, officers or employees.

(c) Subsection (b) shall not apply to the sale or transfer of property if:

(1) lawfully authorized by the instrument creating the relationship, by written direction from the person or persons holding the power to amend or terminate the trust, by court order or by the laws of the state of Kansas;

(2) the corporate credit union has been advised by its counsel, in writing, that it has incurred as fiduciary a contingent or potential liability and the corporate credit union desires to relieve itself from liability. Such a sale or transfer may be made with the approval of the board of directors. In all such cases the corporate credit union shall reimburse the account in cash, at no loss to the account, upon the consummation of sale or transfer; or

(3) the sale or transfer is in accordance with paragraph (b)(8)(B) of K.A.R. 121-4-10 and amendments thereto.

(d) Except as provided in subsection (b) of K.A.R. 121-4-6, a corporate credit union shall not invest funds in an account by the purchase of shares, share certificates, or other obligations of the corporate credit union or its affiliates, unless authorized by the instrument creating the relationship, by court order, or by the laws of the state of Kansas.

(e) Any corporate credit union may sell assets in one account to itself as fiduciary in another account if the transaction is fair to both accounts and is not prohibited by any governing instrument.

(f) Any corporate credit union may make a loan to an account from the funds belonging to another account, when the making of these loans to a designated account is authorized by the instrument creating the account from which the loans are made.

(g) Any corporate credit union may make a loan to an account and may take as security assets of the account, if the trust is a member of the corporate credit union and the transaction is fair to the account.

(h) A corporate credit union shall not permit any of its officers or employees to act as a co-fiduciary with the corporate credit union in the administration of any account. (Authorized by and implementing K.S.A. 17-2214; effective Jan. 31, 1997.)

121-4-9. Custody of investments. (a) Each corporate credit union shall keep the investments of each account separate from the assets of the corporate credit union, and shall place the investments in the joint custody or control of not less

than two of the officers or employees of the corporate credit union designated for that purpose by the board of directors.

(b) Any corporate credit union may permit the investments of an account to be deposited elsewhere. In such cases, the corporate credit union shall obtain a written agreement from all depositories, other than the federal reserve bank.

(c) Each corporate credit union shall either:

(1) keep the investments of each account separate from those of all other accounts, except as provided in K.A.R. 121-4-10 and amendments thereto; or

(2) identify each investment as the property of the relevant account. (Authorized by and implementing K.S.A. 17-2214; effective Jan. 31, 1997.)

121-4-10. Collective investment. (a) Funds held by a corporate credit union as fiduciary may be invested collectively:

(1) in a common trust fund maintained by the corporate credit union exclusively for the collective investment and reinvestment of moneys contributed to the common trust fund by the corporate credit union in its capacity as trustee; or

(2) in a fund consisting solely of assets of retirement, pension, profit-sharing, stock bonus or other trusts, if all such assets are only from retirement, pension, profit-sharing, stock bonus or other trusts that provide the corporate credit union with a certification of exemption from federal income tax under the internal revenue code.

(b) Collective investment funds, as defined in subsection (b) of K.A.R. 121-4-1, shall be administered as follows:

(1) Each collective investment fund shall be established and maintained in accordance with a written plan, referred to in this regulation as the plan, which shall be approved by a resolution of the corporate credit union board of directors and filed with the administrator.

(A) The plan shall contain appropriate provisions not inconsistent with the rules and regulations of the administrator as to the manner in which the fund is to be operated. The plan shall include provisions relating to:

(i) the investment powers and the investment policy of the corporate credit union with respect to the fund;

(ii) the allocation of income, profits and losses;

(iii) the terms and conditions governing the admission or withdrawal of participations in the fund;

(iv) the auditing of accounts of the corporate credit union with respect to the fund;

(v) the basis and method of valuing assets in the fund, setting forth criteria for each type of asset;

(vi) the minimum frequency for valuation of assets of the fund;

(vii) the period following each such valuation date during which the valuation may be made which shall not exceed 10 business days, except in unusual circumstances.

(viii) the basis upon which the fund may be terminated; and

(ix) any other matters as may be necessary to define clearly the rights of participants in the fund.

(B) Except as otherwise provided in paragraph (b)(15) of this regulation, fund assets shall be valued at market value unless that value is not readily ascertainable, in which case a fair value determined in good faith by the fund trustees may be used.

(C) The corporate credit union shall make a copy of the plan available for inspection at its principal office during all business hours, and upon request, shall furnish a copy of the plan to any person.

(2) Property held by a corporate credit union in its capacity as trustee of retirement, pension, profit-sharing, stock bonus, or other trusts may be invested in collective investment funds, subject to the provisions herein contained pertaining to such funds.

(3) All participants in the collective investment fund shall be on the basis of a proportionate interest in all of the assets. In order to determine whether the investment of funds received or held by a corporate credit union as fiduciary in a participation in a collective investment fund is proper, the corporate credit union may consider the collective investment fund as a whole and shall not be prohibited from making the investment because any particular asset is non-income producing.

(4) At least once every three months, a corporate credit union administering a collective investment fund shall determine the value of the assets in the fund as of the date set for the valuation of assets.

(A) A participation shall not be admitted to or withdrawn from the fund except:

(i) on the basis of the valuation; and

(ii) as of the valuation date.

(B) A participation shall not be admitted to or withdrawn from the fund unless a written request for or notice of intention of taking such action has been entered in the fiduciary records of the corporate credit union on or before the

valuation date and approved in the manner prescribed by the board of directors. No requests or notices may be canceled or countermanded after this valuation date.

(C) If a fund described in paragraph (a)(2) of this regulation is to be invested in assets which are not readily marketable, the corporate credit union may require a prior notice of withdrawal. The required notice shall not exceed one year.

(5)(A) At least once during each 12-month period, each corporate credit union administering a collective investment fund shall cause an adequate audit to be made of the collective investment fund by auditors responsible only to the supervisory committee of the corporate credit union. If the audit is performed by independent public accountants, the reasonable expenses of the audit may be charged to the collective investment fund.

(B) At least once during each 12-month period, each corporate credit union administering a collective investment fund shall prepare a financial report of the fund. This report shall be based upon the above audit and shall contain a list of investments in the fund showing:

(i) the cost and current market value of each investment;

(ii) a statement for the period since the previous report showing each purchase, and its cost;

(iii) a statement for the period since the previous report showing each sale, and its profit or loss, and any other investment changes;

(iv) income and disbursements; and

(v) an appropriate notation as to any investments in default.

(C) The financial report may include a description of the fund's value on previous dates, as well as its income and disbursements during previous accounting periods. Predictions or representations as to future results shall not be made. In addition, as to funds described in paragraph (a)(1) of this regulation, neither the report nor any other publication of the corporate credit union shall make reference to the performance of funds other than those administered by the corporate credit union.

(D) The corporate credit union shall furnish a copy of the financial report, or shall give notice that a copy of the report is available and will be furnished without charge upon request, to each person to whom a regular periodic accounting would ordinarily be rendered with respect to each participating account. A copy of the financial report may also be furnished to prospective beneficial owners.

The corporate credit union shall bear the cost of printing and distributing these reports. In addition, a copy of the report shall be furnished upon request to any person for a reasonable charge. The corporate credit union may publicize the availability of the report for any fund described in paragraph (a)(1) of this regulation solely in connection with the promotion of the fiduciary services of the corporate credit union.

(E) Except as provided in this regulation, the corporate credit union shall not advertise or publicize its collective investment fund or funds described in paragraph (a)(1) of this regulation.

(6) When a participation is withdrawn from a collective investment fund, distributions may be made in cash or ratably in kind, or partly in cash and partly in kind; provided that all distributions as of any one valuation date shall be made on the same basis.

(7) If, for any reason, an investment is withdrawn in kind from a collective investment fund for the benefit of all participants in the fund at the time of the withdrawal and the investment is not distributed ratably in kind, it shall be segregated and administered or realized upon for the benefit ratably of all participants in the collective investment fund at the time of withdrawal.

(8)(A) A corporate credit union shall not have any interest in a collective investment fund other than in its fiduciary capacity. Except for temporary net cash overdrafts or as otherwise specifically provided in this regulation, a corporate credit union shall not lend money to a fund, or sell property to, or purchase property from a fund. Assets of a collective investment fund shall not be invested in stock or obligations, including share and share certificate accounts, of the corporate credit union or any of its affiliates except that funds awaiting investments or distribution may be invested in such share and share certificate accounts. Subject to all other provisions of this regulation, funds held by a corporate credit union as fiduciary for its own employees may be invested in a collective investment fund. A corporate credit union shall not make any loan on the security of a participation in a fund. If the corporate credit union acquires an interest in a participation in a fund due to a creditor relationship or other factors, the participation shall be withdrawn on the first date on which such a withdrawal can be effected. An unsecured advance to an account holding a participation shall not be deemed to constitute the acquisition of an interest by a corporate credit union until the next established valuation date.

(B) Any corporate credit union administering a collective investment fund may purchase from the fund, for its own account, any defaulted fixed income investment held by the fund, if in the judgment of the board of directors, the cost of segregating the investment would be greater than the difference between its market value and its principal amount plus interest and penalty charges due. If the corporate credit union elects to purchase the investment, it shall make the purchase at the investment's market value or at the sum of its cost, accrued unpaid interest, and penalty charges, whichever is greater.

(9) Except in the case of collective investment funds described in paragraph (a)(2) of this regulation, the following requirements shall apply.

(A) Funds or other property shall not be invested in a participation in a collective investment fund if as a result of the investment the participant would have an aggregate interest in excess of 10 percent of the then market value of the fund. In applying this limitation, if two or more accounts are created by the same person or persons, and at least one-half of the income or principal of each account is payable or attributable to the use of the same person or persons, those accounts shall be considered as one.

(B) An investment for a collective investment fund shall not be made in stocks, bonds or other obligations of any one person, firm or corporation if, as a result of such investment, the total amount invested in stocks, bonds, or other obligations issued or guaranteed by that person, firm or corporation would exceed 10 percent of the then market value of the fund. This limitation shall not apply to investments in direct obligations of the United States or other obligations fully guaranteed by the United States as to principal and interest.

(C) Each corporate credit union administering a collective investment fund shall maintain, in cash and readily marketable investments, a percentage of the assets of the fund which is sufficient to provide adequately for the liquidity needs of the fund and to prevent inequities among fund participants.

(10) The reasonable expenses incurred in servicing mortgages held by a collective investment fund may be charged against the income account of the fund and paid to servicing agents, including the corporate credit union administering the fund.

(11)(A) Any corporate credit union may transfer up to five percent of the net income derived by a

collective investment fund from mortgages held by such fund during any regular accounting period to a reserve account unless the transfer would cause the amount in the reserve account to exceed one percent of the outstanding principal amount of all mortgages held in the fund. The amount of such a reserve account, if established, shall be deducted from the assets of the fund in determining the fair market value of the fund for the purposes of admissions and withdrawals.

(B) At the end of each accounting period, the corporate credit union shall charge all interest payments which are due but unpaid with respect to mortgages in the fund against the reserve account to the extent available and credited to income distributed to participants. If such interest payments are subsequently recovered by the fund, the reserve account shall be credited with the amount so recovered.

(12)(A) Each corporate credit union administering a collective investment fund shall have the exclusive management thereof.

(B) The corporate credit union may charge a fee for the management of the collective investment fund provided that the fractional part of the fee which is proportionate to the interest of each participant shall not, when added to any other compensations charged by a corporate credit union to a participant, exceed the total amount of compensation which would have been charged to the participant if no assets of the participant had been invested in a participation in the fund.

(C) The corporate credit union shall absorb the costs of establishing or reorganizing a collective investment fund.

(13) A corporate credit union administering a collective investment fund shall not issue any certificate or other document evidencing a direct or indirect interest in such fund in any form.

(14) A mistake made in good faith and in the exercise of due care in connection with the administration of a collective investment fund shall not be deemed to be a violation of this regulation if promptly after the discovery of the mistake the corporate credit union takes whatever action may be practicable in the circumstances to remedy the mistake.

(15) Short-term investment funds established under subsection (a) of this regulation may be operated on a cost basis, rather than market value basis, for purposes of admissions and withdrawals, if the plan of operation satisfies each of the following conditions.

(A) Investments shall be limited to bonds, notes or other evidences of indebtedness which:

(i) are payable on demand, including variable amount notes; or

(ii) have a maturity date not exceeding 91 days from the date of purchase. However, 20 percent of the value of the fund may be invested in longer term obligations.

(B) The difference between the cost and anticipated principal receipt on maturity shall be accrued on a straight-line basis.

(C) Assets of the fund shall be held until maturity under usual circumstances.

(D) After effecting admissions and withdrawals, not less than 20 percent of the value of the remaining assets of the fund shall be composed of cash, demand obligations and assets that will mature on the fund's next business day.

(c) In addition to the investments permitted under subsection (a) of this regulation, funds or other property received or held by a corporate credit union as fiduciary may be invested collectively, to the extent not prohibited by applicable federal or state law or regulation, as follows:

(1) Such funds or property may be invested in shares of a mutual trust investment company, organized and operated pursuant to a statute that specifically authorizes the organization of such companies exclusively for the investment of funds held by corporate fiduciaries, commonly referred to as a "bank or trust company fiduciary fund."

(2) Such funds or property may be invested in the following:

(A) a single real estate loan;

(B) a direct obligation of the United States or an obligation fully guaranteed by the United States; or

(C) in a single fixed amount security, obligation or other property, either real, personal or mixed, of a single issuer.

However, the corporate credit union shall not participate in such loans or obligations and shall not have an interest in any investment therein except in its capacity as fiduciary.

(3) Such funds or property may be invested in a common trust fund maintained by the corporate credit union for the collective investment of cash balances received or held by a corporate credit union in its capacity as trustee which the corporate credit union considers to be individually too small to be invested separately to advantage.

(A)(i) The total investment for such fund shall not exceed \$100,000.

(ii) The number of participating accounts shall be limited to 100.

(iii) No participating account may have an interest in the fund in excess of \$10,000.

(B) In applying these limitations, if two or more accounts are created by the same person or persons, and at least one-half of the income or principal of each account is presently payable or attributable to the use of the same person or persons, such accounts shall be considered as one.

(C) A corporate credit union shall not establish or operate a fund under this paragraph for the purpose of avoiding the provisions of subsection (b) of this regulation.

(4) Such funds or property may be invested, in the case of trusts created by a corporation, its subsidiaries and affiliates or by several individual settlors who are closely related, in any investment specifically authorized by court order, or authorized by the instrument creating the fiduciary relationship. An investment shall not be made under this paragraph for the purpose of avoiding the provisions of subsection (b) of this regulation.

(5) Such funds or property may be invested in such other manner as shall be approved in writing by the administrator. (Authorized by and implementing K.S.A. 17-2214; effective Jan. 31, 1997.)

121-4-11. Location of trust documents.

(a) Each corporate credit union shall maintain all records required by this article and the original governing instruments establishing a fiduciary relationship with the corporate credit union at one site, which shall be either:

(1) the main office of the corporate credit union; or

(2) another site approved by the administrator.

(b) For purposes of examination, the corporate credit union shall make available original governing instruments and other records as deemed necessary by the administrator to complete an examination. (Authorized by and implementing K.S.A. 17-2214; effective Jan. 31, 1997.)

**Article 5.—CREDIT UNION
DETERIORATING CONDITION**

121-5-1. Definitions. For the purpose of this article, the following definitions shall apply.

(a) “Appropriate state official” means the administrator of the Kansas department of credit unions.

(b) “Call report” means a statement of the financial condition of a credit union.

(c) “Credit union” means a credit union, as defined in K.S.A. 17-2231 and amendments thereto, that serves primarily natural person members.

(d) “FISCU” means federally insured state credit union.

(e) “Investment” means any security, obligation, account, or deposit. This term shall not include any loans to members.

(f)(1) “Member business loan” means any loan, line of credit, or letter of credit, including any unfunded commitments, in which the borrower uses the proceeds for commercial, corporate, other business investment property or venture, or agricultural purposes.

(2) “Member business loan” shall not include any of the following:

(A) Any loan fully secured by a lien on a one-family to four-family dwelling that is the member’s primary residence;

(B) any loan fully secured by shares in the credit union making the extension of credit or by deposits in other financial institutions;

(C) any loan or loans to a member or an associated member that, in total, are equal to less than \$50,000;

(D) any loan for which a federal or state agency or its political subdivision fully insures repayment, fully guarantees repayment, or provides an advance commitment to purchase in full; or

(E) any loan granted by a corporate credit union to another credit union. (Authorized by K.S.A. 17-2260; implementing K.S.A. 17-2206(d); effective July 7, 1997; amended, T-121-9-6-06, Sept. 6, 2006; amended Dec. 15, 2006.)

121-5-2. (Authorized by and implementing K.S.A. 1996 Supp. 17-2206(d); effective July 7, 1997; revoked, T-121-9-6-06, Sept. 6, 2006; revoked Dec. 15, 2006.)

121-5-3. Deteriorating condition. (a) A credit union shall be deemed to be in a “deteriorating condition,” as that term is used in K.S.A. 17-2206(d) and amendments thereto, if any of the following conditions is met:

(1) The credit union’s net worth category declines from well capitalized, adequately capitalized, or undercapitalized to significantly undercapitalized or to critically undercapitalized within a 12-month period.

(2) The credit union’s net worth category declines from significantly undercapitalized to critically undercapitalized within a 12-month period.

(3) The credit union's net worth category declines to critically undercapitalized in a manner other than the manner specified in paragraphs (a) (1) and (2).

(b) The following federal regulations, as in effect on November 29, 2002, are hereby adopted by reference:

(1) 12 CFR 702.2, except subsections (b), (c), (h), (i), and (j);

(2) 12 CFR 702.101;

(3) 12 CFR 702.102(a), including table 1. This subsection includes the meanings of the terms "well capitalized," "adequately capitalized," "undercapitalized," "significantly undercapitalized," and "critically undercapitalized";

(4) 12 CFR 702.103;

(5) 12 CFR 702.104, including table 2 but excluding the following text:

(A) In subsection (a), "(as defined in 12 CFR 723.1 or as approved under 12 CFR 723.20)";

(B) in subsection (b), "as defined in 12 CFR 723.1 or as approved under 12 CFR 723.20";

(C) subsection (c); and

(D) in subsection (g), "as defined in 12 CFR 723.1 or as approved under 12 CFR 723.20";

(6) 12 CFR 702.105, including table 3;

(7) 12 CFR 702.106, including table 4;

(8) 12 CFR 702.107, including table 5; and

(9) 12 CFR 702.108(a) and (c)(1). (Authorized by K.S.A. 17-2260; implementing K.S.A. 17-2206; effective, T-121-9-6-06, Sept. 6, 2006; effective Dec. 15, 2006.)

121-5-4. Meaning of insolvent. (a) For purposes of this regulation, the following definitions shall apply:

(1) "Assets" shall mean all items owned by a credit union, including cash, loans, investments, buildings, equipment, accounts receivable, and repossessed collateral.

(2) "Liabilities" shall mean all items owed by a credit union, including accounts payable, notes payable, and outstanding checks.

(b) A credit union shall be deemed to be "insolvent," as that term is used in K.S.A. 17-2206(d) and K.S.A. 17-2230(b) and amendments thereto, if the total amount of the credit union's shares exceeds the credit union's assets after accounting for liabilities, unless all of the following conditions are met:

(1) The administrator of the Kansas department of credit unions determines that the facts that caused the deficient share-asset ratio no longer exist.

(2) Further depreciation of the share-asset ratio is not likely.

(3) The return of the share-asset ratio to its normal limits within a reasonable time for the credit union is probable. (Authorized by K.S.A. 17-2260; implementing K.S.A. 2006 Supp. 17-2206 and K.S.A. 17-2230; effective Dec. 28, 2007.)

Article 6.—REPORTING PLACE OF BUSINESS FOR CREDIT UNIONS

121-6-1. Definitions. "Place of business" shall mean each location owned or leased by the credit union and each shared service center facility in which the credit union is an owner or a lessee, where employees of either the service center or credit union are located and where any of the following occurs: (a) payments on shares are received;

(b) loan or share withdrawals are disbursed;

(c) loan applications are received, approved, or denied; or

(d) administrative offices of the credit union are located. (Authorized by and implementing K.S.A. 17-2206(a); effective Nov. 14, 1997.)

121-6-2. Reporting requirement. A credit union shall annually report each place of business, as defined in K.A.R. 121-6-1, to the administrator of the Kansas department of credit unions. The report shall be submitted on forms and in the manner prescribed by the administrator. (Authorized by and implementing K.S.A. 17-2206(a); effective Nov. 14, 1997.)

Article 7.—INCIDENTAL POWERS OF CREDIT UNIONS

121-7-1. Incidental powers. An "incidental powers" activity shall mean an activity that is necessary to enable a credit union to carry on effectively the business for which the credit union is incorporated. An activity shall meet the definition of an incidental powers activity if the activity meets the following conditions: (a) Is convenient or useful in carrying out the mission or business of the credit union in a manner that is consistent with the requirements of the Kansas credit union act;

(b) is the functional equivalent or logical outgrowth of any activity that is part of the mission or business of the credit union; and

(c) involves risks similar in nature to those risks already assumed as part of the business of credit unions. (Authorized by K.S.A. 17-2260; implementing K.S.A. 17-2204(l); effective Dec. 15, 2006.)

Article 8.—CREDIT UNION UNSAFE AND UNSOUND PRACTICES

121-8-1. Unsafe or unsound practice. For the purpose of this article, “unsafe or unsound practice” shall mean any act or conduct by any credit union board member, employee, supervisory committee member, or credit committee member that meets any of the following conditions: (a) Varies materially from any act or conduct prescribed by statute, regulation, any policy adopted by the credit union board, or any bylaw of the credit union;

(b) jeopardizes or causes the loss of the fidelity bond eligibility of an employee, director, officer, supervisory committee member, or credit committee member;

(c) jeopardizes or causes the loss of the credit union’s national credit union administration share insurance; or

(d) is contrary to or inconsistent with generally accepted standards of credit union operations and either results in or creates a substantial likelihood of resulting in an abnormal or unacceptable level of risk or loss to the credit union or a shareholder of the credit union. (Authorized by K.S.A. 17-2260; implementing K.S.A. 17-2206; effective, T-121-9-6-06, Sept. 6, 2006; effective Dec. 15, 2006.)

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.)

121-10-2. Credit union audit reporting requirements. (a) The supervisory committee of each new credit union shall be required to obtain an audit of that credit union as specified in subsection (b) at least once during the first year of operation.

(b) The supervisory committee of each established credit union shall be required to obtain, at least once during each calendar year, an audit of that credit union that covers the entire period of time that has elapsed since the previous audit. The type of audit required shall be one of the following, as applicable:

(1) For a credit union with total prior year-end assets of \$10 million or less, a supervisory committee annual audit and internal control checklist, an agreed-upon procedures engagement, or a financial statement audit;

(2) for a credit union with total prior year-end assets greater than \$10 million but less than \$250 million, an agreed-upon procedures engagement or a financial statement audit; or

(3) for a credit union with total prior year-end assets of \$250 million or greater, a financial statement audit. (Authorized by and implementing K.S.A. 17-2211; effective Aug. 1, 2008.)

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 independent teller or tellers to ensure the accuracy and integrity of the vote.

(l) Upon approval of the merger plan by the membership, the secretary of the proposed continuing credit union shall submit in triplicate the completed and signed certificate of merger in compliance with K.S.A. 17-2228, and amendments

thereto, along with any necessary amendments to the continuing credit union's articles of incorporation and bylaws, to the administrator. The final approval of the merger shall be forwarded by the administrator to the national credit union administration for share insurance approval. Upon final approval by the national credit union administration of share insurance for the proposed continuing credit union, a certified copy of the certificate of merger shall be issued by the administrator, and approval of any necessary amendments to the continuing credit union's articles of incorporation and bylaws shall be granted by the administrator to the continuing credit union.

(m) Upon receipt of a certified copy of the certificate of merger issued by the administrator and the national credit union administration's approval, the records of the merging credit union and the continuing credit union shall be combined on the effective date of the merger. The board of directors of the continuing credit union shall certify the completion of the merger to the administrator within 30 days after the effective date of the merger.

(n) Upon receipt by the administrator of the completion of the merger certification, the following shall be performed by the administrator:

(1) Sending a copy of the merger certification to the national credit union administration;

(2) approving any bylaw amendments; and

(3) canceling the charter of the merging credit union.

(o) For good cause shown, any time frame or deadline specified in this regulation may be extended by the administrator. (Authorized by K.S.A. 17-2260; implementing K.S.A. 2008 Supp. 17-2228; effective May 1, 2009.)

Article 12.—CREDIT UNION BRANCHES

121-12-1. Definition. For purposes of K.S.A. 17-2221a (c) (2) and amendments thereto, "branch" shall not include any automated teller machine, remote service unit, or similar device. (Authorized by K.S.A. 17-2260 and K.S.A. 2008 Supp. 17-2221a; implementing K.S.A. 2008 Supp. 17-2221a; effective May 1, 2009.)

Agency 122

Pooled Money Investment Board

Articles

- 122-1. DEFINITIONS.
- 122-2. DEPOSITORY BANKS.
- 122-3. INVESTMENT OF STATE MONEYS.
- 122-4. MUNICIPAL INVESTMENT POOL.
- 122-5. INVESTMENT ACCOUNTS IN QUALIFIED BANKS.

Article 1.—DEFINITIONS

122-1-1. Definitions. As used in these regulations: (a) the words and phrases defined by K.S.A. 75-4201 and amendments thereto shall have the meaning ascribed to them in such statute; and

(b) “delivery versus payment” means the transfer or payment of funds simultaneous with or after the delivery of securities purchased with such funds. (Authorized by K.S.A. 1994 Supp. 75-4232; implementing K.S.A. 1994 Supp. 75-4222 and K.S.A. 75-4232; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995.)

Article 2.—DEPOSITORY BANKS

122-2-1. Qualifications for depository banks. (a) State moneys shall be deposited only in state financial institutions which have been determined to meet qualifications in this regulation for depository banks. Each depository bank shall be a state financial institution which has been determined by the board:

- (1) to have demonstrated credit-worthiness;
- (2) to have executed a security agreement with the board; and
- (3) to have executed a custodial agreement with the board.

(b) Moneys to be deposited in any state financial institution shall not be deposited until the financial institution’s board of directors has executed and adopted the security agreement and custodial agreements required under subsection (a). Alternatively, moneys which may be invested in state financial institutions may be invested with such financial institutions in the form of a repurchase agreement wherein the state takes delivery of the underlying securities. (Authorized by K.S.A. 1994 Supp. 75-4232; implementing K.S.A. 1994 Supp.

75-4205, 75-4208, K.S.A. 1994 Supp. 75-4209, as amended by 1995 SB 9, Sec. 2, K.S.A. 1994 Supp. 75-4217, and 75-4218; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995.)

122-2-2. Collateral. (a) Each state bank account shall be fully collateralized at all times based on securities, which may be accepted or rejected by the pooled money investment board, under K.S.A. 75-4201(k), and amendments thereto. Such securities shall be priced on a market value basis. The aggregate market value of the securities shall be sufficient to equal the outstanding amount of state funds deposited, plus accrued interest on the state funds, less federal deposit insurance coverage.

(b) The qualified depository institution shall ensure that deposits and accrued interest are always sufficiently collateralized. Sufficiency of collateral values shall be validated by the treasurer.

(c) Each qualified depository institution depositing securities with a custodial bank shall enter into a written custodial agreement with the custodial bank and the board for the safekeeping of the securities.

(d) Collateral based on corporate surety bonds as provided under K.S.A. 75-4201 shall be subject to the following requirements.

(1) The surety bonds shall be approved by the Kansas commissioner of insurance and shall be in a standard format approved by the treasurer.

(2) The issuer of the surety bond shall be admitted and licensed to issue surety bonds in Kansas.

(3) The treasurer shall be designated as the insured public depositor.

(4) The issuer and the qualified depository institution shall notify the treasurer by certified or registered mail no fewer than 90 days before non-renewal and no fewer than 45 days before cancellation of a surety bond.

(5) The ability of the issuer to pay claims shall be rated and shall remain rated in the highest rating category of one of the nationally recognized rating agencies, as specified by written policy of the board. Within 48 hours of discovery of a downgrade of an issuer by a rating agency or notice of financial regulatory action by any jurisdiction in which the issuer is licensed, the issuer shall notify the treasurer by certified or registered mail.

(6) The amount of collateral provided in the form of surety bonds by a qualified depository and the amount of total state deposits that may be collateralized in the form of surety bonds shall be limited as provided by written policy of the board.

(7) The issuer shall send quarterly reports to the treasurer, listing all Kansas banks that have purchased a surety bond as collateral for deposits, the insured amount covering deposits of the treasurer, and the total insured amount per qualified depository institution in the state of Kansas, noting the retainage and reinsured amounts for each qualified depository institution.

(e) The following requirements shall apply to collateral based on a letter of credit issued by a United States sponsored enterprise that under federal law may be accepted as security for public funds.

(1) The letter of credit shall be in a format approved by the treasurer.

(2) The treasurer shall be designated as the irrevocable and unconditional beneficiary of the letter of credit.

(3) The issuer and the qualified depository institution shall notify the treasurer by certified or registered mail no fewer than 45 days before cancellation or nonrenewal of a letter of credit.

(4) The securities of the issuer shall be rated, and shall remain rated, in the highest rating category of one of the nationally recognized rating agencies, as specified by written policy of the board. Within 48 hours of discovery of a downgrade of an issuer by a rating agency, the issuer shall give notice to the treasurer by certified or registered mail.

(5) The issuer shall not provide letters of credit for any qualified depository institution in an amount that exceeds 10% of the issuer's capital and surplus. (Authorized by K.S.A. 1996 Supp. 75-4232; implementing K.S.A. 75-4201, as amended by L. 1997, Ch. 180, §21 and K.S.A. 1996 Supp. 75-4218, as amended by L. 1997, Ch. 180, §27; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997; amended Jan. 16, 1998.)

Article 3.—INVESTMENT OF STATE MONEYS

122-3-1. Investment principles. (a) All state moneys which are available for investment shall be invested by the director of investments in a manner which will:

(1) be consistent with the prudent person standard established under K.S.A. 1995 Supp. 75-4209, and amendments thereto; and

(2) conform to provisions of applicable laws governing the investment of state moneys.

(b) The primary objectives of the board, in the following priority order, shall be considered by the director of investments in evaluating potential and existing investments.

(1) Safety. The foremost objective of investments shall be safety of the principal. Each investment of state moneys shall be undertaken in a manner that seeks to ensure preservation of capital.

(2) Liquidity. The second objective shall be to maintain sufficient liquidity to enable the state to meet all operating requirements which might be reasonably anticipated and meet the daily cash flow demands of the state.

(3) Return on investment. Each investment shall be designed with the objective of attaining a reasonable rate of return consistent with the above objectives.

(c) The investment portfolios shall be diversified so as to minimize exposure of state moneys to losses due to issuer defaults, market price changes, technical complications leading to temporary lack of liquidity, or other risks resulting from an over-concentration of assets in a specific maturity, a specific issuer, a specific geographical distribution, or a specific class of securities. (Authorized by and implementing K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-2. Portfolio management. Following the primary objective of preservation of capital, each investment portfolio shall be actively managed to take advantage of market opportunities. In so doing, negotiable securities may be sold prior to their maturity for the purpose of: (a) providing liquid funds as needed for cash flow purposes;

(b) enhancing portfolio returns; or

(c) restructuring maturities to increase yield, decrease risk or both. (Authorized by K.S.A. 1995

Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; implementing K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26, and K.S.A. 1995 Supp. 75-4209, as amended by L. 1996, Ch. 254, Sec. 26, and K.S.A. 1995 Supp. 12-1677a, as amended by L. 1996, Ch. 254, Sec. 4; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-3. Investment instruments; requirements. (a) Except as otherwise authorized by statutes applicable to a specific fund that is created by statute or by bond documents, investments of state moneys shall be limited to those instruments permitted under K.S.A. 1995 Supp. 75-4209, and amendments thereto.

(b) Repurchase agreements may be made in accordance with K.S.A. 1995 Supp. 75-4209(a)(2) (B) and amendments thereto. Reverse repurchase agreements may be made in accordance with K.S.A. 1995 Supp. 75-4212a, and amendments thereto.

(c) Such repurchase and reverse repurchase agreements may be made only with Kansas banks and dealers that have entered into fully executed master repurchase agreements on file with the board.

(d) Except as otherwise authorized by the board, the market value of the securities underlying any repurchase agreement shall be maintained with a market value of at least 102% of the amount of the repurchase agreement. If the market value of the securities falls below 102% of the amount of the repurchase agreement, additional securities shall be required to attain full security unless otherwise authorized by the board. (Authorized by and implementing K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-4. Maturity. (a) In scheduling the maturities of investment portfolios, projected cash flows shall be considered.

(b) Except as authorized by statute for specific investments, investment maturities of state moneys shall be limited to the lesser of:

(1) four years, pursuant to K.S.A. 1995 Supp. 75-4209(g); or

(2) the maturity date for securities obtained through repurchase agreements. (Authorized by K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26 and K.S.A. 1995 Supp.

12-1677a, as amended by L. 1996, Ch. 254, Sec. 4; implementing K.S.A. 1995 Supp. 75-4209, as amended by L. 1996, Ch. 254, Sec. 17, K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26, and K.S.A. 12-1677a, as amended by L. 1996, Ch. 254, Sec. 4; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-5. Investment transactions; requirements for brokers and dealers. (a) Investment transactions shall be conducted only with qualified institutions. Qualified institutions shall be limited to:

(1) qualified depository banks;

(2) the federal reserve bank in Kansas City, Missouri;

(3) primary government securities dealers, as defined in K.S.A. 75-4209 and amendments thereto;

(4) broker-dealers engaged in the business of selling government securities which are registered in compliance with section 15 or 15C of the securities exchange act of 1934 and K.S.A. 17-1254, and amendments thereto; or

(5) direct issuers or dealers of qualified commercial paper.

(b) Before conducting any transactions, each broker-dealer conducting investment transactions with the board shall document compliance with registration requirements by providing to the board:

(1) proof of certification by the national association of security dealers;

(2) proof of Kansas registration; and

(3) upon request of the board or its designee:

(A) a copy of the broker-dealer's most recent, audited annual financial statement; and

(B) a copy of the broker-dealer's most recent, unaudited quarterly financial statement. (Authorized by and implementing K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26 and K.S.A. 1995 Supp. 75-4209, as amended by L. 1996, Ch. 254, Sec. 17; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-6. Competitive selection of investment instruments. Each security transaction, other than directly-issued instruments, securities in syndicate or specially bid or offered securities, shall be executed through a competitive process involving solicitation of bids or offers from qual-

ified institutions as set out in K.A.R. 122-3-5. When purchasing a security, the offer which provides the highest anticipated current and future rate of return and which meets the investment objectives of the portfolio shall be accepted. When selling a security, the bid which generates the highest sales price shall be accepted. (Authorized by and implementing K.S.A. 1994 Supp. 75-4232; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995.)

122-3-7. Safekeeping and custody. All security transactions entered into by the director of investments pursuant to K.S.A. 75-4209(a)(2) and amendments thereto, including securities underlying repurchase agreements, shall be conducted on a delivery versus payment basis. Securities shall be held by the treasurer or a third-party custodian designated by the treasurer, as evidenced by safekeeping receipts held by the treasurer or a third-party custodian. (Authorized by and implementing K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-8. Conflicts of interest. (a) Except upon unanimous vote of the board members voting, no investment of any state moneys shall be made when one or more members, officers or employees of the board has personal business activity that:

(1) conflicts with proper execution of that investment; or

(2) could impair the ability of that member, officer, or employee to make an impartial decision regarding that investment.

(b) Each investment officer and investment analyst appointed by the board shall disclose to the board any material financial interest in any financial institution that conducts business within the state and any personal financial or investment position that is related to the performance of any investment of the board. Each investment officer and investment analyst shall subordinate the officer's or analyst's personal investment transactions to those of the board, particularly with regard to timing of purchases and sales. (Authorized by and implementing K.S.A. 1994 Supp. 75-4232; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995.)

122-3-9. Performance monitoring. The performance of each investment portfolio shall be continually monitored and evaluated by the

director of investments using investment strategies developed under the investment principles of K.A.R. 122-3-1. External comparative performance reviews shall be conducted as the board deems necessary. Summary reports shall be provided on a monthly basis for the board and annually for the legislature as required by statute. (Authorized by and implementing K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-10. Chief investment officer; qualifications. (a) A director of investments shall be appointed by the board. The director of investments shall be responsible for planning, directing and managing the state moneys investment programs under the direction of the board in accordance with applicable statutes, rules and regulations, and policies of the board.

(b) The director of investments shall meet qualifications established by the board with respect to:

(1) education and training in a finance-related field;

(2) experience as an investment or trust officer for a financial institution, association or corporation, or experience in a finance-related field;

(3) experience in money market and fixed-income investments; and

(4) supervisory experience. (Authorized by K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; implementing K.S.A. 1995 Supp. 75-4222, as amended by L. 1996, Ch. 254, Sec. 25, and 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

122-3-11. Commercial paper. (a) The director of investments may invest up to 50 percent of the pooled money investment portfolio in the types of commercial paper authorized by K.S.A. 1995 Supp. 75-4209(a)(2)(E), as amended by L. 1996, Ch. 254. No more than 10 percent of the pooled money investment portfolio shall be invested in commercial paper of any single business entity. The limitations of this subsection shall be applicable only at the time investments are made in commercial paper, and such limitations shall not be construed to require the sale of any commercial paper properly acquired.

(b) By written and published policies, the above limitations on investments in commercial paper may be further restricted by the board.

(c) For purposes of computing the limitation on investments in commercial paper, the pooled money investment portfolio shall be comprised solely of investments made pursuant to subsection (a), (c) and (d) of K.S.A. 1995 Supp. 75-4209, as amended by L. 1996, Ch. 254, and K.S.A. 1995 Supp. 75-4262, including interest receivable on such investments. (Authorized by and implementing K.S.A. 1995 Supp. 75-4209, as amended by L. 1996, Ch. 254, Sec. 17; effective, T-122-6-19-96, June 19, 1996; amended, T-122-10-1-96, Oct. 1, 1996; effective Jan. 24, 1997.)

Article 4.—MUNICIPAL INVESTMENT POOL

122-4-1. Municipal investment pool; earnings. (a) All participants' earnings on investments in the municipal investment pool shall be calculated using the rate factors that are determined and quoted each day. Each participant's earnings shall be credited to the participant's account no later than the last calendar day of the month.

(b) A quoted rate factor shall be specified for each investment option available to participants. The rate factor shall be determined by the director of investments, subject to directives of the board. In determining the rate factor for each such investment option, consideration shall be given to the duration of the deposits, the interest rates available from competing investments available to participants, yield factors and other factors deemed relevant by the board. The quoted rate factors shall be net of the administrative fee authorized by section 1 of Chapter 254 of the *1996 Session Laws of Kansas*. (Authorized by and implementing K.S.A. 1995 Supp. 12-1677a, as

amended by L. 1996, Ch. 254, Sec. 4; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

Article 5.—INVESTMENT ACCOUNTS IN QUALIFIED BANKS

122-5-1. Money available for investment.

(a) In order to make state moneys available for investment pursuant to subsection (a)(1) of K.S.A. 1995 Supp. 75-4209 and amendments thereto, the director of investments shall periodically, and at least annually, review and determine the liquidity needs of the state, the varying maturities of the investment accounts to be offered, and the amount of state moneys to be invested in each of the maturities offered.

(b) In conducting the review and making the determinations, consideration shall be given to the following factors:

- (1) historical state cash-flow trends;
- (2) anticipated periods of peak disbursements and revenue receipts;
- (3) maturities of existing investments;
- (4) anticipated future expenditures and receipts;
- (5) contingencies for unanticipated obligations;
- (6) unforeseeable occurrences or unascertainable effects of foreseeable occurrences; and
- (7) general economic conditions of the state.

(Authorized by K.S.A. 1995 Supp. 75-4232, as amended by L. 1996, Ch. 254, Sec. 26; implementing K.S.A. 1995 Supp. 75-4209, as amended by L. 1996, Ch. 254, Sec. 17; effective, T-122-7-27-95, July 27, 1995; effective Nov. 17, 1995; amended Jan. 24, 1997.)

Agency 123
**Department of Corrections—
Division of Juvenile Services**

Editor's Note:

Pursuant to Executive Reorganization Order (ERO) No. 42, the Kansas Juvenile Justice Authority was abolished on July 1, 2013. Jurisdiction, powers, functions and duties were transferred to the Kansas Department of Corrections—Division of Juvenile Services. See L. 2013, Ch. 143.

Articles

- 123-1. GENERAL ADMINISTRATION.
- 123-2. FACILITIES MANAGEMENT.
- 123-5. OFFENDER MANAGEMENT.
- 123-6. GOOD TIME CREDITS AND SENTENCE COMPUTATION.
- 123-12. OFFENDER CONDUCT AND PENALTIES.
- 123-13. OFFENDER DISCIPLINARY PROCEDURE.
- 123-15. OFFENDER GRIEVANCE PROCEDURE.
- 123-16. OFFENDER INJURY AND PROPERTY CLAIMS.
- 123-17. COMMUNITY JUVENILE SUPERVISION.

Article 1.—GENERAL ADMINISTRATION

123-1-101. Definitions. The definitions in this regulation shall be applicable to all regulations of the juvenile justice authority. Unless the context clearly indicates a different meaning, the following terms shall have the meanings assigned in this regulation: (a) “Agency” means the juvenile justice authority.

(b) “Commissioner” means the commissioner of juvenile justice.

(c) “Facility” means a building or complex of buildings or structures and the associated staff that are organized and operated under the control of the commissioner pursuant to K.S.A. 75-7001 et seq., and amendments thereto, to provide services to juveniles who are under the jurisdiction of the Kansas juvenile justice code.

(d) “Facility order” means a written directive promulgated by the superintendent or designee of any facility operated by the commissioner that meets the following conditions:

(1) Dictates the governance of any aspect of the facility’s operations, procedures, processes, or practices; and

(2) applies to all individuals at the facility where the written directive is promulgated.

(e) “Institution” has the meaning specified in K.S.A. 38-1602, and amendments thereto.

(f) “Internal management policies and procedures” and “IMPPs” mean the agency’s written directives and instructions that describe the following:

(1) The ways, means, methods, and processes for carrying out the function governed by the specific internal management policies and procedures; and

(2) the behavior and conduct required of the group or category of persons governed by specific internal management policies and procedures.

(g) “Juvenile correctional facility” has the meaning specified in K.S.A. 38-1602, and amendments thereto.

(h) “Superintendent” means a person appointed by the commissioner pursuant to K.S.A. 75-7025 and 76-3201, and amendments thereto, to operate a facility. This term shall include an acting superintendent when applicable.

This regulation shall be effective on and after April 8, 2005. (Authorized by K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; implementing K.S.A. 75-7001, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

Article 2.—FACILITIES MANAGEMENT

123-2-1. Term of incarceration. (a) “Term of incarceration,” as used in Sections 67 and 70 of 1997 House Substitute for SB 69, is the length of detention that a juvenile offender shall serve in a

juvenile correctional facility for offenses committed before midnight of June 30, 1999.

(b) The length of detention shall be based upon the severity level of the most serious offense for which the juvenile offender is committed to a juvenile correctional facility.

(c) A juvenile offender who has committed an offense that would constitute an off-grid crime, if committed by an adult, shall be detained in a juvenile correctional facility until the juvenile offender is 23 years of age.

(d) A juvenile offender who has committed an offense that would constitute a person felony, severity level 1, 2, or 3, if committed by an adult, shall be detained in a juvenile correctional facility for a minimum of 12 months.

(e) A juvenile offender who has committed an offense that would constitute a person felony, severity level 4, 5 or 6, or a drug felony, severity level 1 or 2, if committed by an adult, shall be detained in a juvenile correctional facility for a minimum of nine months.

(f) A juvenile who is prosecuted as an adult pursuant to K.S.A. 38-1636, as amended, and who is convicted may serve a period of detention at a juvenile correctional facility until the juvenile is 16 years old, at which time the juvenile may be transferred to the Kansas department of corrections.

(g) A juvenile offender who has committed any other offense, including any violation of a conditional release, shall be detained in a juvenile correctional facility for a minimum of two months.

(h) Any exception to the minimum term of incarceration shall be approved in writing by the commissioner of juvenile justice.

(i) This regulation shall expire at midnight on June 30, 1999. (Authorized by K.S.A. 1996 Supp. 75-7024, as amended by 1997 House Substitute for SB 69, § 99; implementing K.S.A. 1995 Supp. 38-1673, as amended by L. 1996, Ch. 229, § 88, as amended by 1997 House Substitute for SB 69, § 67 and K.S.A. 1995 Supp. 38-1675, as amended by L. 1996, Ch. 229, § 90, as amended by 1997 House Substitute for SB 69, § 70; effective, T-123-7-1-97, July 1, 1997; effective Jan. 23, 1998.)

123-2-105. Duties of superintendents.

Subject to the supervision of the commissioner or designee and the applicable laws, regulations, and internal management policies and procedures, each superintendent shall perform the following:

(a) Oversee the government and discipline of the facility and superintend all of the business concerns of the facility;

(b) give necessary directions to the facility's officers and employees and examine whether each officer and employee has satisfactorily performed the officer's or employee's duties;

(c) examine the state of the facility and the health, conduct, and safekeeping of the offenders;

(d) under the direction of the commissioner or designee, use every proper means to furnish programs to the offenders that are most beneficial to the public and suited to the offenders' abilities; and

(e) take charge of all real and personal property belonging to the state in and about the facility.

This regulation shall be effective on and after April 8, 2005. (Authorized by K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; implementing K.S.A. 75-7001, K.S.A. 2004 Supp. 75-7024, K.S.A. 76-2101, K.S.A. 76-2101b, K.S.A. 76-2201, K.S.A. 76-3203, K.S.A. 76-3204, and K.S.A. 2004 Supp. 76-3205; effective April 8, 2005.)

123-2-110. Regulations, internal management policies and procedures, and facility orders; publication and availability to offenders.

(a) Facility orders may be issued by each superintendent, subject to the provisions of law, regulations, and internal management policies and procedures, as the superintendent deems necessary for the governance of the facility and the enforcement of order and discipline in the facility.

(b) All regulations, internal management policies and procedures, and facility orders for the governance of a facility and the enforcement of discipline in the facility to which the offenders are required to adhere, except for those regulations, IMPPs, and facility orders relating to emergency or security procedures, shall be published and made available to all offenders at the facility.

(c) Each facility order issued by the superintendent shall be effective when published and shall remain in effect until rescinded or amended by the superintendent or until disapproved by the commissioner.

(d) Each facility order shall be published either by posting the order on a bulletin board designated for that purpose at the facility or by delivering a copy of the order to the person governed by the order, or both.

This regulation shall be effective on and after April 8, 2005. (Authorized by K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; implement-

ing K.S.A. 75-7001, K.S.A. 2004 Supp. 75-7024, K.S.A. 76-2101, K.S.A. 76-2101b, K.S.A. 76-2201, K.S.A. 76-3204, and K.S.A. 2004 Supp. 76-3205; effective April 8, 2005.)

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 5.—OFFENDER MANAGEMENT

123-5-101. Definitions. The following definitions shall be applicable to the regulations in this article. (a) “Alias name” means any name by which the offender in a juvenile offender case is known or identified other than the offender’s official name. The offender’s alias name could be the offender’s legal name.

(b) “Official name” means the name used to identify the offender in the particular case in which the offender is adjudicated as a juvenile offender and committed to the custody of the commissioner. The official name is not necessarily the offender’s legal name.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-5-106. Use of force or restraint on offenders. (a) All juvenile correctional officers and other agency employees authorized to perform law enforcement duties in the discharge of their duties when preventing escapes, apprehending escapees, and maintaining security, control, and discipline in the correctional situation shall adhere to the following:

(1) K.S.A. 21-3215, and amendments thereto, regarding use of force by a law enforcement officer in making an arrest; and

(2) the applicable internal management policies and procedures.

(b) The use of mechanical restraints on an offender for punitive purposes shall be prohibited. Mechanical restraints may be used only when necessary in the following instances:

(1) When transporting the offender;

(2) upon the advice of clinical personnel that the offender could cause injury to self or others, or when, based on the past history or present behavior, it appears likely that the offender will cause injury to self or others;

(3) when hospitalizing the offender outside the juvenile correctional security setting; and

(4) when part of authorized practice in routine security procedures applied to an offender, based on the offender's security classification.

(c) No restraining device shall be applied in a manner that is likely to cause significant physical pain or undue discomfort, restrict blood circulation or breathing, or otherwise injure or incapacitate the offender beyond the extent necessary to maintain security and control.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024, K.S.A. 75-7025, and K.S.A. 76-3203; effective April 8, 2005.)

123-5-111. Disposition of contraband.

(a) Contraband shall be divided into three categories as follows:

(1) Items that are contraband because mere possession is illegal in the state of Kansas or the United States;

(2) items, including money, that are designated as contraband in correctional institutions by the laws of the state of Kansas, by the regulations of the commissioner, or by facility orders; and

(3) items that are neither illegal in themselves nor defined as contraband in a correctional institution under all circumstances, but have become contraband because of either of the following:

(A) The items are misused or accumulated in excessive quantities.

(B) The items are an element of or instrument in an illegal or otherwise unauthorized or prohibited act.

(b) Upon an offender's admission to any juvenile correctional facility, the property that the offender is allowed to possess shall be restricted. Money and any property not permitted in the facility shall be disposed of according to regulations, internal management policies and procedures, or facility orders.

(c) If, at any time following admission to any juvenile correctional facility, the offender is found in possession of any item, including money, that by law, regulation, internal management policy and procedure, or facility order is deemed contraband, the item shall be confiscated, and the offender shall forfeit all rights to the item. If applicable, the item shall be held as evidence in a prosecution for a crime or a disciplinary proceeding, or both. Following the completion of any prosecution and disciplinary proceeding, the contraband shall be disposed of as follows:

(1) Items that are inherently illegal under the laws of the United States or Kansas shall be disposed of as allowed by law, and a record shall be made and retained at the facility for three years.

(2) Items that are illegal only in the institution may be destroyed or donated to any charitable, not-for-profit corporation, and a record shall be made and retained at the facility for three years. However, all money shall be placed in the offender benefit fund.

(d) If it is determined that property held by an offender should be confiscated because of its misuse or excessive accumulation but the property is otherwise not a violation, one of the following actions shall be taken:

(1) If the offender can show ownership of the property and the property has not been an element of or instrument in an illegal or otherwise unauthorized or prohibited act, the property may be sent out of the juvenile correctional facility to a person designated by the offender, at the offender's expense.

(2) If the property is an element of or instrument in an illegal or otherwise unauthorized or prohibited act, the property shall be held pending a prosecution or disciplinary hearing. Thereafter, at the superintendent's or designee's discretion, the property may be disposed of by donation to any charitable, not-for-profit corporation or de-

stroyed. A record shall be made of the manner of disposition and retained at the facility for three years.

(3) If the property does not belong to the offender, the property shall be returned to the rightful owner if the owner can be determined. If the property was stolen, it may be used as evidence in a disciplinary hearing or prosecution before being returned to its rightful owner. If the property was the subject of a loan or other violation of the property registration requirements or if the rightful owner of the property cannot be determined, then, at the superintendent's or designee's discretion, the property may be disposed of by donation to any charitable, not-for-profit corporation or destroyed, and a record shall be made of the manner of disposition and retained at the facility for three years. However, money shall be placed in the offender benefit fund.

(e) The offender shall be given an opportunity to present any mitigating or extenuating circumstances that would excuse the possession of the contraband. The final decision shall be made by the superintendent or designee.

(f) If a finding is made that the item is not contraband, the item shall be returned to the offender.

This regulation shall be effective on and after April 8, 2005. (Authorized by K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; implementing K.S.A. 75-7001, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-5-112. Clinical services; offender treatment. (a) Medical services for offenders, both on an outpatient and on an inpatient basis, shall be arranged for by the superintendent or designee in cooperation with the superintendent's medical and correctional staff. Plans and arrangements shall be made by the superintendent or designee for an offender to be taken, when necessary, to a medical facility outside the facility. These plans and arrangements shall meet the requirements of and shall be consistent with the applicable internal management policies and procedures.

(b) Procedures for offenders to report a personal injury or medical problem shall be established and governed by facility orders. Each offender shall be informed regarding these procedures.

(c) Adequate and necessary basic medical care shall be made available to each offender. A system for routine offender medical care during normal working hours and for emergency medical care during evenings, weekends, and holidays shall be

established by the superintendent, by facility order. This system shall meet the requirements of and shall be consistent with the applicable internal management policies and procedures.

(d) The medical personnel shall be certified, licensed, or registered according to applicable Kansas law.

(e) The medical personnel shall advise the superintendent or designee on the dietary requirements for offenders and shall consult with the food service staff to meet any necessary dietary requirements. A diet from which reasonable selection can be made and that is sufficient for an offender's dietary requirements may be used in lieu of special menus. Other dietary needs, if verified by medical personnel as being necessary and basic for adequate health care, shall be met.

This regulation shall be effective on and after April 8, 2005. (Authorized by K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; implementing K.S.A. 75-7001, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-5-505. Offender visitation. (a) Facility orders shall be promulgated to govern offender communication with family, friends, relatives, and others through visits to the facility. Further elaboration of this regulation through the internal management policies and procedures shall be made by the commissioner or designee, particularly with respect to establishing a system of identifying a primary visitor for each offender. The following procedures shall be observed by the staff in the administration of visits.

(1) A suitable area and reasonable space within the facility shall be provided for offender visitation. All visits shall be held in the area provided, except when the superintendent or designee grants authority for a visit to be conducted elsewhere. For reasons of security and order in the facility, a visit may be allowed by the superintendent or designee with the stipulation that physical contact between the offender and visitor shall not be permitted. All visits, except those provided for in subsection (b), shall be subject to visual and sound monitoring of actions and conversations during the visit.

(2) Any offender may make a list of not more than 20 friends or relatives for the purpose of visiting the offender in the facility. Each proposed visitor shall be informed of the following requirements:

(A) No person under the age of 18, who shall be referred to as a "minor child," shall be allowed to visit, unless the minor child is a member of the

offender's immediate family. For the purpose of this subsection, "immediate family" shall mean siblings, stepsiblings, children, stepchildren, and spouse.

(B) No minor child who is a member of the offender's immediate family, except the spouse, shall be allowed to visit unless the minor child is accompanied by a parent, legal guardian, or an adult having a power of attorney from the minor child's parent or legal guardian vesting the person accompanying the minor child with authority to transport and supervise the minor child on the premises of the facility for the purpose of visiting the offender.

(3)(A) Notwithstanding any visiting list restrictions, an offender's attorney or a clergy member shall be permitted to visit the offender at reasonable times, unless a clear abuse of this privilege has occurred or unless there is reason to believe that such a visit could prove dangerous or harmful to the security and order of the facility or to the rehabilitation of any offender.

(B) If an individual requests to visit an offender but is not listed on the offender's visitor list or if an individual is listed but has not yet been approved for visitation, the individual shall be interviewed and identified by authorized personnel. If the requested visit conforms to all facility and agency requirements, a one-time visit may be approved pending further investigation and approval of subsequent visits.

(C) No person who has been convicted of any felony or a narcotic offense shall be permitted to visit any offender, unless prior, written approval is given by the superintendent or designee.

(D) Each offender's refusal to see a particular visitor shall be documented in the offender's facility record.

(4) Each visitor in the facility shall meet the following requirements:

(A) Wear appropriate attire as described and published by the superintendent;

(B) not exchange any written material, article, or merchandise of any sort with the offender, unless doing so is in accordance with regulations, internal management policies and procedures, and facility orders;

(C) be on the approved visitor list of only one offender in the same facility, unless that visitor meets one of the following requirements:

(i) Is a member of the immediate family, as defined in paragraph (a)(2) of this regulation, of more than one offender in the facility; or

(ii) is an approved mentor, pursuant to a mentoring program approved by the commissioner or designee, to the offenders on whose list the visitor appears;

(D) sign the facility's register before and after each visitation;

(E) be subject to search, photographing, and fingerprinting;

(F) have visitation restricted or terminated if the facility's security needs so warrant; and

(G) not distribute anything inside the facility without prior, written permission from the superintendent or designee.

(5) No person who formerly was a juvenile justice authority employee, who formerly worked at a facility as an employee of an entity under contract to provide services to the facility, or who formerly was a volunteer at a facility shall be permitted to visit an offender except under either of the following conditions:

(A) At least one year has passed since the person's employment or volunteer status was terminated, unless the individual is related by blood or marriage to the offender. If the individual has a blood or marital relationship with the offender, the former employee, former contract employee, or former volunteer may nonetheless be subject to the minimum two-year waiting period under the requirements specified in paragraph (a)(5)(B). Approval of visits after one year shall be at the discretion of the superintendent upon written request of the offender or former employee, former contract employee, or former volunteer. If the superintendent disapproves the visits, the offender and the former-employee, former contract employee, or former volunteer shall be notified by the superintendent of the specific reasons for the denial.

(B) If barred from a facility because of undue familiarity with an offender or for trafficking in contraband, whether or not convicted of any criminal offense in connection with the instance of undue familiarity or trafficking, the person shall not be permitted to have visits with any offender for a minimum of two years after the effective date of the order barring the person from any facility. The approval of visits after two years shall be given at the discretion of the superintendent and with the approval of the deputy commissioner of operations, upon written request of the offender or the former employee, former contract employee, or former volunteer.

(6) Any individual who is currently a juvenile justice authority employee, contract employee, or

volunteer and who is related by blood or marriage to an offender may be permitted to visit the offender, at the discretion of the commissioner or designee and with the recommendation of the superintendent of the facility where the offender is assigned.

(7) Designated personnel shall be present during all visitations and shall supervise visits to the extent that is appropriate to protect the nature and privacy of the relationship between the offender and visitor and to maintain security and control.

(8) Any visitor's visiting privileges may be suspended if the visitor violates any regulation, internal management policy and procedure, or facility order pertaining to visitation. An offender's visiting privileges may be suspended if the offender is convicted of a disciplinary violation, whether or not the offender's conviction relates to the violation of a regulation, internal management policy and procedure, or facility order pertaining to visitation.

(A) The length of any suspension of visiting privileges shall be determined by the superintendent or designee, subject to the limitations specified in paragraph (a)(8)(B).

(B) The initial length of a suspension of visiting privileges imposed for violation of a facility order shall not exceed one year. At its termination, the suspension shall be subject to review by the superintendent or designee and may be extended for successive periods of six months each. Each extension of a suspension shall be reviewed by the superintendent or designee at its termination.

(9) Any visitor's visiting privileges may be permanently suspended, and the visitor may be barred from entering on the grounds of any facility if all of the following conditions are met:

(A) Some credible evidence demonstrates that the visitor has committed or attempted to commit, conspired regarding, or solicited any of the following types of misconduct:

(i) Facilitating an escape;

(ii) assaulting or battering a juvenile justice authority employee, contract employee, or volunteer;

(iii) communicating a threat proscribed by K.S.A. 21-3419, and amendments thereto, to a juvenile justice authority employee, contract employee, or volunteer;

(iv) engaging in sexual intercourse, sodomy, or lewd fondling and touching with an offender while on the grounds of a correctional facility, whether or not the sexual contact at issue was consensual; or

(v) violating K.S.A. 21-3826, and amendments thereto.

(B) The permanent suspension of visiting privileges and banning of the person from entering the grounds are recommended by the superintendent of the affected facility.

(C) The permanent suspension of visiting privileges and banning of the person from entering the grounds are approved by the deputy commissioner of operations.

(10) Upon a determination of reasonable suspicion, any person, including a visitor, shall be subject to search before entering and while remaining on the grounds of a correctional facility. A person's visiting privileges shall be suspended for a period of one year and restricted to noncontact visiting for an additional six months if the person refuses to be searched before or after gaining access to facility grounds for the purpose of visiting an offender.

(b) A place shall be provided that permits confidential conversation for private consultation by attorneys, clergy members, and other persons having a statutory right of privileged communication, except a spouse, who shall be treated as any other visitor. Only those measures necessary to preserve security shall be permitted to interfere with the consultation. Sound monitoring shall not be permitted, and visual monitoring shall be permitted only when necessary to maintain security.

(c) The requirements of this regulation shall apply only to the visitation provided for in the "offender privileges and incentives" IMPP or the facility's behavior management system. All visits to offenders authorized by a program otherwise implemented by regulation or internal management policy and procedure shall be governed by the provisions established for that program.

This regulation shall be effective on and after April 8, 2005. (Authorized by K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; implementing K.S.A. 75-7001, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

Article 6.—GOOD TIME CREDITS AND SENTENCE COMPUTATION

123-6-101. Definitions. For purposes of sentence computation, terms used in this article dealing with good time credits shall be defined as follows: (a) "Allocation of good time credits" means the breakdown of the total number of established good time credits into groups of whole credits that are available to the offender in separate time periods.

(b) “Application of good time credits” means the entry of credits or forfeitures into the official record of the offender and the consequent adjustment of the conditional release date.

(c) “Award of good time credits” means the act by the program team and the superintendent or designee of granting all or part of the allocation of credits available for the time period under review, if the offender has acted in a way that merits a reduction of the term of actual confinement by those credits.

(d) “Establishment of good time credits” means the creation of the pool of credits that decreases part of the term of actual confinement for good work and behavior over a period of time. Good time credits shall not forgive or eliminate the sentence but shall function only to allow the offender to earn the privilege of being released from confinement earlier than the full matrix sentence, subject to the conditions specified and imposed pursuant to applicable law.

(e) “Forfeiture of good time credits” means the removal of the credits and consequent reinstatement of a term of actual confinement by a disciplinary hearing officer pursuant to articles 12 and 13 of these regulations.

(f) “Withholding of good time credits” means the act by the program team and the superintendent or designee of not awarding all or part of the allocation of credits available for the time period under review, if the offender has not acted in a way that merits a reduction of the term of actual confinement by those credits. (Authorized by K.S.A. 38-16,130 and K.S.A. 2005 Supp. 75-7024; implementing K.S.A. 38-16,130; effective Dec. 1, 2006.)

123-6-102. Application of good time credits. (a) For the purposes of awarding and applying good time credits, all calculations shall be based upon a year, which shall be considered a 360-day period with each month consisting of 30 days.

(b) Good time credits may be awarded only for time served on a sentence on and after the sentence begins date. Good time credits shall not be awarded or withheld if a sentence is not being served due to an escape.

(c) For crimes committed before July 1, 1999, an offender shall not earn good time credits. (Authorized by K.S.A. 38-16,130 and K.S.A. 2005 Supp. 75-7024; implementing K.S.A. 38-16,130; effective Dec. 1, 2006.)

123-6-103. Awarding and withholding good time credits for confined offenders. (a) At each offender’s initial program plan meeting, 100% of the good time credits available from the sentence begins date to the date of the initial good time award shall be awarded, unless there is written documentation of misbehavior and maladjustment before the date of the initial award, which may result in withholding up to 100% of the good time credits available for that period.

(b) Following the initial award, good time credits may be awarded at each program review from credits available since the previous program review. A program review shall occur every week.

(c) The following factors shall be considered in determining whether or not an offender is awarded good time credits:

(1) The offender’s participation and performance in an education program;

(2) the offender’s performance in work participation;

(3) the offender’s participation and performance in a treatment program;

(4) the offender’s participation and performance in a vocational program;

(5) the offender’s disciplinary record; and

(6) any other factors related to the offender’s general adjustment, performance, behavior, attitude, and overall demonstration of the offender’s willingness to examine and confront the past behavior patterns that resulted in the commission of the offender’s offense.

(d) If an offender refuses to work constructively or participate in assigned programs, up to 100% of the good time credits available for the program review period may be withheld, unless the facility’s health authority determines that the offender is physically or mentally incapable of working or participating in a particular program or detail.

(e) If an offender fails to cooperate in the development of a release plan, the good time credits available for award during the 60-day period immediately before the offender’s projected or scheduled release date may be withheld.

(f) The award of good time credits shall be withheld on the basis of an offender’s disciplinary record in the following manner:

(1) If a facility’s disciplinary hearing officer finds the offender guilty of a class I disciplinary offense, up to seven good time credits available for that program review period may be withheld.

(2) If a facility’s disciplinary hearing officer finds the offender guilty of a class II disciplinary

offense, up to three good time credits available for the program review period may be withheld. For purposes of this paragraph, a summary disciplinary judgment pursuant to K.A.R. 123-13-201b shall not be considered a guilty finding.

(3) If a facility's disciplinary hearing officer finds the offender guilty of a class III disciplinary offense, one good time credit available for that program review period may be withheld. For purposes of this paragraph, a summary disciplinary judgment pursuant to K.A.R. 123-13-201b shall not be considered a guilty finding.

(4) If a facility's disciplinary hearing officer finds the offender guilty of multiple disciplinary violations within a single disciplinary report, only the most serious violation shall be used in determining the number of good time credits to be withheld.

(g) The number of good time credits withheld during each program review period shall be cumulative but shall not exceed 100% of the number of good time credits available for that program review period.

(h) Good time credits forfeited as a result of a penalty imposed by a facility's disciplinary hearing officer and upheld on appeal shall not be restored to an offender.

(i) If the entire allocation of good time credits is not awarded at a program review, no part of that allocation shall be awarded at a later date.

(j) If a disciplinary offense is appealed pursuant to article 13 of these regulations and reversed, the period in which the offense occurred shall be reviewed again without reference to the reversed disciplinary offense. (Authorized by K.S.A. 38-16,130 and K.S.A. 2005 Supp. 75-7024; implementing K.S.A. 38-16,130; effective Dec. 1, 2006.)

123-6-104. Time lost on escape. (a)(1) Time lost on escape shall be calculated by subtracting the date of escape from the date of apprehension on the Kansas charge, whether the offender is in or out of the state. The result of this computation shall be added to the minimum date, maximum date, or conditional release date, as applicable.

(2) If the time of apprehension in the other state is not able to be determined, the date of delivery into Kansas custody shall be used. A good faith effort shall be made to determine the time of apprehension.

(b) If the time during which an offender is held on a Kansas warrant in another jurisdiction includes time served for a charge or conviction in the other jurisdiction, the time of delivery into

Kansas custody shall be used as the point at which the time lost on escape stops. (Authorized by K.S.A. 2005 Supp. 75-7024; implementing K.S.A. 38-16,130; effective Dec. 1, 2006.)

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.)

123-6-106. Sentences to the age of 22½.

(a) For each offender sentenced to confinement until reaching the age of 22½, the offender's sentence shall be calculated as a number of months by determining the number of months on and after the sentencing date through the date on which the offender reaches the age of 22½.

(b) If the calculation to determine the number of months contained in a sentence to the age of 22½ results in a partial month, the Kansas juvenile justice authority's "adjustment chart for sentences to the age of 22½," dated August 3, 2006, and hereby adopted by reference, shall establish the necessary adjustment to the minimum number of days to serve and the number of good time days available.

(c) Once the sentence to the age of 22½ has been calculated and expressed as a number of months, the sentence begins date and all other sentence computations shall be calculated in accordance with article 6 of these regulations. (Authorized by K.S.A. 38-16,130 and K.S.A. 2005 Supp. 75-7024; implementing K.S.A. 38-16,130; effective Dec. 1, 2006.)

**Article 12.—OFFENDER CONDUCT
AND PENALTIES**

123-12-101. Offender clothing. (a) Each offender shall turn in all personal clothing upon admission to a facility. Each offender shall wear only the clothing furnished by the state. However, an exception due to an offender's medical condition may be authorized by the superintendent or designee if the necessity for an exception is attested to or validated by the facility's medical staff or another medical authority approved by the commissioner. All clothing authorized as an exception shall conform in design, construction, and appearance to that clothing provided by the state to the extent that is reasonably practical.

(b) Except for authorized exceptions, an offender shall not wear or have possession of any clothing other than the required and issued items.

(c) Each offender shall follow the facility's orders regarding the clothing care and handling procedures.

(d) No offender's clothing shall be given special treatment in the laundry, clothing distribution room, or at any other point in the process of issuing, turning in, and exchanging clothing. Each exchange of clothing shall be made according to the facility's established schedules and procedures. Each offender shall keep that offender's clothing as neat and clean as the conditions permit.

(e) Each violation of this regulation shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-102. Personal cleanliness. (a) Each offender shall shower or bathe at least three times each week and shall brush the offender's teeth at least once each day.

(b) Each violation of this regulation shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-103. Tattoos, body markings, and body piercing. (a) No offender shall place, alter, or remove any tattoo or other body marking on the offender's own body or on the body of another offender. The removal or alteration of any tattoo or body marking shall be performed only by a medically qualified official after written approval has been given by the superintendent.

(b) No offender shall pierce the offender's own body or any body part or that of any other offender.

(c) Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-104. Care of living quarters. (a) Each offender shall keep the offender's living quarters in a neat, clean, and sanitary condition. Clothing shall be neatly hung or stored in designated places. Beds shall be made at all times when not in use. Linens shall be exchanged in accordance with the facility's established procedures. Wash basins and toilet bowls shall be kept clean at all times.

(b) Except as permitted by an internal management policy and procedure or facility order, the following requirements shall apply:

(1) No offender shall alter, paint, or otherwise modify the offender's assigned living quarters.

(2) No offender shall alter, paint, or otherwise modify the furniture and equipment located in the offender's living quarters or use the furniture and equipment for other than their intended purpose.

(c) Each violation of this regulation shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-105. Unsafe or unsanitary practices. (a) No offender shall throw trash, rubbish, or debris of any kind upon the floors, sidewalks, or grounds of any facility. All trash, rubbish, and debris of any kind shall be placed in the containers provided for that purpose.

(b) No offender shall spit or otherwise deposit any other bodily fluids or bodily waste upon the floors, walls, and ceilings of any facility building or upon sidewalks and grounds at a facility. No offender shall collect, smear, or throw bodily fluids or wastes.

(c) Each violation of the requirements specified in subsection (a) of this regulation shall be a class III offense. Alternatively, any violation of subsection (a) of this regulation may be handled according to the summary disposition procedure specified in K.A.R. 123-13-201b.

(d) Each violation of the requirements specified in subsection (b) of this regulation shall be a class II offense. However, if the bodily fluids or wastes are smeared on or thrown at any person, the violation shall be a class I offense. It shall not be a defense that the effort to smear or throw the bodily fluids or wastes on or at another person was unsuccessful.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-106. Hair standards and appearance. (a)(1) Each offender shall keep the offender's hair neat and clean and shall follow reasonable health and safety standards. Except as specified in paragraph (a)(2), each haircut, which shall include the length of sideburns, shall be in conformance with the applicable facility orders. No offender shall have a beard, moustache, or other form or style of facial hair.

(2) Upon a showing of medical necessity certified by a physician or dentist and with the written approval of the superintendent or designee, the limitations regarding haircuts or facial hair, or both, may be exempted to the limited extent necessitated by the medical condition. The necessity for continuing the exemption shall be reviewed at least every two weeks, except that a condition that has been certified by a physician as being congenital and not likely to change in the foreseeable future shall be reviewed every six months.

(b) Each offender shall wear a hair net when involved in the preparation or serving of food.

(c) Each violation of this regulation shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-107. Use of safety devices. (a) Each offender shall use the safety devices provided, in accordance with the applicable facility orders.

(b) Each violation of this regulation shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-201. Registration and use of personal property. (a) Each offender shall ensure that each item of personal property in the offender's possession is properly registered as required by the applicable internal management policy and procedure and facility order. Upon the demand of any staff member, each offender shall without delay produce any personal property registered in the offender's name or issued to the offender, unless the property being demanded has previously been reported lost, using the proper procedure.

(b) No offender shall possess any item of personal property unless the item is properly registered.

(c) Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-202. Electronic personal entertainment devices. (a) No offender shall possess, play, or use any electronic personal entertainment

device except as permitted by internal management policies and procedures and facility orders.

(b) Any offender may possess and either play or use a personal radio, a television, or electronic sound equipment only in accordance with applicable facility orders. The size, type, and capacity of the device shall be limited by internal management policies and procedures.

(c) Each violation of this regulation shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-203. Theft. (a) Theft shall include any of the following acts done with the intent to deprive the owner permanently of the possession, use, or benefit of the owner's property or services:

(1) Obtaining or exerting unauthorized control over property or services;

(2) obtaining control over property or services by deception;

(3) obtaining control over property or services by threat; or

(4) obtaining control over stolen property or services and knowing the property or services to have been stolen by another.

(b) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-204. Taking without permission.

(a) No offender, regardless of the offender's intent, shall take any article or property of any kind from any other person or any place without the permission of a person who is authorized to give such permission. No offender shall obtain articles or property of any kind from any other person or any place by fraud or dishonesty.

(b) Each violation of this regulation shall be a class II offense. Alternatively, any violation of this regulation may be handled according to the summary disposition procedure specified in K.A.R. 123-13-201b.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-205. Unauthorized dealing and trading. (a) No offender shall trade, borrow, loan, give, receive, sell, or buy goods, services, or any item with economic or other intrinsic value with, to, or from another person without the written permission of the superintendent or designee.

(b) Each violation of this regulation shall be a class II offense. Alternatively, any violation of this regulation may be handled according to the summary disposition procedure specified in K.A.R. 123-13-201b.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-206. Debt adjustment and debt collection prohibited. (a) Each of the following acts between and among offenders shall be prohibited:

(1) Debt adjustment; and

(2) debt collection.

(b) Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-207. Gambling and bookmaking.

(a) No offender shall make any bet, operate or bank any gambling pool or game, accept or place any bet of another individual, or engage in any form of gambling.

(b) No offender shall possess, transfer, sell, distribute, or obtain dice or any other form or type of gambling paraphernalia.

(c) No offender shall receive, possess, distribute, sell, or transfer lottery tickets.

(d) Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-208. Misuse of state property. (a) No offender shall destroy, damage, deface, alter, misuse, or fail to return when due any article of state property, including clothing and shoes.

(b) Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after

April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-209. Entering into contracts; incurring financial obligations. (a) No offender shall enter into any contract or incur any financial obligation, including placing orders by mail, without the prior, written approval of the superintendent or designee.

(b) Each violation of this regulation shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-210. Accounts. (a) No offender shall establish, operate, negotiate, or otherwise hold or use any checking or savings account other than the offender's trust fund while confined in a juvenile correctional facility without the prior, written approval of the superintendent.

(b) Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-301. Fighting; violence. (a) Each of the following acts shall be prohibited, unless the act is done in self-defense:

- (1) Fighting;
- (2) any act other than fighting that constitutes violence; and
- (3) any act that is likely to lead to violence.

(b) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-302. Noise. (a) No offender shall utter or otherwise make any inappropriate booning, whistling, shouting, hissing, or catcalls, or any other loud and disturbing noises.

(b) Each violation of this regulation shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-303. Lying. (a) No offender shall lie, misrepresent the facts, mislead, or otherwise give false or misleading information to an officer, employee, or any other person who is assigned to supervise the offender or who has a right to obtain information from the offender.

(b) No offender shall make any false or misleading allegations against any agency employee, other offender, or any other person.

(c) Each violation of this regulation shall be a class II offense. Alternatively, any violation of this regulation may be handled according to the summary disposition procedure specified in K.A.R. 123-13-201b.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-304. Disobeying orders. (a) Each offender shall promptly and respectfully obey any order, directive, or instruction given to the offender by any employee of the agency or by an employee of any other agency or entity in charge of the offender. In case of conflicting orders, the last order given shall be obeyed.

(b) If an order, directive, or instruction is alleged to have been disobeyed, the specific circumstances surrounding the alleged disobedience shall be included in the following:

- (1) The disciplinary report in which the charge is brought or made;
- (2) the investigative report; and
- (3) if used in lieu of testimony, the written statement of the officer who gave the order, directive, or instruction.

(c) Each violation of subsection (a) shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-305. Insubordination or disrespect to employees and volunteers. (a) Each offender shall be attentive to and respectful towards all employees, including each contractor's employees, and toward all volunteers. Each direct or indirect display of disrespect or argumentation shall be considered insubordination. A brief, initial exchange or discussion between an offender and the other person to clarify an order or other instruction shall be permitted if the exchange or

discussion is not conducted in an argumentative or disruptive manner.

(b) Each violation of this regulation shall be a class II offense. Alternatively, any violation of this regulation may be handled according to the summary disposition procedure specified in K.A.R. 123-13-201b.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-306. Threatening or intimidating any person. (a) No offender shall directly or indirectly threaten or intimidate any other person, whether the threat or intimidation is immediate or conditional.

(b) A civilized statement by the offender that the offender may properly use the legal process to enforce rights or redress wrongs, including by the use of the offenders' grievance procedure, shall not be considered a violation of this regulation.

(c) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-307. Avoiding an officer, supervisor, or other employee. (a) No offender shall run from, deliberately evade, or otherwise purposefully avoid any officer, supervisor, or other employee when required, ordered, or requested to be present to talk with, be accounted for, be searched, or be questioned by the officer, supervisor, or other employee.

(b) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-308. Improper use of food. (a) No offender shall take or accept more food or beverage than the offender will consume. No offender shall waste or deliberately destroy food or beverage. No offender shall carry or otherwise remove any food or beverage from the dining area or kitchen except as allowed by facility orders.

(b) Each violation of this regulation shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-309. Kitchen utensils and shop tools. (a) No offender shall remove or have possession of any eating or cooking utensil or shop tool without proper authorization.

(b)(1) Except as specified in paragraph (2) of this subsection, each violation of this regulation shall be a class II offense. Alternatively, any violation of this regulation as a class II offense may be handled according to the summary disposition procedure specified in K.A.R. 123-13-201b.

(2) The offender's unauthorized possession or removal of any kitchen utensil or shop tool that is deemed dangerous contraband shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-310. Misconduct in the dining room. (a) Each offender shall enter and leave the dining room in accordance with the established procedure at each institution and shall act in an orderly manner while in the dining room.

(b) Each violation of this regulation shall be a class II offense. Alternatively, any violation of this regulation may be handled according to the summary disposition procedure specified in K.A.R. 123-13-201b.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-311. Drunkenness, intoxication, or altered consciousness. (a) No offender shall be drunk, intoxicated, or in a chemically induced state of altered consciousness at any time. An exception to this prohibition shall be any instance of an altered state of consciousness induced by prescribed medications taken in accordance with instructions from and while under the care of qualified medical personnel.

(b) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-312. Stimulants, sedatives, drugs, or narcotics; misusing or hoarding authorized or prescribed medication. (a) No offender shall ingest, inhale, inject, or introduce by any other means any kind of substance into the offender's body or the body of another offender that is capable of producing intoxication, hallucination, stimulation, depression, dizziness, or any other alteration of the offender's state of consciousness or feeling, except for the following:

(1) Approved foods and beverages. Alcohol in any form shall not be deemed an approved food or beverage unless the alcohol is a medicinal ingredient in an authorized or prescribed medication; and

(2) any legal drugs, including medication properly and legally prescribed or authorized for the offender by an authorized licensed physician.

(b) The misuse or hoarding of any authorized or prescribed medication shall be prohibited and shall be defined as follows:

(1) "Misuse" shall mean any use other than that for which the medication was specifically authorized or prescribed.

(2) "Hoarding" shall mean having possession or control of or holding any quantity of authorized or prescribed medication greater than the amount or dosage that has been issued to the offender by medical staff, or greater than the amount that should be remaining if the offender has taken the medication in accordance with the prescription and instructions from medical staff. Approved over-the-counter medications shall be purchased or possessed only in reasonably consumable quantities.

(c) No offender, while in possession or control of any medication, shall leave the medical unit or the area where the medication is issued, unless the removal of the medication from the unit or area has been authorized by medical staff.

(d) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-313. Sexually explicit materials.

(a) No offender shall have in possession or under control any sexually explicit materials, including drawings, paintings, writing, pictures, items, and devices.

(b) Material shall be considered sexually explicit if the purpose of the material is sexual arousal or

gratification and the material meets either of the following conditions:

(1) Contains nudity, which shall be defined as the depiction or display of any state of undress in which the human genitals, pubic region, buttock, or female breast at a point below the top of the areola is less than completely and opaquely covered; or

(2) contains any display, actual or simulated, or description of any of the following:

(A) Sexual intercourse or sodomy, including genital-genital, oral-genital, and anal-oral contact, whether between persons of the same or differing gender;

(B) masturbation;

(C) bestiality; or

(D) sadomasochistic abuse.

(c) Each violation of this regulation shall be a class I violation if either of the following conditions applies:

(1) The offender is classified as a sex offender.

(2) The sexually explicit material depicts, describes, or exploits any child under the age of 18 years.

(d) Each violation of this regulation not governed by subsection (c) of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-314. Sexual intercourse; sodomy.

(a) No offender shall commit or induce any other person to commit an act of sexual intercourse or sodomy, even with the consent of the other person. Participation in such an act shall be prohibited.

(b) No offender shall perform any of the following:

(1) Force or intimidate another person to engage in sexual intercourse or sodomy;

(2) solicit or arrange for the application of force or intimidation by another person in order to engage in sexual intercourse or sodomy with another person; or

(3) participate in any scheme or arrangement to force or intimidate another person to engage in sexual intercourse or sodomy.

(c)(1) "Sexual intercourse" shall mean any penetration of the female sex organ by a finger, the male sex organ, or any object. Any penetration, however slight, shall be deemed sufficient to constitute sexual intercourse.

(2) “Sodomy” shall be defined as any of the following:

(A) Oral contact with or oral penetration of the female genitalia or oral contact with the male genitalia;

(B) anal penetration, however slight, of a male or female by any body part or object; or

(C) oral or anal copulation between a person and an animal.

(d) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-315. Lewd acts. (a) No offender shall engage in a lewd or lascivious manner in any acts of kissing, fondling, touching, or embracing, whether the acts are with a person of the same or opposite sex and whether or not the acts are with the consent of the other person.

(b) No offender shall intentionally expose a sex organ with the knowledge or reasonable anticipation that the offender will be viewed by others and with the intent to arouse or gratify the sexual desires of the offender or another individual.

(c) The first and second violations of this regulation shall be class II offenses. The third violation and each subsequent violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-317. Falsifying documents. (a) No offender shall falsify any document.

(b) Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-318. Disruptive behavior. (a) No offender shall start, solicit, encourage, perform, participate in, or help others to perform or participate in any disruptive behavior.

(b) Each violation of this regulation shall be a class II offense. Alternatively, any violation of this regulation may be handled according to the summary disposition procedure specified in K.A.R. 123-13-201b.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-319. Riot or incitement to riot. (a) No offender shall riot or incite others to riot.

(1) “Riot” shall be defined as either of the following:

(A) Any use of force or violence by three or more persons acting together and without the authority of law that produces a breach of the peace on the premises of any juvenile correctional facility, whether within or without the security perimeter itself; or

(B) any threat to use the force or violence described in paragraph (1)(A) of this subsection against any person or property, if accompanied by the power or apparent power of immediate execution.

(2) “Incitement to riot” shall be defined as urging others by words or conduct to engage in riot under circumstances that would produce either a clear and present danger of injury to persons or property or a breach of the peace.

(b) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-321. Conduct regarding visitors and the public. (a) Each offender shall treat all visitors and other members of the public in a respectful and helpful manner. Each offender shall comply with the applicable regulations, internal management policies and procedures, and facility orders regarding contact with visitors and the public and shall maintain a dignified and respectful demeanor while in the presence of these individuals.

(b) Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-322. Arson. (a) No offender shall commit arson.

(b) “Arson” shall be defined as the act of knowingly damaging any property by means of fire or explosive.

(c) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-323. Assault. (a) No offender shall commit assault.

(b) "Assault" shall be defined as an intentional threat to do bodily harm to another, coupled with the apparent or recognizable ability to carry out the threat and resulting in the other person's immediate apprehension or fear of bodily harm. No bodily contact shall be necessary to complete an assault violation.

(c)(1) Except as specified in paragraph (c)(2), each violation of this regulation shall be a class II offense.

(2) Each violation of this regulation shall be a class I offense if the victim is an agency employee, an employee of one of the agency's contractors, or a volunteer.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-324. Battery. (a) No offender shall commit battery.

(b) "Battery" shall be defined as either of the following:

(1) The unlawful or unauthorized, intentional touching or application of force to the person of another when done in a rude, insolent, or angry manner; or

(2) intentionally or recklessly causing bodily harm to another person.

(c) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-325. Offender activity; limitations. (a)(1) "Proselytizing" shall be defined as an active effort to persuade any person to convert to a religious faith or belief without the person's prior consent. However, nothing in this regulation shall prohibit a one-to-one conversation about religious matters between two individuals freely participating in the conversation.

(2) No proselytizing shall be allowed in any institution.

(3) Each violation of this subsection shall be a class III offense.

(b)(1) No offender shall serve in the capacity of a member of the clergy or a religious instructor at any time except with the recommendation of the chaplain and the prior, written approval of the superintendent.

(2) Each violation of this subsection shall be a class III offense.

(c)(1) "Unsanctioned group" shall mean any ongoing formal or informal organization, association, or group of three or more persons with a common name or identifying sign or symbol that is not recognized by the superintendent and that does not have the superintendent's approval and authorization to exist at the institution.

(2) No offender shall develop, organize, promote, or assist any unsanctioned group. No offender shall engage in any activity likely to result in a demonstration by any unsanctioned group.

(3) No offender shall possess any item associated or identified with any unsanctioned group.

(4) Each violation of this subsection shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-327. Interference with restraints. (a) No offender shall interfere with or assist or encourage other offenders to interfere in any way with handcuffs or any other restraints that have been, or are being, applied to an offender by an officer or any other employee.

(b) No offender shall remove or attempt to remove handcuffs or other restraints applied to the offender or another offender without the express approval of an officer or other employee authorized to give this approval.

(c) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-328. Personal relationships; limitations. (a) A "personal relationship" shall be defined as any relationship involving unnecessary familiarity by an offender toward any staff member, contract personnel, volunteer, or employee of any other organization in charge of the offender.

(b) No offender shall initiate, solicit, encourage, establish, or participate in any type of personal relationship with the individuals specified in subsection (a). Any contact other than a polite exchange of remarks or casual conversation between an offender and any of these individuals shall be limited to that contact necessary to carry out official duties and to provide authorized services to the offender in a professional manner.

(c) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-401. Programs. (a) “Program,” as used in this regulation, shall mean any of the following activities:

- (1) Any educational program;
- (2) any counseling program;
- (3) any vocational program;
- (4) any physiological or psychological treatment;
- (5) any skill training;
- (6) any work assignment; and
- (7) any other endeavor or project to which an offender has been assigned.

(b)(1) No offender shall intentionally interfere with, delay, disrupt the progress in, or sabotage any program, machinery, system, or product. No offender shall assist or participate with another offender in any of these prohibited actions.

(2) Each violation of this subsection shall be a class I offense.

(c)(1) Each offender shall carry out all programs in the offender’s case plan in the manner prescribed by and according to the directives of the offender’s supervisor or any other authorized official. The intentional failure of the offender to report to or depart from the location of each assigned program at the prescribed time shall be prohibited.

(2) Each violation of this subsection shall be a class II offense. Alternatively, any violation of this subsection may be handled according to the summary disposition procedure specified in K.A.R. 123-13-201b.

(d)(1) No offender shall slow the progress of a program through carelessness or neglect.

(2) Each violation of this subsection shall be a class II offense. Alternatively, any violation of this subsection may be handled according to the summary disposition procedure specified in K.A.R. 123-13-201b.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-501. Answering calls; movement.

(a)(1) Each offender shall respond promptly each time any employee calls the offender’s name.

(2) Each offender shall move from place to place within the facility as required by the facility orders.

(3) Each offender who is authorized to move within the facility using a pass issued for that purpose shall meet the following requirements:

(A) Not destroy the pass issued; and

(B) present the pass to the appropriate person at the time and place indicated on the pass.

(b) Each violation of this regulation shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-502. Responsibility for head counts. (a) Each offender shall be present at the proper time and place designated for head counts.

(b)(1) Each offender shall cooperate in the conduct of the head count.

(2) No offender shall intentionally behave in a manner that causes, results in, or is likely to cause or result in a delay that renders the head count inaccurate or difficult to accomplish.

(c) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-503. Restricted areas; unauthorized presence; out-of-bounds in assigned living area. (a) Restricted areas.

(1) Each offender shall be required to know which areas are designated as restricted areas. No offender shall enter a restricted area without a direct order by an employee authorized to render the order or without the superintendent’s written permission.

(2) Each violation of this subsection shall be a class II offense. Alternatively, any violation of this subsection may be handled according to the summary disposition procedure specified in K.A.R. 123-13-201b.

(b) Unauthorized presence.

(1) No offender shall be present in any area without authorization. If a pass is required, the offender shall show the offender's pass when asked to do so.

(2) Each violation of this subsection shall be a class III offense.

(c) Out-of-bounds in assigned living area.

(1) No offender shall roam about in the housing unit or be in any place within the housing unit without the permission of the unit manager or officer. This subsection shall apply if the offender's presence in the housing unit is otherwise authorized.

(2) Each violation of this subsection shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-504. Interference with cell operation, locking devices, and visibility.

(a) No offender shall block or otherwise interfere with the opening, closing, or locking of any door, cell door, or window, including food passage ports and slots.

(b) No offender shall cover or otherwise obstruct any passageway, door, cell, cell door, window, or observation port, including food passage ports and slots, in a manner that blocks visibility into the cell, room, or space, unless doing so has been expressly approved by the superintendent.

(c) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-505. Restrictions. (a) No offender shall avoid, break, or violate the terms of any restriction that has been imposed upon the offender.

(b) Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-505b. Medical restrictions. (a) No offender shall participate in any program or recreational activities, partake of food or beverage items, or otherwise engage in any activity that is in violation of a documented medical restriction.

(b) Each violation of this regulation shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-506. Official name; alias name.

(a) While committed to an institution, each offender shall respond when the offender is addressed by the offender's official name, as defined in K.A.R. 123-5-101. Each offender shall be referred to in all official transactions, and all correspondence to and from the offender, using the offender's official name.

(b) If the offender's name has been changed from or is otherwise different from the offender's official name, the records may be modified to incorporate the new or different name as an alias name, and the offender may use the alias name in parentheses after the official name.

(c) Each offender shall comply with all directives, references, and orders to the offender issued in the offender's official name.

(d) No charge shall be brought against any offender under this regulation if the offender is the addressee or recipient of any mail, phone call, document, or other communication using other than the official name, unless it is alleged and proven that the offender was a knowing and willing conspirator or instigator of the use of the alias name.

(e) Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-601. Mail. (a) Definitions.

(1)(A) "Legal mail" means mail affecting the offender's right of access to the courts or legal counsel. This term shall include letters between the offender and any lawyer, a judge, a clerk of a court, or any intern or employee of a law firm, legal clinic, or other legal services organization providing legal services to offenders.

(B) "Official mail" means any mail between an offender and an official of the state or federal government who has the authority to control, or to obtain or conduct an investigation of, the custody or conditions of confinement of the offender.

(C) "Privileged mail" means any mail between the offender and the offender's physician, psy-

chiatrist, psychologist, or other licensed mental health therapist.

(2)(A) “Censor” means to remove or change any part or all of the correspondence or literature.

(B) “Inspect” means to open, shake out, look through, feel, or otherwise check for contraband without reading or censoring. This term shall include any cursory reading necessary to verify that mail is legal or official in nature as permitted by paragraph (f)(3).

(C) “Read” means to read the contents of correspondence or literature to ascertain the content.

(b) General provisions.

(1) Each offender shall comply with the mail procedures and restrictions established by the applicable facility order. Failure to comply with mail procedures or restrictions, or circumventing or attempting to circumvent mail procedures or restrictions by any means, shall be prohibited. The delivery of mail through an employee, volunteer, teacher, or any other person who is not authorized to perform functions related to the established mail-handling system shall be prohibited.

(2) Items identified as contraband shall be dealt with as provided in subsection (d) and then either returned to the sender, at the offender’s expense, or destroyed, at the offender’s option. All items that are illegal under Kansas or federal law shall be seized and held as evidence for other law enforcement officers.

(3) All incoming mail shall identify the offender recipient by name and offender identification number.

(4) Each violation of mail regulations of the juvenile justice authority, facility orders, or the laws of Kansas or the United States may result in additional mail restrictions upon the offender that are sufficient to prevent the continuation or reoccurrence of the violation.

(5) All funds sent to offenders shall be in the form of a money order, a cashier’s check, or a certified check.

(6) Any incoming or outgoing mail other than legal, official, or privileged mail may be inspected or read at any time.

(7) Incoming mail addressed solely to a specified offender and not otherwise subject to censorship shall be delivered regardless of whether the mail is sent free of charge or at a reduced rate. All incoming mail shall nonetheless bear the sender’s name and address on the envelope, or this mail shall not be delivered and shall be subject to censorship in accordance with subsection (d).

(8) Any outgoing first-class letters may be sent to as many people and to whomever the offender chooses, subject to the restrictions in this regulation.

(9) Outgoing offender mail shall bear the full official name, offender number, and address of the sender, and the name and address of the intended recipient. No other words, drawings, or messages shall be placed on the outside of the envelope or package by an offender except words describing the mail as being legal, official, or privileged, or words intended to aid postal officials in delivery of the item. Outgoing offender mail shall be stamped by the institution to indicate that it was mailed from a juvenile correctional facility and that it has not been censored.

(10) No offender shall correspond with any person who has filed a written objection to the correspondence with the superintendent of the facility.

(A) The offender shall be notified of the objection in writing when it is received, but shall not be required to be informed of the exact contents of the objection.

(B) In the instance of unwanted correspondence to a minor, the objection shall be filed by the parent or guardian of the minor.

(C) Orders shall be developed by the superintendent of each facility to prevent further correspondence from being sent to those who have filed an objection.

(D) This regulation shall not prevent an offender from writing to the offender’s natural or adoptive child, unless the child was the victim of the crime for which the offender is incarcerated, the person having legal custody of the child files a written objection with the superintendent, and the offender has not obtained a court order permitting this written communication with the child.

(c) Legal, official, and privileged mail.

(1) Subject to the provisions of paragraph (f)(3), outgoing privileged, official, or legal mail sent by any offender shall be opened and read only upon authorization of the superintendent for good cause shown. However, if any offender threatens or terrorizes any person through this mail, any subsequent mail, including official or legal mail, from the offender to the person threatened or terrorized may, at the request of that person, be read and censored for a time period and to the extent necessary to remedy the abuse.

(2) Incoming mail clearly identified as legal, official, or privileged mail shall be opened only in the offender’s presence. This mail shall be inspected for contraband but shall not be read or

censored, unless authorized by the superintendent based upon a documented previous abuse of the right or other good cause.

(d) Censorship grounds and procedures.

(1) Incoming or outgoing mail, other than legal, official, or privileged mail, may be censored only when there is reasonable belief in any of the following:

(A) There is a threat to institutional safety, order, or security.

(B) There is a threat to the safety and security of public officials or the general public.

(C) The mail is being used in furtherance of illegal activities.

(D) The mail is correspondence between offenders, including any former offender regardless of current custodial status, that has not been authorized according to subsection (e). Correspondence between offenders may be inspected or read at any time.

(E) The mail contains sexually explicit material, as defined and proscribed in K.A.R. 123-12-313.

(2) If any communication to or from an offender is censored, all of the following requirements shall be met:

(A) Each offender shall be given a written notice of the censorship and the reason for the censorship, without disclosing the censored material.

(B) Each offender shall be given the name and address of the sender of incoming mail, if known, or the addressee of outgoing mail and the date the item was received in the mail room. It shall be the responsibility of the offender to contact the sender of censored incoming mail or the addressee of censored outgoing mail, if the offender so desires.

(C) The author or addressee of the censored correspondence shall be given a reasonable opportunity to protest the decision.

(D) All protests shall be referred to a correctional facility official other than the person who originally disapproved the correspondence.

(e) Offender correspondence with other offenders. Offenders sentenced to commitment in a juvenile correctional facility shall not correspond with any person who is in the custody of or under the supervision of any state, federal, county, community corrections, or municipal law enforcement agency, or with any offender formerly committed to a juvenile correctional facility regardless of current custodial status, unless either of these conditions is met:

(1) The proposed correspondents are members of the same immediate family or are parties in the same

legal action, or one of the persons is a party and the other person is a witness in the same legal action.

(2) Permission for the correspondence is granted due to exceptional circumstances. Verification and approval of offender correspondence shall be conducted pursuant to the internal management policies and procedures.

(f) Writing supplies and postage.

(1) Stationery shall be available for purchase from the offender canteen.

(2) Indigent offenders, as defined by the internal management policies and procedures, shall receive reasonable amounts of free writing paper, envelopes, and postage for first-class domestic mail weighing one ounce or less, not to exceed four letters per month or any other limits established by the commissioner or superintendent.

(3) All postage for legal and official mail shall be paid by the offender, unless the offender is indigent, as defined by the internal management policies and procedures. The cost of postage for legal or official mail paid by the facility on behalf of an indigent offender shall be deducted from the offender's funds, if available. Credit for postage for legal and official mail shall be extended to indigent offenders under the terms and conditions of the internal management policies and procedures. Outgoing legal or official mail sent with postage provided on credit shall be subject to inspection and cursory reading in the presence of the offender for the purpose of ascertaining that the mail is indeed legal or official mail, and the offender shall then be permitted to seal the envelope containing the mail.

(4) The facility shall not pay postage for offender groups or organizations.

(g) Publications.

(1) Offenders may receive books, newspapers, and periodicals as approved by the internal management policies and procedures or facility orders, except for offenders while assigned to an intake, reception, and diagnostic unit for evaluation purposes. All books, newspapers, and periodicals shall be purchased through special purchase orders. Only books, newspapers, and periodicals received directly from a publisher or a vendor shall be accepted. However, each offender shall be permitted to receive printed material, including newspaper and magazine clippings, if the material is included as part of a first-class letter that does not exceed one ounce in total weight.

(2) The procedures for censorship of mail listed in subsection (d) of this regulation shall be used for censorship of publications.

(3) No publication that meets either of the following conditions shall be allowed into the facility:

(A) Contains sexually explicit material, as described in K.A.R. 123-12-313, or is otherwise illegal, in whole or in part; or

(B) Meets, in whole or in part, the test for censorship of mail in subsection (d) of this regulation.

(4) Each offender shall have the option of having censored publications in their entirety either mailed out of the facility at the offender's expense or discarded.

(5) Before transferring between institutions or before being released on conditional release, the offender shall arrange for a change of address for newspapers and periodicals. Newspapers and periodicals shall not be forwarded for more than 30 days after the date of the transfer or release.

(h) Penalty. Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-602. Posting notices and distributing written materials. (a) No offender shall post or distribute any written materials without the prior, written approval of the superintendent or designee.

(b) Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-702. Legal assistance by offenders. (a) In accordance with applicable facility orders, any offender may provide assistance pertaining to legal matters to another offender if both of the following conditions are met:

(1) The offender receiving the assistance has requested that the assistance be provided by the other offender.

(2) The offender providing the assistance neither requests nor accepts any gratuity or favor for providing the assistance.

(b) Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-801. Bulletin boards; publishing facility orders. (a) Each offender shall comply with all facility orders posted on bulletin boards designated for publishing facility orders.

(b) Each facility order shall be deemed published upon being posted on a bulletin board that is designated for this purpose.

(c) Each bulletin board designated for publishing facility orders shall be under the exclusive control of the superintendent.

(1) No offender shall post any item on any facility bulletin board unless directed by an agency employee to do so.

(2) No offender shall remove any item from any facility bulletin board unless directed by an agency employee to do so.

(d) Each violation of this regulation shall be a class II offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-901. Dangerous contraband. (a) "Dangerous contraband" shall be defined as any of the following:

(1) Any item, including any ingredient, part, or instructions on the creation of an item, that meets the following conditions:

(A) Is inherently capable of causing serious damage to persons or property or is capable or likely to produce or precipitate seriously dangerous situations or conflict; and

(B) is not issued by the juvenile justice authority or the facilities, sold through the canteen, or specifically authorized or permitted by facility order for use or possession in the institution;

(2) any item the possession of which can be the basis for a felony charge under the laws of Kansas or the United States;

(3) any item that, although authorized, is misused in a way that could cause serious damage to persons or property or is likely to precipitate seriously dangerous situations or conflicts; or

(4) any item the possession of which would constitute traffic in contraband in violation of K.S.A. 21-3826, and amendments thereto.

(b) All contraband shall be confiscated and may be ordered forfeited by the offender at the discretion of the disciplinary hearing officer.

(c) No offender shall possess, hold, sell, transfer, receive, control, distribute, or solicit any dangerous contraband.

(d) Each violation of this regulation shall be a class I offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-902. Less dangerous contraband. (a) “Less dangerous contraband” shall be defined as either of the following:

(1) Any item, including any ingredient, component, or instructions on the creation of an item, that is moderately dangerous in the institutional environment and is not issued by the agency, sold through the institution’s canteen, or specifically authorized or permitted by internal management and policy and procedure or facility order; or

(2) any item that, although authorized, is misused in a way that causes or is likely to cause moderate danger to persons or property.

(b) All contraband shall be confiscated and may subsequently be ordered forfeited by the offender at the discretion of the disciplinary hearing officer.

(c)(1) No offender shall possess, hold, sell, transfer, receive, control, distribute, or solicit any less dangerous contraband or any other types of contraband.

(2) Each violation of this subsection shall be a class II offense. Alternatively, any violation of this regulation may be handled according to the summary disposition procedure specified in K.A.R. 123-13-201b.

(d)(1) No offender shall possess papers, bottles, containers, trash, or any other items in excess of those limits established by regulation, internal management policy and procedure, and facility order.

(2) The possession of excess items described in this subsection shall be considered to be the possession of nuisance contraband and shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-1001. Violation of statutes and regulations. Except as otherwise provided in these regulations, the following classifications shall apply: (a) Each violation of any state or federal statute that is designated as a felony crime under Kansas law shall be a class I offense.

(b) Each violation of any state or federal statute

that is designated as a misdemeanor crime under Kansas law shall be a class II offense.

(c) Each violation of any civil penalty statute or any regulation shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-12-1002. Violation of internal management policy and procedure or facility order. (a) Each violation of any internal management policy and procedure shall be an offense of the class specified in the internal management policy and procedure. If no class is specified in the internal management policy and procedure, the violation shall be a class III offense.

(b) Each violation of any facility order shall be an offense of the class specified in the facility order. If no class is specified in the facility order, the violation shall be a class III offense.

(c) Each violation of any facility order shall be an offense of the class specified in the facility order. If no class is specified in the facility order, the violation shall be a class III offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-12-1101. Anticipatory and facilitating offenses: attempt, conspiracy, solicitation, and accessory. (a) No offender shall attempt or conspire to violate any law, regulation, internal management policy and procedure, or facility order. Each attempt or conspiracy to violate any law, regulation, internal management policy and procedure, or facility order shall carry the same penalty as that for the offense itself.

(b) No offender shall solicit or be an accessory for another person to violate any law, regulation, internal management policy and procedure, or facility order. Each occasion of soliciting or acting as an accessory for another to commit any violation of any law, regulation, internal management policy and procedure, or facility order shall carry the same penalty as that for the offense itself.

(c) The specific law, regulation, internal management policy and procedure, or facility order that is the basis of the attempt, conspiracy, solicitation, or accessory activity shall be stated and described in the disciplinary report.

(d)(1) Attempt.

(A) An “attempt” shall be defined as any overt or evident act toward the perpetration of activity that is prohibited by law, regulation, internal management policy and procedure, or facility order by

an offender who intends to commit the prohibited activity but fails in the perpetration of the prohibited activity or is prevented from or intercepted in the execution of the prohibited activity.

(B) It shall not be a defense to a charge of attempt that the circumstances under which the act was performed, the means employed, or the act itself were such that the commission of the prohibited activity was not possible.

(2) Conspiracy.

(A) A “conspiracy” shall be defined as an agreement with another person to commit an act that is prohibited by law, regulation, internal management policy and procedure, or facility order or to assist in committing the prohibited act. No offender may be convicted of a conspiracy unless an overt act furthering that conspiracy is alleged and proved to have been committed by the offender or by a co-conspirator.

(B) It shall be a defense to a charge of conspiracy that the accused voluntarily and in good faith withdrew from the conspiracy and communicated the fact of the offender’s withdrawal to one or more of the accused conspirators, before any overt act furthering the conspiracy was committed by the accused or by a co-conspirator.

(3) Solicitation.

(A) “Solicitation” shall be defined as the commanding of, encouraging, or requesting another person to commit, to attempt to commit, or to aid and abet for the purpose of promoting or facilitating the commission or attempted commission of an act that is prohibited by law, regulation, internal management policy and procedure, or facility order.

(B) It shall not be a defense to a charge of solicitation that the offender failed to communicate with the person solicited to commit the prohibited act if the offender’s conduct was designed to effect a communication. It shall be a defense to a charge of solicitation that the offender, after soliciting another person to commit an offense, persuaded that person not to do so or otherwise prevented the commission of the offense, under circumstances manifesting a complete and voluntary renunciation of the offender’s prohibited purposes.

(4) Accessory. Being an “accessory” to an offense shall be defined as knowingly harboring, concealing, or aiding any offender who has committed an act that is prohibited by law, regulation, internal management policy and procedure, or facility order or any offender who has been charged

with committing an act that is prohibited by law, regulation, internal management policy and procedure, or facility order, with intent that the offender will avoid or escape apprehension, disciplinary hearing, conviction, or punishment for the prohibited act.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-1201. Increased penalty for involving or victimizing an offender under 16.

For any offender who is 16 years of age or older and guilty of any offense defined in these regulations, the penalty imposed on the offender may be double the penalty that is otherwise established for the offense under these regulations if any of the following conditions exists: (a) The offense was committed with another offender who was a principal in the offense and was younger than 16 years of age when the offense was committed.

(b) The offense was an anticipatory or facilitating offense as defined in K.A.R. 123-12-1101, and another offender who was involved as a principal in the offense was younger than 16 years of age when the offense was committed.

(c) Any victim of the offense was younger than 16 years of age when the offense was committed. This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-12-1202. Conviction of four offenses in six months.

Subject to any limitation specified in K.A.R. 123-12-1308, upon conviction of the fourth offense of the same or more serious class within the previous six months, the hearing officer may impose a sentence not greater than twice the maximum that can otherwise be imposed for that class of offense.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-12-1301. Class I offenses and penalties. (a) Class I offenses shall be defined as the following:

(1) The violations designated as class I offenses by these regulations;

(2) the violations designated as felonies by state or federal law; and

(3) the violations designated as class I offenses by internal management policies and procedures and by facility orders.

(b) The penalty for each class I offense may be any of the following, or any combination:

(1) Disciplinary segregation, not to exceed 30 days;

(2) forfeiture of good time credits, not to exceed six months;

(3) extra work for up to two hours per day, not to exceed 30 days;

(4) restriction to the offender's cell or living quarters, not to exceed 10 days;

(5) restriction from privileges, not to exceed 60 days;

(6) restitution; or

(7) an oral or written reprimand.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-12-1302. Class II offenses and penalties. (a) Class II offenses shall be defined as the following:

(1) The violations designated as class II offenses by these regulations;

(2) the violations designated as misdemeanors by state or federal law; and

(3) the violations designated as class II offenses by internal management policies and procedures and by facility orders.

(b) The penalty for each class II offense may be any of the following or any combination:

(1) Disciplinary segregation, not to exceed 15 days;

(2) forfeiture of good time credits, not to exceed three months;

(3) extra work for up to two hours per day, not to exceed 20 days;

(4) restriction to the offender's cell or living quarters, not to exceed seven days;

(5) restriction from privileges, not to exceed 30 days;

(6) restitution; or

(7) an oral or written reprimand.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-12-1303. Class III offenses and penalties. (a) Class III offenses shall be defined as the following:

(1) The violations designated as class III offenses by these regulations; and

(2) any violation of a regulation, internal management policy and procedure, or facility order within which the designation of the class of the offense for a violation is not specified.

(b) The penalty for each class III offense may be any of the following or any combination:

(1) Restriction to the offender's living quarters, not to exceed three days;

(2) restriction from privileges, not to exceed 20 days;

(3) extra work for not more than two hours per day, not to exceed 10 days;

(4) restitution; or

(5) an oral or written reprimand.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-12-1306. Use of restitution. (a) When restitution is used in the disciplinary process, the following requirements and limitations shall apply:

(1) The amount and manner of payment of restitution imposed may be appealed in the same manner and to the same extent as those for any other appeal of sentence in the disciplinary process.

(2) The amount of restitution ordered shall be fair and shall not be used in a way that disrupts family support payments, tax payments, or court-ordered restitution.

(3) No offender shall be required to continue payment on any restitution imposed under these regulations while released from confinement. If the offender is readmitted to a juvenile correctional facility, any balance due on the order of restitution may be collected.

(4) Restitution shall be paid out of money available to the offender from any legitimate source of funds, including any gainful work program. Restitution payment shall be limited to a reasonable amount and, if proper under the circumstances, shall be made in installments.

(5) The offender shall be given notice, not later than the beginning of the disciplinary hearing, of the basis for seeking restitution and shall be given an opportunity during the disposition phase of the disciplinary proceedings to present evidence regarding the appropriate amount of restitution. The hearing officer shall limit the evidence to a reasonable amount and extent appropriate to the

nature of the administrative hearing, the level of the offense, and the extent of possible impact on the offender's resources.

(b) If restitution is paid to the state, the money shall be deposited in the state general fund. If restitution is paid to another offender, the money shall be transferred from the account of the offender payer to the account of the offender payee after the conclusion of the entire disciplinary process, including any appeal. If restitution is paid to any other person, the hearing officer shall determine how payment is to be made, and the payment arrangements shall be reviewed by the superintendent for consideration for approval.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 2004 Supp. 75-7024 and K.S.A. 76-3203; effective April 8, 2005.)

123-12-1308. Disciplinary segregation; limits. The continuous confinement of an offender in disciplinary segregation for more than 30 days shall require the superintendent's review and approval.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

Article 13.—OFFENDER DISCIPLINARY PROCEDURE

123-13-101. Disciplinary procedure established. (a) A disciplinary procedure in accordance with these regulations shall be established and implemented by the superintendent of each facility.

(1) "Superintendent," as used throughout this article, shall include the superintendent's designee.

(2) "Disciplinary procedure," as used throughout this article, shall include conducting disciplinary proceedings and following the disciplinary process.

(b) Prosecution by criminal justice agencies in the community shall be deemed a separate process from this disciplinary procedure, and both prosecution and disciplinary procedures may be conducted on matters relating to the same factual situations.

(c) Subject to the requirements specified in these regulations and subject to the control of the hearing officer exercised within the parameters of the law and these regulations, each offender shall be entitled to the following:

(1) To receive advance, written notice of the offense that the offender is alleged to have committed and a fair hearing by an impartial hearing officer;

(2) to be present at the hearing;

(3) to present documentary evidence;

(4) to testify on the offender's own behalf;

(5) to have witnesses called to testify on the offender's behalf;

(6) to confront and cross-examine witnesses against the offender; and

(7) to be furnished with staff assistance according to K.A.R. 123-13-408.

(d) Any specific offense alleged may be amended according to the provisions of these regulations.

(e) If an offender is alleged to have committed an act covered by criminal law, the case shall be referred to the appropriate law enforcement or prosecutorial agency as provided in K.A.R. 123-13-103.

(f) There shall be three classes of offenses, which shall be processed according to the provisions of these regulations. The offense classes shall consist of class I offenses as defined in K.A.R. 123-12-1301, class II offenses as defined in K.A.R. 123-12-1302, and class III offenses as defined in K.A.R. 123-12-1303.

(g) The disciplinary hearing process shall meet the requirements of K.A.R. 123-13-403, 123-13-404, and 123-13-405a.

(h) All stages of the disciplinary hearing shall be conducted by an impartial hearing officer appointed by the superintendent according to K.A.R. 123-13-105.

(i) A complete log of each disciplinary proceeding conducted pursuant to these regulations shall be maintained as specified in K.A.R. 123-13-509.

(j) Each disciplinary hearing shall be commenced within the period of time required by these regulations. Continuances and recesses of the hearing may be granted. The offender shall be permitted to be present at all stages of the hearing, except as otherwise provided by these regulations.

(k) Staff assistance shall be permitted only under the limited conditions established in K.A.R. 123-13-408.

(l) A summary record shall be made of all stages of the hearing. The summary record shall be the basis for all actions that are conducted on the record.

(m) In class I and II offense cases, following an administrative review of the record and any needed adjustments of the disposition by the superin-

tendent, the offender may appeal the case on the record to the commissioner. In class III offense cases, following an administrative review of the record by a facility official appointed by the superintendent for that purpose, an appeal on the record may be made to the superintendent. No appeal to the commissioner shall be permitted of the disposition for class III offenses.

(n) Nothing in these regulations shall prohibit the assignment or delegation of the disciplinary hearing and review process or any portion of it to the superintendent of another facility if good cause is shown and if justice and fairness will not be compromised. An assignment or delegation shall not be made except by the commissioner or designee, or by the superintendent with the commissioner's written approval. This restriction shall not prohibit the holding of hearings at a receiving facility, following a transfer based on a classification decision in the sending facility, if the offense occurred in the sending facility.

(o) This regulation shall not be construed or interpreted as establishing any rights or procedures that are not specified in this article.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-101a. Waiver of rights. (a) Each offender shall be permitted to voluntarily waive the right to any time limit or process afforded by these regulations. Each waiver shall be submitted in writing and shall state the specific time limit or process being waived. The waiver shall be made in the form and manner approved or prescribed by the commissioner. The waiver shall be witnessed by one impartial employee and shall be signed by the offender and the hearing officer, unless the offender is waiving the right to the disciplinary hearing process by accepting a summary judgment citation pursuant to K.A.R. 123-13-201b.

(b) Each offender shall be informed of the nature of the time limit or process being waived and of the impact and consequence of the waiver.

(c) Unless the offender is waiving the right to the disciplinary hearing process by accepting a summary judgment citation pursuant to K.A.R. 123-13-201b, the offender shall be questioned by the hearing officer before accepting the waiver to determine if the waiver is knowingly and voluntarily made.

This regulation shall be effective on and after

April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-103. Prosecution by outside agency. (a) If an offender is alleged to have committed an act covered by criminal law, the case shall be referred to the appropriate law enforcement or prosecutorial agency for consideration for prosecution, unless there is a current written statement from a prosecutor who has jurisdiction and who requests that certain types or classes of crimes not be reported or that no report be made.

(b) Any hearing officer may proceed with a disciplinary hearing under these regulations or may authorize a continuance of the disciplinary hearing to await the result of a prosecution if the disciplinary proceeding involves the same offense as that being prosecuted.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-105. The disciplinary administrator and hearing officers. (a) A disciplinary administrator shall be appointed by the superintendent of each facility to manage the disciplinary procedure for the entire facility on a continuing basis.

(b) One or more impartial hearing officers shall be appointed by the superintendent to conduct disciplinary hearings at the facility.

(1) The minimum qualification for each hearing officer shall be the satisfactory completion of required training.

(2) A person who is the reporting officer, an investigator in, or a witness in a case shall not be the hearing officer in that case.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-106. Administration of oaths; designation of persons authorized. (a) The superintendent and deputy superintendent, as well as the disciplinary administrator and hearing officers appointed pursuant to K.A.R. 123-13-105, shall be authorized to administer oaths to witnesses in disciplinary proceedings.

(b) All oaths shall be administered in a form and a manner that are in accordance with K.S.A. 54-101 *et seq.*, and amendments thereto.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-201. Disciplinary report and written notice. (a) A disciplinary proceeding shall be commenced upon the making of a charge by the issuance of a disciplinary report.

(1) A copy of the disciplinary report shall be served on the offender within 48 hours after the issuance of the disciplinary report, excluding Saturdays, Sundays, and holidays.

(2) The report shall not be served on the offender by the same officer who brought the charge against the offender, unless no other officer is available to personally serve the offender.

(3) The officer serving the report shall inform the offender that the offender may enter a plea of guilty or no contest to the charge at the time of service of the report.

(A) If the officer serving the report has been appointed as a hearing officer by the superintendent according to K.A.R. 123-13-105, that officer may immediately, or as soon as possible, accept the offender's plea of guilty or no contest, conduct a sentencing hearing, and impose a sentence by following the procedures established in K.A.R. 123-13-403.

(B) If the officer serving the report has not been appointed as a hearing officer according to K.A.R. 123-13-105 or refers the case to another hearing officer, then the offender desiring to plead guilty or no contest to the charge at the time of service of the report shall be brought immediately, or as soon as possible, before a hearing officer. The hearing officer shall accept the offender's plea of guilty or no contest, conduct a sentencing hearing, and impose a sentence by following the procedures established in K.A.R. 123-13-403.

(4) If necessary, the hearing officer may accept the offender's plea of guilty or no contest immediately, or as soon as possible, after service of the report, but may delay the sentencing hearing and imposition of sentence for not more than six working days.

(b) If the offender is transferred to another facility before the arrival of the disciplinary report at the receiving facility, service of the report upon the offender shall be made within 48 hours after arrival of the report, excluding Saturdays, Sundays, and holidays, in the same manner as that specified in subsection (a).

(c) The disciplinary report shall be written within 48 hours of the offense, the discovery of the offense, or the determination following an investigation that the offender is the suspect in the case and is to be named as defendant.

(1) If an alleged violation is based upon uncertain facts, an appropriate investigation shall be initiated within 24 hours after the allegation is made and shall be completed without unreasonable delay. The investigation shall determine if a disciplinary action should be initiated or continued by determining whether the allegation is soundly based on reasonably reliable facts. The investigator shall be a staff member and, if practical, shall be a staff member other than the person making the allegation. If an offender is making the allegation, the officer who is receiving the allegation and is in a position to write the report may also be the investigator.

(2) The investigation report may be adopted by the charging officer both as the charge itself and as the officer's sworn statement in lieu of testimony in any case, in accordance with these regulations. If necessary, pending completion of the investigation, the offender may be held in administrative segregation as specified in the applicable internal management policies and procedures.

(3) The report shall be reviewed and either approved or disapproved by the shift supervisor based on whether or not the report is adequate and is made in the proper manner and form.

(4) The shift supervisor shall ensure that all necessary elements of the alleged violation are contained in the written report of the facts of the incident and that the report is not an abuse of the disciplinary process. The shift supervisor shall also make or direct any appropriate amendments to the report.

(5) If the charge is dismissed or the report is otherwise rejected by the shift supervisor, a written explanation shall be made in the record and filed with the report, with a copy given to the officer. The report shall not be destroyed.

(d) The disciplinary report shall constitute a formal statement of the charge, shall be in a form prescribed by the commissioner, and shall include the following:

- (1) The name and number of the offender;
- (2) the name of the facility;
- (3) the signature and title of the officer preparing the disciplinary report;
- (4) the date and time of the alleged offense;
- (5) the date and time the report is written;
- (6) the nature of the alleged offense;

(7) the class, title, and number of the regulation, internal management policy and procedure, or facility order violated;

(8) if the charge alleges a violation of K.A.R. 123-12-1101, a citation to the specific regulation, internal management policy and procedure, or facility order that is the basis for the anticipatory or facilitating offense;

(9) the names of known staff witnesses;

(10) a brief description of the circumstances and facts of the violation if, in cases in which the violation is based upon information supplied by a confidential witness or informant, the identity of the witness or informant is not disclosed, nor is any reference or factual detail likely to reveal the identity of the witness or informant;

(11) any unusual behavior by the offender;

(12) the disposition of any physical evidence; and

(13) any immediate action taken, including the use of force.

(e) An offender shall not be charged unless the regulation, internal management policy and procedure, or facility order that is alleged to have been violated has been published.

(f) The officer may orally warn or reprimand the offender instead of writing a report or otherwise documenting the incident.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-201b. Summary judgment procedure. (a) In any case involving one or more alleged class III offenses, or any other offense designated as eligible for summary judgment procedures, the reporting officer may offer the offender the option of resolving the matter through the summary judgment procedure as an alternative to writing a disciplinary report leading to initiation of the formal disciplinary hearing process.

(b) Each officer shall carry or have immediate access to summary judgment citation forms.

(c) If an officer observes an offender in the act of committing one or more class III offenses, or any other offense designated as eligible for summary judgment procedures, that the officer believes requires more than an undocumented, on-the-spot verbal reprimand, the officer may file a formal disciplinary report against the offender or may offer the offender summary judgment by issuing a summary judgment citation. If summary

judgment is offered, the offer shall not be withdrawn unless there is subsequently an additional allegation that the offender committed another disciplinary offense.

(1) The summary judgment citation shall be written and served on the offender by the reporting officer within 24 hours of the alleged incident, and shall include the following:

(A) The date and time of each alleged offense;

(B) the date and time the citation is written;

(C) the name and number of the regulation, internal management policy and procedure, or facility order for each alleged offense;

(D) a statement of the facts of the alleged incident, including the names of witnesses;

(E) the date and time that the citation is served on the offender;

(F) the summary judgment sanction; and

(G) a space reserved for the offender to sign, indicating the offender either accepts or refuses the offer of a summary judgment.

(2) The officer may impose only one of the following summary judgment sanctions regardless of the number of offenses cited:

(A) Restriction from privileges for up to 10 days;

(B) extra work for up to two hours per day, not to exceed five days; or

(C) restitution of up to \$10.00.

(3) The offender may choose whether to accept the summary judgment or to reject it in favor of the formal disciplinary hearing process. This decision shall be made within one hour of the offender's receipt of the citation, or it shall be assumed that the offender refused the summary judgment. The officer may choose to impose a different summary judgment sanction after discussion of the incident with the offender, and this fact shall be documented on the summary judgment citation if the offender then accepts the summary judgment.

(A) If the offender accepts the summary judgment offered, this acceptance shall constitute a waiver of the offender's right to the benefits of the formal disciplinary hearing process and shall be documented by the offender's execution of a waiver of rights according to K.A.R. 123-13-101a. Upon the offender's acceptance of the summary judgment, the sanction shall be immediately imposed, and the shift supervisor shall be notified.

(B) If the offender refuses the summary judgment offered, the offender shall be subject to the applicable hearing process. The summary judgment citation shall be marked and signed by the officer and the offender to indicate the offender's

refusal. If notarized, the citation may then be used in lieu of the more formal disciplinary report to initiate the formal disciplinary hearing process. In that event, all normal applicable time limits shall run from the time the offender signs the summary judgment citation, indicating refusal of the summary judgment. The offender's signature of refusal on the summary judgment citation shall constitute service of the disciplinary report on the offender as required by K.A.R. 123-13-201. The requirement in K.A.R. 123-13-201 that an attempt be made to ensure that the officer personally serving the report on the offender is not the same officer who wrote the report shall not apply if summary judgment has been offered.

(C) If an offender refuses the summary judgment offered, the offender shall not be charged with a more serious offense or combination of offenses than was alleged in the summary judgment citation.

(D) All evidence shall be confiscated or seized in connection with the issuance of a summary judgment citation and shall be disposed of in accordance with K.A.R. 123-5-111.

(4) Each summary judgment citation accepted by the offender shall be documented in the offender's file.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-202. Amendment of the charge.

(a) If, in the judgment of the disciplinary administrator, hearing officer, or superintendent during administrative review, the charge is incorrect or a language change would change the substance of the charge or adversely affect the defense, the charge shall be amended and notice given to the offender. After this notice is given, the offender shall have the same period of time between notice and hearing to prepare a defense that would have been permitted when the charge was originally made.

(b) The same charge shall not be brought twice on the same facts under any circumstance if a factual finding of guilt or innocence has been made.

(c) After the hearing officer has begun to hear evidence in the case, the hearing officer may permit amendment at any time before a factual finding of guilt or innocence has been made if no additional or different offense is charged and if substantial rights of the defendant are not prejudiced.

This regulation shall be effective on and after

April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-203. Criminal prosecution and disciplinary hearing. (a) If an offender has been charged, convicted, or acquitted in a criminal court of a charge or for a crime arising from the same facts, the disciplinary hearing may be conducted or continued, at the hearing officer's discretion.

(b) If the offender has been convicted or acquitted in criminal court for a crime arising from the same facts, the hearing officer may rely on the findings made by the jury or judge in conducting or dismissing the disciplinary hearing.

(c) If the disciplinary hearing is conducted while the criminal court case is pending and the court later renders a decision different from the decision of the hearing officer, the decision of the hearing officer shall remain unaffected unless, upon motion to the hearing officer, there is a showing that the hearing officer's decision is based on an obviously erroneous fact affecting the substantial rights of the offender. If such a showing is made, the hearing officer shall correct the decision on the record. However, the hearing officer shall not change the officer's decision if either of the following would result:

(1) Conviction of the offender of the disciplinary violation following a conviction by the court if the hearing officer acquitted the offender in the disciplinary proceeding before the criminal court entered its guilty finding; or

(2) an adverse effect on the offender.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-306. Offender responsibilities.

(a) Each offender being served shall be required either to read the disciplinary report and any associated documentation or to notify the serving officer that the offender is illiterate or otherwise unable to read and understand the documents presented and to request that the notice and associated documents be read to the offender.

(b) Within 48 hours of service of the report, the offender shall complete and submit the authorized form for witnesses to the disciplinary administrator. If one or more witnesses are requested, the offender shall indicate on the form the testi-

mony expected from each witness. The offender may use the form to waive the offender's right to call witnesses.

(c) Each illiterate offender shall receive assistance from the offender's program team member with completing the witness form, including any waiver of the right to call witnesses.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-307. Administrative review of requests for witnesses; denial of requests; issuance of summons; voluntary nature of witness appearance. (a) The disciplinary administrator or hearing officer assigned to hear the charges shall review any written requests for witnesses submitted by the accused offender according to K.A.R. 123-13-306.

(b) The disciplinary hearing officer or administrator performing a review of a written request for witnesses shall, for purposes of the review, presume the truth of the proffered testimony and may deny the request only if, in the reviewer's judgment, the testimony proffered meets any of the following criteria:

- (1) Is clearly irrelevant or immaterial;
- (2) is repetitious of other proffered testimony; or
- (3) is properly excluded for reasons specified in K.A.R. 123-13-405a.

(c) Each denial of a request for witnesses shall be documented, including each reason for the denial, either on the request form or in the disciplinary case record.

(d) If practicable in the reviewer's judgment, the offender shall be informed, in writing and in advance of the hearing, of any denials of requested witnesses and of each reason for each denial. If informing the offender is determined not to be practicable, the offender shall be informed of any denials and the reasons for any denials by the hearing officer at the beginning of the hearing.

(e) If, following a review, there is no reason to deny the request for a witness, then the disciplinary administrator shall issue a written summons requesting that witness to appear. The appearance of a witness requested by either the reporting officer or the accused offender shall be voluntary, and neither the request nor the issuance of a summons according to this regulation shall compel an appearance. However, the issuance of a summons by a hearing officer either

to an offender or to a staff member pursuant to K.A.R. 123-13-403 shall compel the appearance of the person summoned.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-401. Hearing within certain period; notice to offender; time and place of hearing. (a) Except as otherwise provided in these regulations and subject to authorized continuances, the disciplinary hearing to determine the offender's guilt or innocence and to impose a penalty if a finding of guilt is made shall be held not less than 24 hours and not more than seven working days after the offender has been served notice of the charge.

(b) Each offender charged with an offense shall be given advance written notice of the time and place of the disciplinary hearing. This notice shall be given not less than 24 hours before the hearing and shall be given by the disciplinary administrator, the hearing officer, or any other person designated by the superintendent.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-402. Continuing the hearing; recesses; time limits; extensions. (a) The disciplinary administrator or hearing officer may grant one or more continuances or recesses of reasonable length upon application of the offender, reporting officer, or juvenile justice authority for cause shown.

(b) The hearing officer may also continue the case for a reasonable period, as necessary, subject to the review of the status of the case every 30 days, if any one of the following conditions is met:

(1) The offender or the reporting employee is unable to appear for medical or psychiatric reasons as certified by the facility or other licensed physician or psychiatrist.

(2) There is a delay to await determination of whether the case will go to trial in a court of law or to await the outcome of a trial.

(3) There is an unavoidable delay to await the return of evidence from an analysis laboratory.

(4) The offender is temporarily transferred outside the facility setting and is expected to return after a brief absence.

(5) The offender is on “escape” status. At the hearing officer’s discretion, the case may be dismissed or heard in absentia on the record, unless the offender has been apprehended and is available at a known location for return to the physical custody of the juvenile justice authority for the hearing within six months.

(c) To obtain a continuance in advance of the hearing, the requesting party shall make the request to the hearing officer or to the disciplinary administrator. If there is a hearing officer appointed for the case, the request shall be forwarded to that officer.

(1) Reasonable extensions may be obtained with the prior approval of the commissioner or the commissioner’s designee, in the case of a substantial disruption of order in the facility.

(2) If an offender has been transferred to another facility, it shall be the responsibility of the superintendent of the sending facility to grant an extension of the disciplinary case. This extension shall not exceed 10 working days.

(3) The facts justifying an extension shall be examined, fully documented, and approved personally by the superintendent.

(4) At the discretion of the hearing officer, one or more recesses of appropriate and reasonable length may be declared.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-403. Conducting the disciplinary hearing. (a) Each disciplinary hearing shall be conducted as follows:

(1) The hearing officer shall initially inform the offender of the charges and take the offender’s plea.

(2) The hearing officer shall then determine guilt or innocence.

(3) The hearing officer shall make a disposition, including the determination and imposition of sentence if guilt was previously established.

(b) Initially, the hearing officer shall read the disciplinary report to the offender, including the date, the nature of the offense, the reporting employee’s name, and a synopsis of the observation. The officer shall ensure that the offender understands the charges and that the offender received a copy of the disciplinary report. The officer shall also explain the possible penalties if guilt is established. If the hearing officer finds that

the offender is incapable of self-representation, the hearing officer shall continue the hearing as provided in K.A.R. 123-13-402(b)(1), until the offender regains the ability for self-representation. For purposes of this subsection, “incapable of self-representation” shall mean that the offender, due to physical or mental disability, whether temporary or permanent, lacks the present ability to assist in the offender’s representation in the case. Illiteracy alone shall not be deemed a sufficient basis to find that an offender is incapable of self-representation.

(c) A staff assistant shall be permitted to be with the offender at the disciplinary hearing only as provided in K.A.R. 123-13-408. The hearing officer shall ensure that the offender has staff assistance when required by K.A.R. 123-13-408.

(d) If the offender is disruptive or refuses to be present, the hearing may proceed in absentia, and the record shall indicate each reason for the offender’s absence. The offender’s staff assistant, if so assigned, shall be present.

(e) The hearing officer shall entertain and determine any motion for dismissal or objections to holding the hearing, as well as any motions for additional witnesses beyond those identified already in the witness list previously submitted. Additionally, the hearing officer shall advise the offender of the following rights:

(1) The right to proceed to a determination of guilt or innocence, and if necessary, the application of penalties;

(2) the right to receive staff assistance in certain cases, according to K.A.R. 123-13-408; and

(3) any other procedural due process rights applicable in the case.

(f)(1) The hearing officer shall then ask the offender to plead guilty, not guilty, or no contest. The plea shall be entered if the presiding officer is assured that the plea is made knowingly and without threat or promise of reward to the offender.

(2) If the offender refuses to plead, the hearing officer shall enter a plea of not guilty. A plea of no contest shall be treated in the same manner as that for a plea of guilty. If the offender pleads guilty or no contest, the offender shall waive the right to a determination of guilt or innocence, but shall reserve the right to participate in the penalty phase of the hearing to the extent of offering a brief argument in mitigation of the penalty to be imposed. If the offender pleads guilty or no contest, the offender shall not be allowed to in-

roduce evidence regarding the offender's guilt or innocence of the charge or charges.

(g) The hearing officer shall, upon a plea of guilty or no contest, make a finding of guilt and conduct a sentencing hearing, and may impose a sentence.

(h) If the hearing officer finds that the case should be dismissed, the officer may dismiss the case on the officer's own motion or on the motion of either party. The hearing officer shall give a brief explanation of the basis for the dismissal on the record.

(i) Only the relevant facts shall be employed in any determination of guilt or innocence. In the penalty phase, the offender's entire facility record and other relevant facts, observations, and opinions may be considered.

(j) The hearing officer shall rule on all matters of evidence. Strict rules of evidence, as used in a court of law, shall not be required, but the hearing officer shall exercise diligence to admit reliable and relevant evidence and to refuse to admit irrelevant or unreliable evidence.

(k) The hearing officer shall rule on all matters of assistance for the accused offender in accordance with these regulations. If the accused offender is furnished with staff assistance according to K.A.R. 123-13-408, the staff assistant shall be permitted to fully assist the accused and shall be permitted to question witnesses and present arguments on behalf of the accused offender, except as otherwise provided by these regulations.

(l)(1) The disciplinary process shall, to the extent possible, discover the truth regarding the charges against the offender. The hearing officer shall be authorized to call and to examine any witness, and each offender, staff member, volunteer, or contract employee called as a witness by the hearing officer shall be compelled to appear. The hearing officer may bring out the facts by direct examination or cross-examination but shall not act as a prosecutor on behalf of the facility or charging officer against the accused offender or as defense counsel on behalf of the offender. All testimony and evidence shall be given or presented in the presence of the accused offender. Testimony and evidence shall not be received by the hearing officer or introduced outside the presence of the offender, except as provided in subsection (m) of this regulation, K.A.R. 123-13-403(d), K.A.R. 123-13-402(b)(5), and these regulations.

(2) The hearing shall proceed as follows:

(A) The prosecution shall present its evidence,

and the defense shall be permitted to cross-examine, except as otherwise provided by these regulations.

(B) The defense shall present its evidence, and the prosecution shall be permitted to cross-examine.

(C) The prosecution may make a closing argument. The defense may make a closing argument, and then the prosecution may make a short rebuttal.

(m)(1) If the hearing officer determines that the testimony of any offender will subject that offender to possible retaliation for having testified, the hearing officer may perform either of the following:

(A) Receive the testimony in confidence without confrontation or cross-examination by the accused offender. The witness may be sequestered; or

(B) receive testimony from the investigator who interviewed an offender informant and who relied on the confidential information provided.

(2) The testimony of the offender witness given under oath shall be examined and tested by the hearing officer. The hearing officer shall question the testifying offender, as necessary, to determine the veracity and weight of the testimony offered. The hearing officer shall complete a credibility assessment form, which shall be available for confidential review by the superintendent and commissioner.

(3) If the informant offender does not testify, the hearing officer may establish the reliability of the information provided to the testifying investigator by any of the following:

(A) The testimony of the investigator regarding the reliability of the informant in the past, which shall include specific examples of past instances of reliability;

(B) the testimony of the investigator regarding the truthfulness of details that the investigator has been able to verify through investigation;

(C) corroborating testimony;

(D) a statement on the record by the hearing officer that the hearing officer has firsthand knowledge of the informant and considers the informant to be reliable due to the informant's past record of reliability, which shall include specific examples of past instances of reliability; or

(E) in camera review of material documenting the investigator's assessment of the credibility of the informant.

(4) The accused shall be apprised of the general nature of the confidential testimony, omit-

ting those details that would tend to identify the offender who gave the confidential testimony or provided confidential information to the testifying investigator. The identity of any confidential witness or of any offender informant shall not be disclosed to the accused, to any other offender, or to any staff member not required to complete the process. The staff assistant, if any, shall be permitted to be present when the board receives testimony from the confidential witness or the investigator, and the staff assistant may ask questions. The offender's staff assistant shall not disclose the identity of the confidential witness or offender informant to the accused, to any other offender, or to any staff member not required to complete the hearing process. The testimony shall be recorded, for confidential review by the superintendent and, as applicable, on appeal, by the commissioner.

(n) The hearing officer may require the accused to explain briefly what the purpose and nature of the testimony of a witness will be. The request to call the witness may be denied or the testimony reasonably and fairly restricted if the testimony meets any of the following criteria:

- (1) Relates to a matter already disposed of;
- (2) is clearly irrelevant or immaterial;
- (3) is repetitious of other testimony; or
- (4) is properly excluded for reasons specified in K.A.R. 123-13-405a. The truth of the testimony shall be presumed in making this decision.

(o) A witness request made at the hearing and not previously submitted shall not be permitted unless exceptional circumstances outside the control of the offender exist and the testimony would most likely affect the outcome of the hearing. The hearing officer shall inform the offender of any witness deemed waived by the failure to make a timely request.

(p) The hearing officer, in deciding whether or not the offender is guilty, shall consider only the relevant testimony and report. The accused offender's correctional and supervision record shall not be considered in determining guilt or innocence. The decision in the hearing shall be based solely on evidence presented as part of the hearing.

(q) Confrontation and cross-examination may be denied by the hearing officer if deemed necessary in any case except class I cases. In class I cases, confrontation and cross-examination may be limited or denied if necessary to protect the safety of an accuser, informant, or witness or if necessary to maintain facility safety, security, and control.

Unless there is a security risk endangering any person, the explanation shall be in the record. If there is such a security risk, a written explanation of the reason shall be sent to the superintendent with a copy to the commissioner for confidential review.

(r) After the conclusion of the presentation of evidence regarding guilt or innocence or disposition, if the hearing officer needs the charging officer, the accused offender, or both present to provide further information to clarify facts, both parties shall be present to hear what the other is saying unless exempt under subsection (m) or (q) in this regulation.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-404. Presence of offender and presence of charging officer at disciplinary hearings; officer statements in lieu of testimony. (a) The offender shall be present at all stages of the disciplinary hearing and disposition, except as otherwise provided by these regulations or by law.

(b) In class I cases, the charging officer shall be present for direct examination and for confrontation and cross-examination, unless either of the following conditions is met:

(1) The charging officer is excused by the hearing officer. The hearing officer may excuse the charging officer only if the hearing officer, after consulting with the superintendent, determines that facility safety or correctional goals would be jeopardized. "Facility safety or correctional goals" shall not include considerations of mere convenience. If the officer is not present, the officer's report and statement shall be made to the hearing officer in writing under oath. Copies of the report shall be provided to the offender, and the report shall be read aloud at the hearing unless confidentiality is required to protect an offender accuser, informant, or witness.

(2) The offender has been transferred to another facility. If an offender has been transferred to another facility after a disciplinary report was written in a class I case, the testimony of the charging officer and other witnesses pertaining to that report may be taken by telephone at the discretion of the hearing officer. Except as provided in K.A.R. 123-13-403(m) and (q), all testimony taken by telephone shall be taken in a manner that

can be heard by all those present at the hearing and shall be subject to the procedures applicable to witnesses personally present at a hearing.

(c)(1) In class II and III cases, the charging officer's attendance shall not be required unless deemed necessary by the hearing officer. If the hearing officer excuses the attendance of the charging officer, the charging officer's sworn, written report and statement, if any, shall be submitted to the hearing officer. The charging officer's report and statement, if any, shall be read aloud at the hearing, and a copy shall be given to the offender unless confidentiality is required to protect an offender-accuser, informant, or witness according to K.A.R. 123-13-403(m). If such confidentiality is required but it is possible to protect the offender-accuser, informant, or witness by redacting certain portions of the report and statement, then those portions shall be redacted and the offender shall be provided with a copy. The hearing officer may contact the officer, by telephone or radio, to ask questions or clarify the facts while the hearing is being conducted or while the matter is being considered for decision.

(2) In all class II and III cases, if the charging officer requests, the hearing officer shall allow the charging officer to be present. In such a case, the officer shall be present throughout and shall be subject to direct examination, confrontation, and cross-examination unless restricted by the hearing officer according to these regulations.

(d)(1) The officer's statement under oath shall consist of the officer's rendition of all the facts of the case resulting from the charging officer's complete investigation. To the best of the officer's ability, the statement shall include all relevant and material facts that might be used to support both the prosecution's case against the offender and the offender's defense. If the officer is uncertain of a fact, the officer shall state that with respect to the fact. The charging officer may either adopt or defer under oath to the report, if any, from any official, impartial investigation of the matter conducted by another person, or the charging officer may submit the charging officer's own statement in addition to the other person's investigative report.

(2) Confidential offender testimony may be deleted from the statement in lieu of testimony and reported separately. The hearing officer shall receive any confidential offender testimony in accordance with K.A.R. 123-13-403.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing

K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-405a. Calling witnesses. (a) In determining whether to allow the offender to call a witness from the facilities' populations or from among the facilities' employees, the hearing officer shall balance the offender's interest in avoiding a loss of good time and the assessment of restitution or placement in disciplinary segregation against the needs of the facility at which the proceedings are held. The needs of the facility shall include the following:

(1) The need to keep the hearing within reasonable time limits;

(2) the need to prevent the creation of a risk of retaliation and reprisal;

(3) the need to prevent the undermining of authority;

(4) the need to limit, to a reasonable level, access to other offenders for the purpose of collecting statements or compiling documentary evidence;

(5) the need to prevent disruption;

(6) the need to administer swift punishment;

(7) the need to avoid irrelevant, immaterial, or unnecessary testimony and evidence;

(8) the need to reduce or prevent security hazards that could be presented in individual cases;

(9) the need to use the disciplinary process as a rehabilitative tool to modify offender behavior;

(10) the need to prevent the creation of undue risk to personal or facility safety;

(11) the need to reduce the chances of seriously inflaming tension, frustration, resentment, and antagonism in the relationship between offenders and personnel;

(12) the need to correct the behavior of offenders and develop in them a value system in order to foster their eventual return to the community; and

(13) the need for the prompt, efficient, and effective resolution of the disciplinary case with accurate and complete fact-finding consistent with the level of process required by law for correctional environment disciplinary cases.

(b) The hearing officer shall have broad discretion in permitting or denying each request for witnesses. In exercising this discretion, the hearing officer shall balance the offender's request and wishes against the needs of the facility. The goal of the hearing officer shall be to conduct the fact-finding process in a manner leading to the discovery of the truth.

(c) The hearing officer shall neither abuse the discretion entrusted to that officer nor interfere with the level of process that is reasonably necessary to find the truth.

(d) With the charged offender's consent, the hearing officer may admit the affidavit of a non-party witness in lieu of an appearance by the witness. If a witness is denied or cannot attend in a timely manner, the hearing officer may also admit the affidavit of this witness.

(e) If a request to call a witness is denied, a written explanation shall be made on the record unless the disclosure on the record would endanger any person. In this case, a written explanation shall be made to the superintendent with a copy, on appeal, to the commissioner for confidential review.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-406. Disposition. (a) The disposition shall be rendered by the hearing officer in an official session with the offender present unless otherwise provided by law or regulation. The disposition shall be made without unreasonable delay following the hearing, preferably at the conclusion of the hearing.

(b) The disciplinary hearing officer may perform either of the following:

(1) Impose a sentence of a specific number of days, within the limits set in the disciplinary code; or

(2) in the case of multiple offenses, order the sentences for two or more violations to be served on a concurrent or consecutive basis. If the hearing officer makes no specific order in this regard, the sentences shall be computed on a concurrent basis.

(c) The hearing officer may suspend all or part of the sentence imposed.

(d) The hearing officer may make a recommendation to the superintendent, on a separate form or in a separate space on the disposition form as designated for the purpose, regarding disposition of personal property that has been found to be the subject of a violation of a law, regulation, internal management policy and procedure, or facility order in accordance with K.A.R. 123-5-111.

(e) Upon request, the reporting staff person may be notified of the disposition.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing

K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-408. Assistance from staff. If at any time during the disciplinary proceedings the hearing officer finds that the charged offender is incapable of self-representation, the hearing officer shall appoint a staff member from an approved list to act as a staff assistant to aid the offender at the disciplinary hearing and to question witnesses. A list of staff members to aid offenders as staff assistants shall be made available to the hearing officer by the superintendent.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-409. Standard of proof. No finding of guilty shall be made in a disciplinary proceeding unless the evidence and testimony provided at the disciplinary hearing are sufficient to show by a preponderance of the evidence that the accused offender committed the alleged violation. "Preponderance of the evidence" shall be that standard of proof by which a factual proposition is shown to be more likely true than not.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-501. Preservation of all reports. No disciplinary reports and no summary judgment citations shall be destroyed for any reason. If written in error or incorrectly written, the report or citation shall be assigned a case number and shall be marked "void" and placed in the chronological disciplinary file at the facility. If the charge was dismissed or a finding of not guilty was made by the disciplinary hearing officer, then the report shall be marked accordingly and placed in the chronological disciplinary file at the facility.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-502a. Hearing record. A complete written record shall be made of the disciplinary hearing by the hearing officer who conducted the hearing. The written record shall include the following information: (a) A summary

of the disciplinary hearing showing compliance with the provisions of K.A.R. 123-13-403, K.A.R. 123-13-404, and K.A.R. 123-13-405a;

(b) if the offender pleads guilty or no contest, a summary of compliance with the provisions of K.A.R. 123-13-101a and K.A.R. 123-13-403, including attachment of the required waiver form and acceptance of the plea by the hearing officer;

(c) a complete summary of all the evidence and arguments relied on to find the offender guilty of the charge at the conclusion of the hearing, including the following:

(1) A summary of the testimony or sworn statement of the reporting officer, subject to the applicable provisions of K.A.R. 123-13-403;

(2) a summary of the testimony or sworn statements of all other witnesses;

(3) any investigative reports;

(4) a list of all physical evidence;

(5) a list of any witnesses whose testimony was requested and denied and the reasons for that denial;

(6) the reasons for the denial of confrontation and cross-examination of any witness by the offender; and

(7) the reasons for the denial of any request for assistance by the offender at any stage of the hearing; and

(d) the disposition of the case provided for in K.A.R. 123-13-406, including a summary of the evidence and arguments heard and the reasons for the penalties imposed during the penalty phase of the hearing.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-505. Copy of record provided to offender. One copy of the disciplinary case record shall be provided without cost to the offender. The offender shall be charged for each additional copy at the rate established by law, regulation, internal management policy and procedure, or facility order.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-506. Preparation of the record within 10 working days. The hearing officer shall prepare the record of each disciplinary hear-

ing within 10 working days after rendering the disposition, unless extenuating circumstances arise. If these circumstances arise, the record shall be prepared as soon as possible, and a written explanation of the reason for the delay shall be attached. The completed record shall be forwarded to the superintendent for administrative review. After that review, a copy shall be delivered to the offender.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-507. Docket. (a) The disciplinary administrator at each facility shall maintain a docket of all disciplinary cases filed at that facility showing the following for each case:

(1) The case number;

(2) the offender's name;

(3) the offender's number;

(4) the name of the living unit;

(5) the offense and its classification; and

(6) the name and title of the reporting officer.

(b) Space shall be left available on the docket to enter the plea of the offender, the findings of the hearing officer, and the sentence imposed.

(c) A copy of the docket shall be maintained in the facility.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-508. Reports in file. The disposition report and disciplinary report for each case shall be placed in the file of the respective offender if there is a finding of guilty. If there is a not-guilty finding or if the case is dismissed, no reference to the case shall be placed or allowed to remain in the offender's file.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-509. Disciplinary case log. Each disciplinary administrator shall keep a continuous log of all disciplinary reports. The reports shall be numbered and recorded. If any disciplinary report is voided, dismissed, or otherwise terminated, the log and the report shall be annotated to reflect that fact. No numbers or entries shall be altered, and no report shall be destroyed.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-601. Serving disciplinary segregation sentence. Each offender sentenced to disciplinary segregation shall begin serving the sentence immediately upon imposition of the sentence by the hearing officer, unless the superintendent determines that space in the disciplinary segregation area is not immediately available or that immediate placement of the offender in segregation is not otherwise feasible. If either determination is made, the sentence shall be served when space is available or when placement of the offender in segregation becomes feasible.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-602. Credit for disciplinary segregation sentence. (a) Each offender sentenced to a term in disciplinary segregation shall be granted credit to reduce the term of this sentence on a day-for-day basis for each day the sentenced offender remained in administrative segregation if that offender was in administrative segregation solely for the purpose of awaiting the disciplinary proceeding.

(b) No credit to reduce the term of a sentence to disciplinary segregation shall be granted for any day the sentenced offender was in administrative segregation for a reason other than awaiting the disciplinary proceeding even if, absent that other reason, the sentenced offender would nevertheless have been in administrative segregation awaiting the disciplinary proceeding.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-603. Absence from facility. (a)(1) No time during which an offender is away from the facility shall be credited against the service of the offender's sentence if both of the following conditions are met:

(A) The offender is sentenced for a specific period of time to any of the following:

- (i) Disciplinary segregation;
- (ii) the restriction of privileges; or
- (iii) the performance of additional responsibilities.

(B) The offender is temporarily transferred from the facility before beginning or before completing the term of the sentence.

(2) Upon the offender's return to the facility, the offender shall serve the remainder of the sentence, unless the superintendent determines that the best interests of the offender or facility warrant that the remaining portion of the sentence be suspended.

(b) If an offender is conditionally released from the facility pursuant to the sentencing order in the underlying juvenile offender case, the offender may be required to complete serving the sentence upon the offender's subsequent return to the facility, at the discretion of the superintendent.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-610. Collection of restitution. (a) Upon disposition of the case, restitution may be collected immediately from the offender's trust account without any further hearing process, with the written order of the disciplinary administrator.

(b) The restitution shall be taken from any money that the offender has credited to the offender's trust account administered by the facility. The restitution shall not be deducted or taken from any applicable gratuity, travel, or clothing allowance provided to the offender upon release.

(c) No offender, while released in the community, shall be required to continue payment on any restitution imposed under these regulations. Upon any subsequent admission, the restitution may be collected, at the discretion of the superintendent.

(d) If an offender is transferred to another facility and there is a balance due on any restitution imposed under this regulation, collection of the remaining balance may be made by the receiving facility at the request of the superintendent of the sending facility and with the approval of the superintendent of the receiving facility. The amount collected shall be deposited in the offender benefit fund at the facility where the collection is made.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-701. Administrative review. (a) In each class I and class II offense case, a case review

shall be conducted by the superintendent within seven working days after the preparation of the disciplinary hearing record. The record shall be reviewed to determine whether the proceeding was conducted in compliance with the disciplinary procedure. The review shall not include the presentation of further arguments from either side. Based upon the review, any of the following actions shall be taken by the superintendent:

- (1) Approving the decision;
- (2) disapproving the decision;
- (3) amending the charge in accordance with the provisions of K.A.R. 123-13-202 and remanding the case to the hearing officer;
- (4) disapproving the decision and dismissing the case;
- (5) reducing the penalty;
- (6) remanding the case to the hearing officer and ordering a new hearing; or
- (7) remanding the case to the hearing officer for clarification of the record and returning the case to the superintendent for further consideration.

If applicable, the disposition of any personal property that has been found to be the subject of a violation of one or more disciplinary regulations in accordance with K.A.R. 123-5-111 shall be made by the superintendent.

(b) The offender shall be notified by the superintendent of the results of the review by service of a copy of the disciplinary case record in a timely manner. Service shall occur without unnecessary delay but not later than seven working days after the review. The date of the review shall not be counted.

(c) In each class III case, an impartial employee of suitable rank and experience shall be designated by the superintendent to perform the review. The employee designated shall not be the person who was the hearing officer, a person involved as a witness or investigator, or a reporting officer. The review shall be conducted following the same procedures as those specified in subsection (a). The employee conducting the review shall have the same responsibilities and authority as those assigned to the superintendent in subsection (a).

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-702. Appeal on the record to the superintendent in class III offense cases. (a) In class III cases, each offender shall have a right

of appeal to the facility's superintendent but shall have no right of appeal to the commissioner.

(b) The procedure for appeal to the superintendent shall be the same as that for appeal to the commissioner in cases involving class I and II offenses.

(c) The same time to answer the appeal shall be provided to the superintendent as that provided for the commissioner in cases involving class I and II offenses.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-703. Appeal on the record to commissioner in class I and II offense cases.

(a) In class I and II cases, each offender shall have the right to appeal on the record to the commissioner from a final decision made by the disciplinary hearing officer, after the superintendent's review pursuant to K.A.R. 123-13-701. The offender shall be notified of the right of appeal before or immediately following the superintendent's review.

(b) Any offender may, on forms provided by the program team, prepare the offender's own appeal. The program team shall ensure that all data necessary to identify and properly log the appeal is provided and forwarded to the disciplinary administrator.

(c) The offender shall submit the appeal within 15 days of the date of receiving notice of the final action pursuant to K.A.R. 123-13-701(b).

(d) If the offender pleaded guilty or no contest at the disciplinary hearing, an appeal of the penalty imposed may be brought, but no appeal of a finding of guilt shall be permitted unless the offender alleges and shows any of the following:

- (1) The offender was under duress at the time of the plea.
- (2) Fraud or substantial error was involved in the offender's plea of guilty or no contest.
- (3) The offender was not advised of the nature of the hearing and the rights that the offender would waive by that plea.

(e)(1) In an appeal, each side may submit a written argument and shall serve a copy of the argument on the opposing side.

(2) The offender shall serve a copy of the argument on the program team, with the appeal papers, and the argument shall be made part of the appeal record. Within two working days, the program team shall forward a copy to the institution's

disciplinary administrator so that a responsive argument can be made.

(3)(A) The offender's appeal papers and arguments shall be promptly forwarded to the designated facility's legal counsel for review and, as deemed necessary by legal counsel, preparation of a responsive argument on behalf of the facility. Each responsive argument so prepared shall be made a part of the record and shall be forwarded by the disciplinary administrator to the commissioner within 15 working days after the offender's notice of appeal. A copy of the responsive argument shall be served upon the offender within five working days after receipt by the disciplinary administrator.

(B) If no responsive argument is submitted by the facility, the appeal may be returned to the facility by the commissioner with the direction that a responsive argument be prepared and submitted. The disciplinary administrator, in collaboration with the superintendent, shall arrange for a responsive argument to be prepared and a copy served on the commissioner and the offender within five calendar days of the imposition of the requirement for a responsive argument. This requirement for a responsive argument shall not alter the time limits for the commissioner's review on appeal established in K.A.R. 123-13-704.

(4) Each argument shall identify, on its face, the disciplinary case and number to which the argument is to be attached.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-704. Commissioner's final review on appeal. (a) Within 15 working days after each appeal is received, the appealed case shall be reviewed by the commissioner or designee. The date of receipt shall not be counted. Any one of the following actions may be taken by the commissioner or designee:

- (1) Approving the decision as rendered;
- (2) revoking the decision entirely;
- (3) reducing the penalty;
- (4) ordering a new hearing; or
- (5) remanding the case for clarification of the record and resubmission to the commissioner for further consideration.

(b) The commissioner's review shall determine the following:

- (1) Whether there was substantial compliance

with the agency's and the facility's standards and procedures;

(2) whether the hearing officer's decision was based on material and relevant evidence; and

(3) whether, under the circumstances, the penalty imposed was appropriate and proportionate to the offense.

(c) The commissioner's decision shall be final. A copy of the commissioner's decision shall be given to the offender within 15 working days after the decision is made. If the appeal is denied, the reason for that decision shall be included in the commissioner's decision.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-706. Administrative review board to review and make recommendations. The administrative segregation review board established under the applicable internal management policy and procedure of the commissioner may review the record for each offender held in disciplinary segregation. This board may, at any time, recommend to the superintendent that the disciplinary segregation sentence of an offender be modified to suspend the remaining segregation time, based on a finding of the administrative disciplinary segregation review board that the offender has maintained exceptionally good behavior while in segregation. The remaining segregation time of the offender's sentence may be suspended by the superintendent, acting on the recommendation of the administrative segregation review board.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-13-707. Harmless error; plain error. None of the following types of errors shall be grounds for granting a new hearing, for setting aside a finding, or for vacating, modifying, or otherwise disturbing a disposition or order, unless the failure to take that action appears to the hearing officer or the reviewing authority to be inconsistent with substantial justice: (a) An error in either the admission or exclusion of evidence;

(b) an error or defect in any ruling or order;

(c) an error in anything done or omitted by the hearing officer or by any of the facility officials in processing the disciplinary case; and

(d) an error by the offender in processing the offender's defense of the case.

Throughout the disciplinary process, the hearing officer or the reviewing authority shall disregard any error or defect in the proceeding that does not affect the substantial rights of the offender or the facility.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

Article 15.—OFFENDER GRIEVANCE PROCEDURE

123-15-101. Offender grievance procedure; informal resolution; formal levels. (a) Before utilizing the grievance procedure, each offender shall be responsible for attempting to reach an informal resolution of the matter with the personnel who work with the offender on a direct or daily basis. The offender shall contact the program team members for the attempt at informal resolution. That attempt shall be documented. The facility's offender request forms may be used to document this process. If the informal resolution attempt fails, the grievance system may then be used. If an emergency exists and a resolution was not obtained by contacting the program team, the offender may utilize the grievance process.

(b) At every stage of the process, the grievance shall be answered promptly in order to avoid delays that impose additional hardship upon the offender or that unnecessarily prolong a misunderstanding. To the extent possible, the grievance of an offender who has been transferred, released, or discharged before its final resolution shall be answered.

(c) The grievance procedure shall consist of the following levels of problem solving to ensure resolution at the lowest administrative level possible:

(1) Level one. The offender shall first submit the grievance report form to the proper facility program team member.

(2) Level two. If not resolved at level one, the offender may then submit the grievance report form to the facility's superintendent.

(3) Level three. If not resolved at level two, the grievance may then be submitted to the office of the commissioner. Either a response to the grievance or a referral of the matter to the deputy commissioner for operations for further investigation by the superintendent, if necessary, shall be

made. The grievance may be referred by the commissioner to the deputy commissioner or designee for a response.

(d) The forms designated in the "offender grievance" IMPP for an offender's use in submitting a grievance shall be made available to all offenders in each living unit. The program team shall assist the offender in obtaining copies of the supporting material necessary to complete the grievance if the number of photocopies requested by the offender is reasonable.

(e) No staff member shall refuse to sign, date, and return an offender request form, an offender grievance form, or a grievance receipt slip showing that the offender sought assistance from that person.

(f) Each offender shall be entitled to use the grievance procedure. The superintendent or designee shall provide reasonable accommodation to ensure that mentally impaired and physically handicapped offenders have access to the grievance procedure.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-15-101a. Grievance procedure distribution; orientation; applicability; remedies; investigation. (a) The grievance procedure regulations shall be distributed or made readily available to all offenders in each facility.

(b) Each offender, upon admittance to the facility, shall receive an oral explanation of the offender grievance procedure, including an opportunity to have questions regarding the procedure answered orally. Explanatory materials and the oral presentation shall be made available in any language spoken by a significant portion of the facility's population. To the extent feasible, offenders who do not understand English shall receive an explanation of the grievance procedure in a language in which the offender is fluent. Mentally impaired and physically handicapped offenders shall receive explanations in a manner comprehensible to them. Following the explanation, each offender shall sign a statement indicating that the required explanation has been given.

(c) All employees of the facility who are directly involved in the operation of the offender grievance procedure shall receive training in the skills necessary to operate, or to participate in, the grievance procedure.

(d)(1) The grievance procedure shall be applicable to a broad range of matters that directly affect the offender, including the following:

(A) Complaints by offenders regarding policies and conditions within the jurisdiction of the facility or the juvenile justice authority; and

(B) actions by employees and offenders, and incidents occurring within the facility.

(2) The grievance procedure shall not be used as a means for challenging the decision reached in any of the following:

(A) The offender disciplinary procedure;

(B) the classification decision-making process; or

(C) the property loss or personal injury claims procedure.

(3) The grievance system may be used to challenge whether the procedure or process identified in paragraph (d)(2)(A), (B), or (C) was properly conducted or to challenge the manner in which the decision was made. This type of grievance shall be permitted only after the decision in the procedure or process being challenged is final, including appeals, if applicable, unless the offender would incur irreparable harm if delayed until the end of the process.

(e) The remedies available to the offender through the grievance procedure may include action by the facility's superintendent to correct the problem or action by the commissioner to cause the problem to be corrected. Relief may include an agreement by facility officials to remedy an objectionable condition within a reasonable, specified time, or to change a facility policy or practice.

(f) A procedure shall be established by the superintendent for investigating the allegations and establishing the facts of each grievance. An offender or employee who appears to be involved in the matter shall not participate in any capacity in the resolution of the grievance.

(g) A copy of the grievance response at each level shall be delivered to the program team, the offender, and the superintendent last responding.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-15-101b. Time limit for filing grievance. (a) Each grievance shall be filed within 15 days from the date of the discovery of the event giving rise to the grievance. However, if the fifteenth day falls on a Saturday, Sunday, or holiday, the grievance may be filed on the first regular work

day immediately following the fifteenth day. No grievance, regardless of the date of discovery, shall be filed more than one year after the date of the event giving rise to the grievance. Each grievance filed later than these deadlines shall be returned to the offender without investigation. The name of the individual returning the grievance, the date of the return, and the reasons for the return shall be noted on the grievance.

(b) Any offender may move to the next level of the grievance procedure if a timely response is not received at any level in the grievance process, unless an extension of time for the response is agreed to in writing by the offender and staff person answering the grievance.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-15-102. Procedure. (a) Grievance level one; preliminary requirement; informal resolution and problem solving by or with the assistance of the program team.

(1) Each offender shall first seek information, advice, or help on any matter from the offender's program team or from a member of the team. If unable to solve the problem, the program team shall refer the offender to the proper office or department. The program team shall assist any offender who is unable to complete the form without assistance.

(2) If an offender does not receive a response from the program team within 10 calendar days, a grievance report may be sent to the superintendent without the program team's signature or signatures. Each grievance report form shall include an explanation of the absence of the signature or signatures.

(b) Grievance level two; complaint to the superintendent.

(1) If any offender receives a response but does not obtain a satisfactory resolution to the problem through the informal resolution process within 10 calendar days, the offender may complete an offender grievance report form and submit it, within three calendar days after the deadline for informal resolution, to a staff member for transmittal to the superintendent.

(2) The offender shall attach a copy of all offender request forms used to attempt to resolve the problem and shall provide the following information on the offender grievance report:

(A) A specific complaint that states what or who is the subject of the complaint, the related dates and places, and what effect the situation, problem, or person is having on the offender that makes the complaint necessary;

(B) the title and number, if possible, of any order or regulation that may be the subject of the complaint;

(C) the action that the offender wants the superintendent to take to solve the problem;

(D) the name and signature of each responsible facility employee from whom the offender sought assistance. This signature shall be on either the offender request form or the grievance report form. The date on which the help was sought shall be entered by the employee on the form; and

(E) the date the completed grievance report was delivered to the staff member for transmittal to the office of the superintendent.

(3) The staff member shall forward the report to the superintendent before the end of the next working day and shall give a receipt to the offender.

(4)(A)(i) Upon receipt of a grievance report form, the superintendent or designee shall assign a unique control number and record the date of its receipt. The nature of the grievance shall be ascertained by the superintendent or designee.

(ii) A response to the grievance shall be returned to the offender within 10 working days from the date on which the grievance was received.

(B) Each response shall contain findings of fact, conclusions drawn, the reasons for those conclusions, and the action taken by the superintendent. Each response shall inform the offender that the offender may appeal by submitting the appropriate form to the commissioner.

(C) The superintendent shall return the original and one copy of the grievance report to the offender, along with the superintendent's response. The original documents shall be used for an appeal to the commissioner if the offender elects to file an appeal of the superintendent's decision, and the copy may be retained by the offender.

(D) The superintendent shall retain a copy of all documents.

(E) Each facility shall maintain grievance report files indexed by offender name and by subject matter.

(F) Any grievance report form may be rejected by the superintendent if the form does not document any program team action as required by the preliminary informal resolution process. If rejected, the grievance report form shall be sent back to

the program team for an immediate response to the offender. If not rejected for lack of documentation, a response shall provide by the superintendent as required by these regulations.

(G) If the superintendent fails to respond in the time allowed under these regulations, the aggrieved offender may submit the grievance to the commissioner for handling in accordance with grievance level three. A grievance submitted under this subsection shall contain an explanation for direct submission to the commissioner.

(c) Grievance level three; appeal to the commissioner.

(1) If the superintendent's response is not satisfactory to the offender, the offender may appeal to the commissioner's office. The offender shall specifically detail the reasons for the appeal and the action that the offender wants the commissioner to take to resolve the grievance. The offender's appeal shall be made within three calendar days of receipt of the superintendent's response or within three calendar days of the deadline for that response, whichever is earlier.

(2) The appeal, along with any other required documentation, shall be sent directly and promptly by U.S. mail to the commissioner's office.

(3) Whenever a superintendent's response is appealed, the commissioner shall have 20 working days from receipt of the grievance appeal to respond to the offender. The response shall include findings of fact, conclusions made, and actions taken and shall be returned to the offender along with the grievance report form.

(4) If a grievance report form that fails to document the superintendent's prior action is submitted to the commissioner, the form may be returned to the superintendent. If the superintendent fails to respond to the grievance in a timely manner, the form shall be accepted by the commissioner.

(5) A deputy commissioner may be designated by the commissioner to prepare a response to the grievance.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-15-104. Reprisals prohibited. No adverse action shall be taken against any offender for use of the grievance procedure, unless the offender uses the grievance procedure to communicate a threat to another person or to the security of the institution or to commit any unlawful act.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-15-105. Records. (a) Nature and retention. Records regarding the filing and disposition of grievances shall be collected and maintained systematically by the facility. These records shall include aggregate information regarding the numbers, types, and dispositions of grievances, as well as individual records of the date of and the reasons for each disposition at each stage of the procedure. These records shall be preserved for at least three years following final disposition of the grievance. The logs and records shall be maintained in a form and manner prescribed by the commissioner.

(b) Confidentiality. All records regarding the participation of an individual in grievance proceedings shall be considered confidential and shall be handled under the procedures used to protect other confidential case records. Each staff member participating in the disposition of a grievance shall have access to the records that are essential to the resolution of the grievance. Each offender shall be permitted to review any portion of the offender's own file upon the written approval of the superintendent. No offender shall be permitted to review any portion of another offender's file. Grievance report forms shall not be placed in the offender's institutional or agency file.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-15-105a. Annual review. (a) The records regarding the filing and disposition of grievances shall be reviewed annually by the commissioner or designee to determine the effectiveness and credibility of the grievance procedure.

(b) Each review shall include the following:

(1) An analysis of the types of grievances received;

(2) a breakdown reflecting the types and levels of disposition; and

(3) a summary and analysis of any complaints that have been received about the grievance procedure.

(c) In addition to the requirements specified in subsection (b), each review shall include the solicitation and consideration of employee and offend-

er comments on the effectiveness and credibility of the grievance procedure.

(d) The results of each annual review shall be compiled in a written report. Each report shall document the conclusions about the effectiveness and credibility of the grievance procedure and shall include recommendations for improvements to the procedure. Each report shall be maintained by the agency in accordance with the agency's records retention policy.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-15-106. Emergency grievance procedure. (a) "Emergency grievance" shall mean a grievance for which disposition using the regular time limits would subject the offender to a substantial risk of personal injury or cause other serious and irreparable harm to the offender.

(b) In emergency situations, any offender may bypass the prerequisite of informal resolution if contacting the program team would not obtain a resolution to the problem. The offender shall indicate on the face of the grievance form the nature of the emergency and shall write the word "emergency" in readily discernable letters at the top of the grievance report form.

(c) Each emergency grievance shall be forwarded immediately, without substantive review, to the level at which corrective action can be taken. Each emergency grievance shall be expedited at every level. The same external review provisions that apply to regular grievances shall apply to emergency grievances.

(d) If a person at the corrective action level determines that the grievance is not an emergency, the person making that determination shall include that determination on the grievance form and then sign the form. The grievance shall then be processed as a regular grievance. If necessary for a proper response, the grievance may be sent for processing at a lower level.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

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 geni-

talia, 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 superin-

tendent, 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 sub-

mitting 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.)

123-15-201. Special kinds of problems.

(a) If an offender wants to bring a problem to the attention of a higher authority without going through the regular grievance procedure, the offender may send a sealed letter or grievance report form to the facility's superintendent or the commissioner. The sealed letter shall contain the

designation "official mail" on the outside of the envelope. This procedure shall be reserved for any problem for which resolution using the regular grievance procedure would not be effective due to the nature or sensitivity of the problem.

(b) Any complaint letter received by the commissioner or superintendent under this regulation may be returned to the offender with instructions to the offender to make use of and follow the proper grievance procedure if, in the recipient's opinion, the matter can be properly handled through the grievance procedure described in these regulations.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

Article 16.—OFFENDER INJURY AND PROPERTY CLAIMS

123-16-102. Reporting loss of or damage to property; claims.

(a) Each offender shall immediately report any loss of or damage to the offender's personal property and to any state-owned property issued to the offender. When reporting property damage or loss, the offender shall use the applicable avenues of redress established by regulations, internal management policies and procedures, and facility orders. These procedures shall be strictly followed.

(b) The superintendent shall not be required to accept any claim for lost or damaged personal property unless the claim is made within 15 working days of the discovery of the loss or damage and the claim is made using the applicable procedures. The superintendent shall not be required to accept any claim if either of the following conditions exists:

(1) The offender could have discovered the loss by exercising reasonable effort to know the status of the offender's property.

(2) The claim is submitted later than one year and one day after the date of the loss, regardless of when the loss was discovered.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

123-16-105. Personal property at offender's own risk. Each offender who has personal property at a facility shall do so at the offend-

er's own risk. The loss of or damage to personal property shall not provide a basis for recovery on a claim, unless the loss or damage directly resulted from the intentional or negligent act or omission of a juvenile justice authority employee and was reported according to applicable regulations, internal management policies and procedures, and facility orders.

This regulation shall be effective on and after April 8, 2005. (Authorized by and implementing K.S.A. 38-16,130, K.S.A. 2004 Supp. 75-7024, and K.S.A. 76-3203; effective April 8, 2005.)

**Article 17.—COMMUNITY
JUVENILE SUPERVISION**

123-17-101. Community-based graduated responses for technical violations of probation, violations of conditional release, and violations of a condition of sentence. (a) For documenting and determining whether any technical violation of probation, violation of con-

ditional release, or violation of a condition of sentence is a minor, moderate, or serious violation, each community supervision officer shall utilize the Kansas department of corrections' "violation levels report," dated February 2, 2017 and hereby adopted by reference.

(b) For determining graduated responses to technical violations of probation, violations of conditional release, and violations of a condition of sentence, each community supervision officer shall utilize the Kansas department of corrections' "response grid," dated February 2, 2017 and hereby adopted by reference.

(c) For determining graduated responses to positive and prosocial behaviors of juveniles on probation or conditional release, each community supervision officer shall utilize the Kansas department of corrections' "incentives grid," dated February 2, 2017 and hereby adopted by reference. (Authorized by and implementing K.S.A. 2016 Supp. 38-2392; effective May 12, 2017.)

Agency 124

State Child Death Review Board

Articles

124-1. CHILD DEATHS.

Article 1.—CHILD DEATHS

124-1-1. Coroner guidelines for identifying suspicious deaths of children. (a) Coroners shall use the following protocol in identifying a suspicious death of a child.

(b) “Suspicious death” means a death which appears to result from suspicious circumstances or unknown cause and does not result from an identifiable natural cause.

(c) The following deaths shall be considered suspicious:

- (1) a death from unknown causes; or
- (2) a death from other than identified natural causes.

(d) “Suspicious circumstances” means circumstances which do not rise to the level of belief or knowledge but which encompass apprehension of something wrong without proof or upon slight evidence.

(e) To identify a suspicious death of a child, a coroner shall evaluate whether any suspicious circumstances were reported as present at or during the time leading up to any death of a child. (Authorized by and implementing K.S.A. 22a-243(h); effective Nov. 21, 1997.)

124-1-2. Investigation of child deaths. The following protocol shall be used in investigating child deaths by a records review: (a) Birth and death certificates received from the Kansas department of health and environment shall be reviewed by the executive director of the board.

(b) Coroner’s reports shall be received and reviewed by the executive director of the board.

(c) Additional reports and information from such entities as may be appropriate may be requested by the executive director.

(d) Any additional reports and information received shall be reviewed by the executive director of the board.

(e) Each case of a child’s death which is reported to the board shall be assigned to a board member by the executive director.

(f) A copy of all case materials shall be provided

to the assigned board member by the executive director.

(g) All case materials shall be reviewed by the assigned board member. Additional information may be requested by the assigned board member.

(h) The assigned board member shall report to the board on the assigned child death case.

(i) The assigned board member’s report may be accepted by the board or the matter may be continued by the board for additional follow-up activity or further investigation.

(j) The assigned board member shall complete the report to the board at the conclusion of the investigation or any follow-up activity, and the chairperson of the board shall then close the investigation.

(k) If the board determines that the manner or cause of death listed on the death certificate is questionable based upon its review of the case, any concerns shall be communicated by the board to the appropriate county or district attorney, and further action may be recommended by the board. (Authorized by and implementing K.S.A. 22a-243(h); effective Nov. 21, 1997.)

124-1-3. Coordination and cooperation among agencies involved in child deaths.

(a) An agreement with the Kansas department of health and environment shall be sought by the board in which, by the fifth day of each month, the department will provide to the board copies of child death certificates with any associated birth certificates that have been filed in the office of vital statistics in the previous month.

(b) An agreement with the Kansas department of social and rehabilitation services shall be sought by the board whereby, upon request of the board, the department will check its records and provide information to the board regarding services provided to families either before or at the time of a child’s death.

(c) Cooperation with law enforcement agencies will be sought by the board whereby, upon request of the board, a law enforcement agency

will provide copies of reports and any other supporting documents relative to a child's death and any subsequent investigation.

(d) Cooperation with district and deputy coroners shall be sought by the board whereby, upon request of the board, a district or deputy coroner will provide copies of autopsy reports which have been performed on children who have died in Kansas.

(e) Cooperation with schools, mental health providers, and public and private medical health providers shall be sought by the board whereby, upon request of the board, the entity will provide relevant information and records.

(f) Copies of the birth and death certificates, social and rehabilitation services, law enforcement

and coroner information and reports shall be provided to the executive director for further dissemination to the assigned board member. (Authorized by and implementing K.S.A. 22a-243(h); effective Nov. 21, 1997.)

124-1-4. Facilitating prosecution for abuse and neglect. (a) A check list for use by law enforcement officers as an aid in child death case evaluations and filing decisions shall be developed and distributed by the board.

(b) The board shall communicate annually with district and deputy coroners regarding the requirements of K.S.A. 22a-242. (Authorized by and implementing K.S.A. 22a-243; effective Nov. 21, 1997.)

Agency 125

Kansas Agricultural Remediation Board

Articles

125-1. KANSAS AGRICULTURE REMEDIATION REIMBURSEMENT PROGRAM.

Article 1.—KANSAS AGRICULTURE REMEDATION REIMBURSEMENT PROGRAM

125-1-1. Definitions. These terms shall have the following meanings: (a) “Administrator” means the administrator of the Kansas agricultural remediation board.

(b) “Board” means the Kansas agricultural remediation board.

(c) “Incident” means a rupture, leak, spill, emission, discharge, disposal, or any other event that releases an agricultural or specialty chemical accidentally or otherwise into the environment. This term shall not include a release resulting from the normal use of a product or practice in accordance with the law.

(d) “Person” means an individual, firm, corporation, partnership, association, trust, or any other private organization or entity.

(e) “Responsible party” means a person who at the time of the incident has custody of, has control of, or is responsible for the agricultural or specialty chemical.

(f) “Site” shall include all contiguous land that is owned, leased, or controlled by the eligible person when the release occurs, and any other area affected by the release. (Authorized by and implementing K.S.A. 2000 Supp. 2-3710; effective, T-125-9-5-01, Sept. 5, 2001; effective Jan. 4, 2002.)

125-1-2. Application. (a) Any eligible person who has incurred corrective action costs after July 1, 1997, may seek reimbursement of those corrective action costs from the board. The eligible person shall submit to the administrator a signed, written, complete application form. The application shall be on a form prescribed by the board. Information other than what is outlined on the form may be required by the board if the board determines that the information is necessary in order to make a decision regarding the application. Each application deemed to be in-

complete by the board shall be returned to the applicant.

(b) Each claim for reimbursement of corrective action costs incurred before the effective date of this regulation shall be submitted within 24 months after September 1, 2001. Each claim for reimbursement of corrective action costs incurred after the effective date of this regulation shall be submitted within 24 months of incurring these costs. (Authorized by and implementing K.S.A. 2000 Supp. 2-3710; effective, T-125-9-5-01, Sept. 5, 2001; effective Jan. 4, 2002.)

125-1-3. Application process. (a) Each completed application shall be eligible for review and possible funding for 12 months following the administrator’s receipt of the completed application.

(b) Completed applications shall be reviewed by the board on a quarterly basis.

(c)(1) Except as specified in paragraph (c)(2) all completed applications shall be ranked by the board according to the risk to human health and the environment presented by the contaminants at each eligible site. The ranking system developed by the board shall be used to rank each application in relation to other eligible applications to establish priorities and fund expenditures for reimbursement.

(2) Sites that are deemed by the board as requiring emergency action may be ranked. Emergency status may be established by the board under any of the following conditions:

(A) If a public water supply or one or more domestic wells are contaminated or are threatened with contamination levels above state or federal drinking water limits, and no alternative water source is readily available;

(B) if a surface water intake used for drinking water is contaminated above state or federal drinking water limits, and no alternative water source is readily available; or

(C) if a high probability exists for direct human exposure to or contact with highly contaminated waste, air, soil, or water.

(d) A letter shall be issued to the applicant by the board within 30 days following the board's decision, describing what costs have been approved or disapproved for reimbursement. (Authorized by and implementing K.S.A. 2000 Supp. 2-3710; effective, T-125-9-5-01, Sept. 5, 2001; effective Jan. 4, 2002.)

125-1-4. Multiple eligible persons. If more than one eligible person incurs eligible corrective action costs for a single incident or for a single corrective action and desires reimbursement, each eligible person shall apply separately to the board. (Authorized by and implementing K.S.A. 2000 Supp. 2-3710; effective, T-125-9-5-01, Sept. 5, 2001; effective Jan. 4, 2002.)

125-1-5. Arbitration. Any person whose application for reimbursement of corrective action costs has been denied, either in part or in full, may seek arbitration in accordance with the Kansas uniform arbitration act, excluding K.S.A. 5-409 and K.S.A. 5-411 through K.S.A. 5-418 and amendments thereto. The arbitrator and the parties shall use their best efforts to hold the arbitration hearing within 30 days after the commencement of the arbitration. At the next board meeting following the receipt of the arbitrator's award, the arbitrator's award shall be adopted, modified, or rejected by the board, and a final order shall be issued by the board. (Authorized by and implementing K.S.A. 2000 Supp. 2-3710; effective, T-125-9-5-01, Sept. 5, 2001; effective Jan. 4, 2002.)

125-1-6. Eligible corrective action costs. An eligible person may be reimbursed by the board for any of the following corrective action costs if the board deems the cost necessary and reasonable: (a) Costs for equipment owned by the eligible person and used during a corrective action for excavating, trucking, land spreading and other similar activities, if all of the following apply:

- (1) The equipment is reasonably sized and designed to perform the corrective action;
- (2) the hours or units of equipment use are reasonable and necessary for the task performed; and
- (3) the equipment costs do not exceed reasonable rental costs for equivalent equipment, including any operator costs;

(b) any oversight costs that the eligible person has paid to the Kansas department of health and environment;

(c) costs for the land spreading of agricultural chemicals as approved by the Kansas department

of agriculture, which shall be reimbursed at the custom rate as determined by the local farm service administration office, but not to exceed \$.50 per cubic yard per acre;

(d) normal employee wages, salaries, expenses, or fringe benefit allocations for time that the eligible party's employees actually spend on a corrective action;

(e) the cost of qualified professional services needed for the effective planning and implementation of corrective action, including engineering, hydrogeologic, field technician, hazardous waste disposal, and general contractor services;

(f) costs related to the investigation and source identification, including collecting and analyzing soil samples and groundwater. These costs may include costs for soil boring, installation of monitoring wells, sample collection, sample analysis, and related activities;

(g) costs to excavate contaminated soils and other contaminated media, including backfilling and grading to restore the contours or drainage characteristics of land altered by the corrective action. This subsection shall not authorize the reimbursement of costs incurred for the removal of buildings or other fixtures, except paving materials that are necessarily removed in the course of excavation;

(h) costs to collect, handle, transport, treat, and dispose of contaminated soils, groundwater, and other contaminated materials;

(i) costs associated with an emergency response that was necessary to abate acute risks to human health, safety, and the environment;

(j) costs to plant or till land on which the eligible person land spreads soils or water when the tilling or planting is required by the Kansas department of agriculture or the Kansas department of health and environment;

(k) costs associated with a corrective action that is required by the Kansas department of health and environment; or

(l) any other costs that the board deems necessary or reasonable. (Authorized by and implementing K.S.A. 2-3710; effective, T-125-9-5-01, Sept. 5, 2001; effective Jan. 4, 2002; amended June 10, 2016.)

125-1-7. Eligible corrective action costs; exclusions. Eligible corrective action costs shall not include the following: (a) Costs that are not eligible for reimbursement as specified in the board's regulations;

(b) indirect costs charged by a contractor, unless those costs are allocated in the contract according to a reasonable cost allocation formula that the contractor uses for other similar contracts;

(c) an eligible person's indirect costs;

(d) the cost for the time that the eligible person or any officer of the eligible person spends planning or implementing a corrective action. Reimbursement of normal employee wages, salaries, expenses, or fringe benefit allocation for time that any employee, other than officers, spends implementing a corrective action may be allowed by the board;

(e) costs to construct, repair, replace, improve, relocate, or demolish any building or fixture, unless the cost is required or approved by the secretary of health and environment and is a part of a corrective action;

(f) loss or decrease of property values;

(g) loss or decrease of revenue or income;

(h) attorney fees or other legal costs;

(i) costs for relocating residents or business operations;

(j) costs of aesthetic or other improvements that are not essential to a corrective action, except for restorative grading and filling costs;

(k) costs that are reimbursed from another source. If after being reimbursed by the board for any cost, an eligible person is reimbursed for the same cost from another source, the eligible person shall promptly notify the board and repay to the board any duplicative reimbursement;

(l) the cost of replacing the released agricultural chemicals;

(m) liability claims or judgments;

(n) costs incurred by any federal, state, or local governmental entity;

(o) costs for a contractor's services that exceed the contractor's bid price for those services, except for those costs that have increased due to services approved or required by the secretary of health and environment;

(p) costs not supported by a cancelled check or other conclusive proof of payment by the eligible person who is applying for reimbursement of those costs;

(q) costs to investigate or repair environmental contamination involving substances that are not agricultural chemicals. If a corrective action involving agricultural chemicals is combined with the investigation or repair of environmental contamination involving substances that are not agricultural chemicals, a portion of the combined

project costs may be reimbursed by the board based on the information submitted to the board. If, for any combined project, an eligible person also submits a reimbursement claim to another governmental agency, the cost allocation shall reflect that submission so that this can be taken into account by the board when determining eligibility of the costs;

(r) costs to analyze environmental substances that are not agricultural chemicals, except that costs for the analysis of environmental parameters may be reimbursed by the board if that analysis is needed for the design or implementation of a corrective action;

(s) costs to analyze environmental samples for agricultural chemicals that are not reasonably suspected of having been released at the discharge site;

(t) costs to prepare an application for reimbursement, to contest a decision by the board, or to consult with the board or administrator regarding the application;

(u) expense charges for meals, lodging, travel, mileage, or other personal expenses;

(v) supplementary charges for expedited services, including expedited laboratory analysis, mail service, and parcel delivery service, unless required by the secretary of health and environment;

(w) contractor charges that are not based on services provided by the contractor and are not documented;

(x) interest expenses or other financing costs;

(y) costs for the rental or use of land on which the eligible person land spreads soil, water, or other material as approved by the secretary of agriculture or the secretary of health and environment;

(z) costs for subcontractor service charges or markups;

(aa) costs for environmental audits, assessments, evaluations, or appraisals, unless ordered or requested by the secretary of health and environment;

(bb) any civil or criminal penalty assessed by a federal, state, county, or other governmental entity; and

(cc) any cost of a corrective action that causes the total amount of reimbursement for the site to exceed \$200,000. The maximum amount of reimbursement to any one site shall not exceed \$200,000, regardless of the period of time within which the reimbursement was received. However, if the property has been sold or leased and both

the buyer and the seller, or both the lessee and the lessor, are responsible for remediation of an agricultural or specialty chemical released at the site, then the total amount of reimbursement for the costs of the corrective actions at the site shall not exceed \$400,000, regardless of the period of time within which the reimbursement was received. (Authorized by K.S.A. 2-3710; implementing K.S.A. 2015 Supp. 2-3708 and K.S.A. 2-3710; effective, T-125-9-5-01, Sept. 5, 2001; effective Jan. 4, 2002; amended Jan. 23, 2015; amended June 10, 2016.)

125-1-8. Payment of corrective action costs. (a) The eligible person may be reimbursed by the board for the reasonable and necessary costs associated with the corrective action incurred by the eligible person if the board determines the following conditions are met:

(1) The eligible person has submitted all the necessary information to ascertain that the costs have been incurred by the eligible person.

(2) The corrective action was taken in accordance with an order or approved by the Kansas department of health and environment.

(3) There are no pending or final administrative, civil, or criminal court cases involving the applicant or the applicant's representative or agent and the contaminated site.

(b) If the corrective action was taken due to an emergency situation, the eligible person may be reimbursed by the board for the reasonable and necessary costs associated with the corrective ac-

tion incurred by the eligible person if the board determines the following conditions are met:

(1) The eligible person has submitted all the necessary information to ascertain that the costs have been incurred by the eligible person.

(2) There are no pending or final administrative, civil, or criminal court cases involving the applicant or the applicant's representative or agent and the contaminated site.

(c) If the board determines that any portion of the applicant's reimbursement claim contains clearly ineligible costs, the application shall be returned to the applicant. (Authorized by and implementing K.S.A. 2000 Supp. 2-3710; effective, T-125-9-5-01, Sept. 5, 2001; effective Jan. 4, 2002.)

125-1-9. Conflict of interest. Each member of the board who meets any of the following conditions shall refrain from voting on any application relating to that condition and shall make that condition known to the rest of the board: (a) The board member is an officer or employee of an eligible person whose application is before the board.

(b) The board member has a direct financial or employment interest relating to the application before the board.

(c) The board member has a substantial interest in the eligible person whose application is before the board. (Authorized by and implementing K.S.A. 2000 Supp. 2-3710; effective, T-125-9-5-01, Sept. 5, 2001; effective Jan. 4, 2002.)

Agency 126

Unmarked Burial Sites Preservation Board

Articles

126-1. UNMARKED BURIAL SITES.

Article 1.—UNMARKED BURIAL SITES

126-1-1. Unmarked burial site registry.

(a) “Registry” means the unmarked burial site registry established by the board pursuant to K.S.A. 75-2745, and amendments thereto.

(b) The types of evidence submitted to the board for its consideration in determining whether or not to list a site on the registry may include any of the following:

(1) The absence of obvious grave markers;

(2) documentation, oral or written, which may include any of the following:

(A) A statement from any landowner of record of the site;

(B) a statement from any potential descendant; or

(C) a statement from any member of an American Indian tribe potentially having a continuing cultural affiliation with the decedent; or

(3) physical evidence at the site. (Authorized by and implementing K.S.A. 75-2745 and 75-2746; effective Nov. 1, 2002.)

126-1-2. Permits for excavation, study, display, and reinterment. (a) Except as provided in subsection (b), a permit shall be required for each of the following actions:

(1) The excavation of any unmarked burial site, registered or unregistered;

(2) the study of human skeletal remains from any unmarked burial site, including any goods interred with those remains;

(3) the reinterment of human skeletal remains from any unmarked burial site, including any goods originally excavated with those remains; and

(4) the public display of human skeletal remains from any unmarked burial site, including any goods excavated with those remains.

(b) A permit shall not be required for any of the following actions:

(1) The disinterment, possession, display, transfer, reinterment, or disposition of human skeletal remains, or goods interred with those remains, when undertaken by a criminal justice or law

enforcement agency, coroner, or medical examiner in conjunction with a criminal investigation or pursuant to K.S.A. 22a-231 and amendments thereto;

(2) any limited test excavation of a suspected unmarked burial site under the supervision of the chairperson of the board to determine whether a property contains a burial site; or

(3) the inadvertent discovery of an unmarked burial site if, immediately upon the discovery of human remains, all excavation ceases until a permit is obtained from the board.

(c) Each permit request shall include the following information:

(1) The name, address, and telephone number of the applicant and, if the applicant is an organization, the name of the contact person;

(2) a statement detailing the reason for the permit request; and

(3) a detailed work plan, which shall include the following information:

(A) The name of the archeologist who will supervise any excavation or disinterment. The supervising archeologist shall meet the qualifications specified in subsection (d);

(B) the name and credentials of the physical anthropologist who will supervise any study of remains;

(C) the legal description of the site of excavation or reinterment, and either photographs or digital images of the site;

(D) a detailed description of any proposed studies of the remains;

(E) a detailed description of any proposed plan to display the remains; and

(F)(i) A proposed date and location of reinterment; or

(ii) a proposed date and description of any type of disposition other than reinterment of the disinterred remains or goods, or both, from the site.

(d) Each supervising archeologist shall meet the following minimum professional qualifications:

(1) A graduate degree in archeology, anthropology, or a closely related field;

(2) at least one year of full-time professional experience or equivalent specialized training in archeological research, administration, or management;

(3) at least four months of supervised field and analytic experience in general North American archeology;

(4) the demonstrated ability to carry research to completion; and

(5) at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period.

(e) A nonrefundable \$50.00 application fee shall accompany each permit request, except an emergency request for a permit or a permit for which the board waives this fee.

(f) The following factors shall be considered by the board:

(1)(A) The medical, educational, or scientific reasons for the permit;

(B) the manner in which any work is to be conducted; and

(C) the qualifications of the participants in the project; and

(2) the concerns of any potential descendants, including members of American Indian tribes

potentially having a continuing cultural affiliation with the human remains or burial goods, or both.

(g) A permit to excavate may be granted if both of the following conditions are met:

(1) It is necessary to relocate an unmarked burial site for public health, safety, and welfare or for substantial economic reasons.

(2) The board finds that adequate plans for reinterment have been made.

(h) An excavation, study, display, or reinterment carried out pursuant to a permit shall not exceed the work plan authorized by the permit.

(i) One or more permits may be issued on an emergency basis by the chairperson of the board, with the concurrence of any board member. The reason for issuing any permit on an emergency basis shall consist of one of the following:

(1) To prevent imminent danger to life, significant harm to property, or significant economic loss;

(2) to prevent imminent destruction or desecration of an unmarked burial site; or

(3) to prevent an injustice or undue hardship.

(j) Each permittee shall maintain a copy of the permit at the location of any work carried out under that permit. (Authorized by and implementing K.S.A. 75-2745 and 75-2747; effective Nov. 1, 2002.)

Agency 127

Kansas Housing Resources Corporation

Articles

127-1. DWELLINGS CONSTRUCTED WITH PUBLIC FINANCIAL ASSISTANCE;
ACCESSIBILITY STANDARDS.

127-2. KANSAS MANUFACTURED HOUSING INSTALLATION.

Article 1.—DWELLINGS CONSTRUCTED WITH PUBLIC FINANCIAL ASSISTANCE; ACCESSIBILITY STANDARDS

127-1-1. Request for waiver from accessibility standards. (a) “Director” means the director of the division of housing in the Kansas development finance authority or a designee.

(b)(1) Each application for a waiver of an accessibility requirement established by K.S.A. 58-1402, and amendments thereto, shall be submitted to the director in writing. The application shall identify the following:

(A) The specific accessibility standard or standards for which the applicant is requesting a waiver;

(B) the street address of the dwelling for which the waiver is requested, as well as the city and county in which the dwelling is located;

(C) the public financial assistance program used to assist in financing the construction of the dwelling; and

(D) the reasons for the requested waiver.

(c)(1) Each application for a waiver based on financial impracticality shall include a notarized estimate of the costs of complying with the accessibility standard or standards for which a waiver is requested. The estimate shall be provided by a residential builder or contractor qualified by experience with projects of a similar size and scope.

(2) Each application for a waiver based on environmental impracticality shall include an official topographical map depicting those natural hazards of the dwelling site that make it impracticable to comply with the accessibility standard or standards for which a waiver is requested. Full compliance shall be considered environmentally impractical only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features. If full compliance is determined environmentally impracticable, any portion of the facility that can be made accessible shall continue to be subject to the ac-

cessibility standard or standards for which a waiver is requested.

(d) The proceedings for consideration by the director of each request for a waiver shall not be subject to the Kansas administrative procedure act. Following a review of the application for a waiver, additional information and documentation pertaining to the basis for the requested waiver may be requested by the director. Within 60 days of the date on which the director receives the application for a waiver, written notice of the director’s determination regarding the waiver application shall be provided to the applicant. The written determination shall provide notice of the applicant’s right to review of the determination under K.S.A. 77-601 *et seq.*, and amendments thereto. (Authorized by K.S.A. 2004 Supp. 58-1405 and 58-1407; implementing K.S.A. 2004 Supp. 58-1405; effective June 3, 2005.)

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. (Au-

thorized by K.S.A. 58-4225; implementing K.S.A. 58-4219; effective March 6, 2009.)

127-2-2. Installation standards. (a) Except as specified in this regulation, each of the terms defined in K.S.A. 58-4202, and amendments thereto, shall have the meaning specified in that statute.

(b) The definition of “manufactured home” in 24 C.F.R. 3280.2, as promulgated by the U.S. department of housing and urban development and in effect on February 8, 2008, is hereby adopted by reference.

(c) The following federal regulations promulgated by the U.S. department of housing and urban development, as in effect on November 10, 2014, are hereby adopted by reference:

(1) The following provisions of 24 C.F.R. Part 3280:

(A) In 3280.302, the definitions of “anchor assembly,” “anchoring equipment,” “anchoring system,” “diagonal tie,” “foundation system,” “ground anchor,” “stabilizing devices,” and “support system”; and

(B) 3280.306(b)(2)(iii) and (iv); and

(2) the following provisions of 24 C.F.R. Part 3285:

(A) The following sections of subpart A:

(i) 3285.2(c) and (d);

(ii) 3285.4(b), (c), (d), (e), (f), (g), (h)(2) and (3), (i), and (j);

(iii) 3285.5; and

(iv) 3285.6;

(B) the following sections or portions of sections of subpart B:

(i) The first sentence of 3285.101;

(ii) 3285.102; and

(iii) 3285.103;

(C) subpart C, except that registered manufacturer’s installation instructions may be substituted for 3285.204;

(D) subpart D, except that 3285.302 shall not be adopted and except that registered manufacturer’s installation instructions may be substituted for the following:

(i) 3285.301;

(ii) the first sentence of 3285.302;

(iii) tables 1 and 2 to 3285.303;

(iv) figure A, “typical mate-line column pier and mating wall support when frame only blocking is required,” to 3285.310;

(v) figure B, “typical mate-line column pier and mating wall support when perimeter blocking is required,” to 3285.310(b);

(vi) 3285.312(b); and

(vii) figure A, “typical blocking diagrams for single section homes,” and figure B, “typical blocking diagram for multi-section home,” to 3285.312;

(E) subpart E, except that registered manufacturer’s installation instructions may be substituted for 3285.404;

(F) subpart F;

(G) subpart G;

(H) subpart H; and

(I) subpart I, except that registered manufacturer’s installation instructions may be substituted for 3285.802.

(d) Any manufacturer’s installation designs and instructions that have been approved by the secretary of the U.S. department of housing and urban development or by a design approval primary inspection agency (DAPIA), as provided in 24 C.F.R. 3285.2, may be filed with the corporation. On and after the date on which designs and instructions are filed, they shall be considered “registered manufacturer’s installation instructions” for purposes of subsection (c).

(e)(1) Each addition, modification, replacement, or removal of any equipment that affects the installation of a manufactured home and is made by the installer before completion of the installation of the home shall meet or exceed the protections and requirements of the installation standards specified in this regulation.

(2) An alteration specified in paragraph (e)(1) shall not affect the applicability of the manufactured home construction and safety standards. An alteration specified in paragraph (e)(1) shall not impose additional loads on the manufactured home or its foundation, unless the alteration meets the following requirements:

(A)(i) Is included in the manufacturer’s DAPIA-approved designs and installation instructions; or

(ii) is designed by a registered professional engineer or architect and is consistent with the manufacturer’s design; and

(B) conforms to the requirements of the manufactured home construction and safety standards. (Authorized by K.S.A. 58-4218 and 58-4225; implementing K.S.A. 58-4217 and 58-4218; effective March 6, 2009; amended May 1, 2015.)

127-2-3. Liability insurance requirement.

Each applicant for a manufactured home installer’s license shall demonstrate that the applicant carries liability insurance of at least \$200,000. (Authorized by K.S.A. 58-4225; implementing K.S.A. 58-4219; effective March 6, 2009.)

Agency 128
**Department of Commerce—
Kansas Athletic Commission**

Articles

128-1. DEFINITIONS.

128-2. LICENSES AND PERMITS.

128-3. TICKETS AND FEES.

128-4. OFFICIALS AND LICENSEES AND THEIR RESPONSIBILITIES.

128-4a. INSPECTORS AND THEIR RESPONSIBILITIES.

128-5. FACILITY AND EQUIPMENT REQUIREMENTS FOR PROFESSIONAL BOXING, PROFESSIONAL KICKBOXING, PROFESSIONAL FULL-CONTACT KARATE, PROFESSIONAL MIXED MARTIAL ARTS, AMATEUR MIXED MARTIAL ARTS, AND AMATEUR SANCTIONING ORGANIZATIONS.

128-6. RULES OF CONDUCT AND EQUIPMENT REQUIREMENTS FOR PROFESSIONAL BOXING, PROFESSIONAL KICKBOXING, PROFESSIONAL FULL-CONTACT KARATE, AND PROFESSIONAL MIXED MARTIAL ARTS.

Article 1.—DEFINITIONS

128-1-1. Definitions. (a) “Accidental foul” means any action specified in K.A.R. 128-6-1(qq), K.A.R. 128-6-2(x), or K.A.R. 128-6-4(q) that occurs during a contest if the referee determines that the action is done unintentionally.

(b) “Accidental injury” means an unintentional harm to an individual.

(c) “Act” means the Kansas professional regulated sports act, K.S.A. 2012 Supp. 74-50,181 et seq., and amendments thereto.

(d) “Amateur” means a contestant who has never accepted money or other remuneration for participating in a regulated sports competition and has not previously been licensed as a professional in Kansas or any other jurisdiction.

(e) “Announcer” means the person who is responsible for announcing the names of the officials and the contestants, the contestants’ weights, and the decisions of the referee and judges for one or more bouts during a contest.

(f) “Athlete” means an individual who is applying for a license to be a contestant or an individual that holds a contestant’s license.

(g) “Boxing commissioner” and “commissioner” mean the individual appointed by the commission pursuant to K.S.A. 2012 Supp. 74-50,184 and amendments thereto. This individual shall have oversight of all contests.

(h) “Chief inspector” means a person who is 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 respon-

sible 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, taekwon do, jiu-jitsu, or any combination of these.

(w) “No-contest decision” means a decision made by a referee, before the completion of the fourth round in a boxing or kickboxing contest and before the completion of the second round in a mixed martial arts contest, that the contest must be stopped and has no winner.

(x) “Official” means any referee, judge, announcer, timekeeper, or physician as those terms are defined in this regulation.

(y) “Permit” means a written authorization or license from the commission pursuant to K.S.A. 2012 Supp. 74-50,189, and amendments thereto, for a promoter to hold an event or a professional wrestling performance in Kansas.

(z) “Physician” means an individual who meets the applicable requirements of K.A.R. 128-2-7.

(aa) “Prize” means a material offering or award given for superiority or excellence in competition, including a belt, trophy, or monetary award. Receipt of a prize by an amateur shall not cause the amateur to be deemed a professional, unless the prize is a monetary award.

(bb) “Promoter” means a person, association, partnership, corporation, limited liability company, or any other form of business entity that meets the following requirements:

(1) Is licensed by the commission;

(2) arranges, advertises, or conducts events or professional wrestling performances; and

(3) is responsible for obtaining a permit for each contest and for payment of all applicable state athletic fees.

(cc) “Promotion” means a contest for which tickets or items of nominal value are sold or given for admission to the contest.

(dd) “Purse” means the contracted award or any other remuneration that contestants receive for participating in a bout of a contest. This term shall include each contestant’s share of any payment received for radio broadcasting, television, or motion picture rights.

(ee) “Referee” means the person who is licensed by the commission and is in charge of enforcing all commission regulations that apply to the conduct of each bout in a contest and to the conduct of the contestants and seconds while these individuals are in the ring.

(ff) “Round” means the period within a bout that occurs between two consecutive rest periods.

(gg) “Second” means an individual who is licensed by the commission and attends to a contestant between the rounds of a bout during a contest. This term shall include cut men, corner men, and trainers.

(hh) “Smoker” means an event at which contestants gather informally for noncompetitive sparring.

(ii) “Split decision” means a decision in which two of the three judges decide in favor of one contestant, while the third judge determines the other contestant to be the winner. A split decision is recorded as a win in the fight record of the contestant whom two of the judges deem the winner.

(jj) “Split draw” means a decision by the judges when a bout has reached its scheduled end in which one judge scores the bout in favor of one contestant, another judge scores the bout for the

opposing contestant, and the remaining judge scores the bout as a tie. The contest has no winner, and the contest is recorded as a tie, which is also known as a draw, towards each contestant's record.

(kk) "Tapout" means a verbal or physical signal by a contestant indicating that the contestant is forfeiting the bout.

(ll) "Technical decision" means a decision that is rendered by the referee if a contest is ended, after the fourth round has been completed, because of an accidental foul.

(mm) "Technical draw" means a decision that is rendered by the judges after a bout is completed and the contestants' scores are equal. The contest has no winner.

(nn) "Technical knockout" means the termination of a bout by the referee, who declares a winner for a reason that may consist of any of the following:

(1) It is the judgment of the physician, a contestant's second, or the referee that a contestant cannot continue fighting without sustaining serious or disabling injury.

(2) A contestant fails to engage the opponent for a reason other than that specified in paragraph (nn) (1).

(3) A contestant is disqualified.

(oo) "Technical submission" means that the referee or physician stops a fight because a contestant has sustained an injury or becomes unconscious while in an act of surrendering to a hold by the contestant's opponent.

(pp) "Ten-point must system" means a method of scoring a regulated sports contest.

(qq) "Ticket" means the part of a ticket, actually or electronically inventoried, retained by a promoter upon a person's entrance to an event.

(rr) "Ticket stub" means that part of a ticket retained by a person entering an event after the ticket has been collected.

(ss) "Timekeeper" means the person who is licensed by the commission and is responsible for keeping accurate time during each round of a bout in a contest. The timekeeper works in conjunction with the referee for any knockdown count required during the bout.

(tt) "Trainer" means any person primarily responsible for teaching, conditioning, and instructing an unarmed combatant.

(uu) "Unarmed combat" shall include boxing, kickboxing, karate, mixed martial arts, and any form of competition in which a blow that can

reasonably be expected to inflict injury usually is struck and no weapon is used. This term shall not include professional wrestling.

(vv) "Unarmed combatant" means any contestant who engages in unarmed combat in a match or exhibition, whether or not the person receives remuneration. The term shall not include professional wrestlers. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186; effective, T-128-12-28-07, Jan. 14, 2008; effective April 4, 2008; amended Dec. 20, 2013.)

Article 2.—LICENSES AND PERMITS

128-2-1. General licensure requirements. (a) Each applicant applying for a license to compete or serve in any contest pursuant to this act shall comply with the following requirements, in addition to the individual licensure requirements:

(1) Each application shall be submitted on a form provided by the commission.

(2) Each applicant shall submit the applicable fee, as listed in K.A.R. 128-2-12, with the application. An application for a license that does not include the applicable fee and all required information and supporting documentation shall not be processed by the commission.

(3) Each applicant shall be at least 18 years of age.

(4) Each applicant for a contestant license shall submit a late fee of \$10 with each completed application received by the commission less than three business days before the proposed contest or event.

(b) Each applicant shall be allowed to compete or serve in a contest only after the commission has issued the appropriate license. Each individual participating in a contest shall possess a current license issued by the commission.

(c) Once the application is approved by the commission, the licensee shall notify the commission, in writing, of any change of name or address within 10 business days of the date on which the change becomes effective. The notice of each name change shall be accompanied by a copy of the court order approving the name change.

(d) Each licensee's information retained by the commission shall be deemed accurate for purpose of notification unless the licensee notifies the commission. The licensee shall be responsible for reporting any change of mailing address, electronic mail address, telephone number, and any other change in the information provided on the appli-

cation 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.)

128-2-5. Manager. (a) A manager's license shall be issued by the commission if the commission determines that the applicant has met both of the following requirements, in addition to the requirements specified in K.A.R. 128-2-1:

(1) Each applicant shall certify in writing that the applicant has read and understands the act and these regulations. Based upon this written certification, the applicant shall be deemed by the commission to have full knowledge and understanding of the act and these regulations.

(2) Each applicant shall provide evidence that the applicant has at least two years of experience as an official in one or both of the following types of matches in the regulated sport for which the applicant is seeking a license:

(A) Matches that are part of a sanctioned contest in that regulated sport; or

(B) matches that are part of an amateur event sanctioned by a nationally recognized amateur body for that regulated sport.

(b) A manager shall be permitted to act as a second without obtaining a second's license if at least one other second is also serving that contestant.

(c) For each regulated sport for which the applicant intends to act as a manager, the applicant shall complete a separate application and submit the application and applicable fee to the commission. (Authorized by K.S.A. 2007 Supp. 74-50,187; implementing K.S.A. 2007 Supp. 74-50,186 and 74-50,187; effective April 4, 2008.)

128-2-6. Matchmaker. Each applicant seeking a matchmaker's license from the commission shall meet all of the following requirements, in addition to the requirements specified in K.A.R. 128-2-1: (a) Certify in writing that the applicant has read and understands the act and these regulations;

(b) provide a list of all events for which the applicant served as matchmaker;

(c) have at least three years of experience as an official; and

(d) have knowledge of all regulated sports, including the following for each contestant:

(1) Fighting experience and ability;

(2) fight record; and

(3) fighting style. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

128-2-7. Physician. (a) Each applicant seeking a physician's license from the commission shall meet both of the following requirements, in addition to the requirements specified in subsection (b) and in K.A.R. 128-2-1:

(1) Hold a current license to practice either medicine and surgery or osteopathic medicine and surgery pursuant to the Kansas healing arts act, K.S.A. 65-2801 et seq. and amendments thereto; and

(2) provide verification that the applicant is in good standing with the Kansas state board of healing arts.

(b) No applicant shall currently be or, within the five years preceding the date of the physician's application to the commission for licensure, have been the subject of disciplinary action by the Kansas state board of healing arts or a comparable licensing agency in another state.

(c) A physician whose sole purpose is to conduct physical examinations of applicants shall not be required to be licensed by the commission. The physician shall be required to hold a current license to practice either medicine and surgery or osteopathic medicine and surgery in the state in which the physician conducts each applicant's physical examination. The physician shall certify that the individual is in good standing in the state where the physician is licensed to practice either medicine and surgery or osteopathic medicine and surgery. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

128-2-8. Promoter. (a) Each applicant seeking a promoter's license from the commission shall meet all of the following requirements, in addition to the requirements specified in K.A.R. 128-2-1:

(1) Submit the financial documentation requested by the commission as necessary to determine the applicant's ability to meet the requirements specified in K.A.R. 128-2-13(a)(4);

(2) submit a list of all promotional events conducted during the previous five years pertaining to the contests or professional wrestling performances that the applicant arranged or advertised; and

(3) submit three references from individuals who have knowledge of the applicant's previous promotions pertaining to contests or professional wrestling performances.

(b) Each promoter shall pay the expenses required by K.A.R. 128-4-6. The promoter's non-payment of any expenses for any contest or professional wrestling performance may result in indefinite suspension of the promoter's license and may subject the promoter to action, pursuant to K.S.A. 2012 Supp. 74-50,197 and amendments thereto. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186, 74-50,187, and 74-50,193; effective April 4, 2008; amended Dec. 20, 2013.)

128-2-9. Referee. (a) Each applicant seeking a referee's license from the commission shall meet all of the following requirements, in addition to the requirements specified in K.A.R. 128-2-1:

(1) Certify in writing that the applicant has read and understands the act and these regulations;

(2) provide evidence that the applicant has at least four years of experience refereeing amateur contests and two years of experience refereeing professional contests;

(3) provide the following:

(A) Certification of competency from two individuals with personal knowledge of the applicant's qualifications to referee; and

(B) certification that the applicant is in good standing in any other jurisdiction in which the applicant holds a license and has a record of past performance of competent work;

(4) for each applicant seeking a license to referee boxing contests, be certified by the association of boxing commissioners within two years after the issuance of the license;

(5) submit written certification from a physician stating that the applicant has undergone a physical examination from the physician and certifying that the applicant is physically able to perform the duties of a referee. The certification shall be completed on a form provided by the

commission. The form shall include an acknowledgment from the examining physician that the physician understands and certifies that the applicant is physically able to referee a regulated sports contest; and

(6) pay the applicable fee specified in K.A.R. 128-2-12.

(b) For each regulated sport for which the applicant intends to act as a referee, the applicant shall complete a separate application and submit the application and applicable fee to the commission. (Authorized by K.S.A. 2013 Supp. 74-50,187; implementing K.S.A. 2013 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

128-2-10. Second. A second's license shall be issued by the commission if the commission determines that the applicant has met the requirements of this regulation, in addition to the requirements specified in K.A.R. 128-2-1.

Each applicant shall certify in writing that the applicant has read and understands the act and these regulations. Based upon this written certification, the applicant shall be deemed by the commission to have full knowledge and understanding of the act and these regulations. (Authorized by K.S.A. 2007 Supp. 74-50,187; implementing K.S.A. 2007 Supp. 74-50,186 and 74-50,187; effective April 4, 2008.)

128-2-11. Timekeeper. A timekeeper's license shall be issued by the commission if the commission determines that the applicant has met both of the following requirements, in addition to the requirements specified in K.A.R. 128-2-1: (a) Each applicant shall certify in writing that the applicant has read and understands the act and these regulations. Based upon this written certification, the applicant shall be deemed by the commission to have full knowledge and understanding of the act and these regulations.

(b) Each applicant shall certify, in writing, to the commission that the applicant has at least one year of experience as a timekeeper. (Authorized by K.S.A. 2007 Supp. 74-50,187; implementing K.S.A. 2007 Supp. 74-50,186 and 74-50,187; effective April 4, 2008.)

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 jiu-jitsu, 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 de-

termination shall include the geographic locations of the proposed events and the availability of the commission staff and officials. If the commission is unable to regulate more than one event, a permit shall be issued to the first applicant that submits a complete application.

(c) Any application for a permit may be approved or denied by the commission or may be issued with limitations, restrictions, or conditions as stipulated by the commission. Permits for the following types of contests shall not be approved by the commission:

(1) Contests with any bouts between members of the opposite sex;

(2) contests with any bouts between contestants and nonhumans; and

(3) contests with any bouts using weapons.

(d) Each promoter shall have an approved permit before any publicity is issued on the contest or professional wrestling performance. Violation of this provision shall be grounds for the nonissuance of permits. The promoter may be subject to disciplinary action, pursuant to K.S.A. 2013 Supp. 74-50,193 and 74-50,197 and amendments thereto.

(e) The promoter shall notify the commission if the event is to be televised or otherwise broadcast. The promoter shall provide a copy of the contract no later than 10 days before the event.

(f) No promoter may serve in any capacity at any event for which the commission has denied or revoked a permit or for which a permit has not been issued. If a promoter serves in any capacity at an event without a permit for that contest or performance, the promoter's license may be revoked or indefinitely suspended. The promoter may be subject to action, pursuant to K.S.A. 2013 Supp. 74-50,193 and 74-50,197 and amendments thereto.

(g) No event shall be held until the commission has approved the application and the date for the program.

(h) If the promoter cancels the event within 24 hours before weigh-in, the application fee shall be forfeited. The fee may be applied to a subsequent event if the subsequent event is scheduled to be held within 30 days of the originally scheduled event.

(i) The promoter may select the announcer for an event.

(j) All judges, referees, and timekeepers for the event shall be selected and approved by the boxing commissioner.

(k) If the permit is revoked, no refund for the permit shall be issued by the commission.

This regulation shall be effective on and after October 1, 2014. (Authorized by K.S.A. 2013 Supp. 74-50,187; implementing K.S.A. 2013 Supp. 74-50,186, 74-50,187, 74-50,189, and 74-50,196; effective April 4, 2008; amended Dec. 20, 2013; amended Oct. 1, 2014.)

Article 3.—TICKETS AND FEES

128-3-1. Tickets and fees. (a) Each person admitted to an event shall have a ticket or pass.

(b) Each ticket shall indicate on the ticket the price, the name of the promoter, and the date and time of the event. The price of the ticket shall be indicated either on the ticket and the ticket stub or on the electronic ticket. Each ticket shall be printed on cardboard or issued electronically, with a different color for each event.

(c) The promoter shall not sell any tickets for a price other than the price printed on the ticket.

(d) The promoter of each event shall prohibit the sale of any tickets for a price other than the price printed on the ticket, except as provided in subsections (e) and (f).

(e) Each ticket for an event sold for less than the price printed on the ticket shall be over stamped with the actual price charged. The over stamp shall be placed on the printed face of the ticket as well as on the stub retained by the ticket holder. Failure to comply with this subsection shall result in the full ticket price being used for purposes of computing the athletic fee required to be paid.

(f) Each complimentary ticket shall be clearly marked "COMPLIMENTARY." A promoter shall not issue complimentary tickets for more than 15 percent of the seats in the venue, without the boxing commissioner's prior written authorization. Failure to comply with this subsection shall result in the required use of the full ticket price for the purpose of computing the athletic fee required to be paid.

(g) The boxing commissioner, the commission's staff, each inspector, and each member of the athletic commission shall be admitted without a ticket or pass to any contest or professional wrestling performance over which the commission has jurisdiction.

(h) No person without a ticket shall be admitted to an event unless that person is one of the following:

(1) A contestant scheduled to compete at the event;

(2) an employee or independent contractor who provides identification from the promoter indicating that the individual is an employee or independent contractor working for the promoter;

(3) a member of the media approved by the promoter to attend the event;

(4) an on-duty law enforcement officer; or

(5) an on-duty emergency responder.

(i) The holder of a ticket for an event shall not be allowed to perform either of the following:

(1) Pass through the gate of the premises where the event is being held, unless the ticket is separated from the ticket stub, marked, scanned, or inventoried as having been presented at the gate; or

(2) occupy a seat unless the ticket holder is in possession of the electronic ticket, ticket stub, or marked ticket.

(j) If a ticket is electronic, the ticket shall be scanned before the ticket holder's admission into the venue.

(k) Once the ticket holder gains entry to a venue by way of ticket, the individual shall be readmitted after leaving only if the individual presents a ticket stub or other evidence of admission and a notation stamp or other similar marking indicating that the individual is permitted to reenter.

(l) The following duties shall be the responsibility of each inspector assigned to each event:

(1) Supervising ticket sales, ticket boxes, and the entrances and exits to the site of the contest or performance for the purpose of checking admission controls; and

(2) ensuring that all tickets are counted and that a final accounting, including computation of the number of complimentary tickets and passes that are used, the price of admission charged for each ticket, and the gross receipts from all ticket sales, is completed.

(m) The final accounting shall be conducted in a private room or secured area and in the presence of both the promoter's representative and the assigned inspector. The final accounting shall include a determination by the assigned inspector of the amount of athletic fee due from the promoter.

(n) Each promoter who obtains a permit for an event shall pay to the commission the athletic fee, which is five percent of the gross receipts derived from the admission charges for the event.

(o) Gross receipts shall mean the total amount of all ticket sales, including complimentary tickets and passes, after sales tax is deducted. For the purposes of this subsection, complimentary tick-

ets 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

128-4-1. Announcer. (a) An announcer selected by the promoter shall be present at each contest to announce the names of the officials and the contestants, the correct weight of each contestant, the decisions of the referee and the judges, and any other matters if directed by the inspector. In addition, the introductions and announcements made to the general public shall include, at a minimum, the following statement: “These bouts are sanctioned by the Kansas athletic commission.” Other announcements shall be limited to those pertaining to present and future contests, unless specifically authorized by the commission.

(b) At the end of each bout, an inspector shall deliver the scorecards to the announcer, who shall announce the results and immediately return the cards to the inspector.

(c) The promoter for the contest shall provide all necessary equipment and facilities for announcing. The promoter shall be responsible for all compensation for the announcer. The amount of compensation to be provided to the announcer shall be set by the commission.

(d) No announcer shall use profane language. All announcements and other comments made to the audience regarding a contestant or a bout shall be neutral. (Authorized by K.S.A. 2007 Supp. 74-50,187; implementing K.S.A. 2007 Supp. 74-50,186 and 74-50,187; effective April 4, 2008.)

128-4-2. Contestant. (a) Each contestant shall at all times meet the applicable requirements of the act and these regulations.

(b) Each contestant shall at all times comply with the directions and decisions of all officials.

(c) Each contestant shall be required to pass a physical examination given by a physician as provided by K.A.R. 128-4-5, before participating in a contest. The physician conducting the examination shall submit to the commission the findings, together with the physician’s written opinion of whether the contestant should fight. A contestant who does not pass the physical examination shall not be permitted to fight in that contest.

(d) A contestant shall not wear eyeglasses during a contest or professional wrestling performance.

(e) Each contestant shall disclose to the physician any prior or existing medical conditions that could affect the contestant’s fitness to compete. Nondisclosure to the physician of any prior or existing medical condition by the contestant shall be cause for suspension or revocation of the contestant’s license.

(f) Any contestant may be required before the contest to submit to additional medical examinations or tests ordered by the boxing commissioner as needed to determine the contestant’s fitness to compete.

(g)(1) Each contestant shall submit to a drug test if directed to do so by the boxing commissioner. At any time, the contestant may be directed by the boxing commissioner, with reasonable cause or through random selection, to complete a test for use of illegal drugs or other performance-enhancing substances specified in K.A.R. 128-2-3a.

(2) All fees involved with drug tests shall be the responsibility of the promoter if the contestant has a contract with the promoter stipulating that the promoter will pay these fees. Otherwise, the contestant shall be responsible for payment of these fees.

(3) If a contestant fails to submit to a drug test when directed to do so by the boxing commissioner, disciplinary action may be taken against the contestant, including suspension, fines, or revocation of the contestant’s license.

(h)(1) Each contestant in a non-boxing contest shall present to the chief official, when the contestant weighs in before the beginning of the bout, a contestant’s license issued by the commission.

(2) Each contestant in a boxing contest shall present to the chief official both of the following documents when the contestant weighs in before the beginning of the bout:

(A) A professional boxing contestant's license issued by the commission; and

(B) the federal identification card required by 15 U.S.C. 6305. The contestant may present a federal identification card issued by the commission or by the boxing commission of another state. To obtain a federal identification card in the state of Kansas, the applicant shall appear in person at the office of the commission, present a photo identification showing the applicant's date of birth, and pay the fee established by the commission.

(3) Each contestant in a mixed martial arts contest shall present both of the following documents to the chief official when the contestant weighs in before the beginning of the bout:

(A) A professional mixed martial arts contestant's license issued by the commission; and

(B) the national identification card required by K.A.R. 128-2-12. Any professional mixed martial arts contestant may present a national identification card issued by the commission or by the commission of another state. To obtain a national identification card in Kansas, the applicant shall appear in person at the office of the commission, present a photo identification showing the applicant's date of birth, and pay the fee specified in K.A.R. 128-2-12.

(i) If a contestant is under contract or is scheduled to compete in a bout but is unable to take part in the bout because of illness or injury, the contestant or the contestant's manager shall immediately report that fact to the inspector. The contestant shall then submit to an examination by the physician designated by the commission to determine whether or not the contestant is unfit to compete.

(j) Any contestant who fails to appear for and participate in an event in which the contestant is scheduled or for which the contestant has signed a bout agreement to appear, without a written excuse determined to be valid by the commission or a certificate from a physician approved by the commission in case of physical disability, may be subject to action, pursuant to K.S.A. 2012 Supp. 74-50,197 and 74-50,193 and amendments thereto. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013.)

128-4-3. Judge. (a) Three judges shall be assigned by the boxing commissioner for each bout of a contest.

(b) The three judges shall be stationed at ring-side, each at a different side.

(c) Before the start of each bout, each judge shall receive an official scorecard from an inspector. Each judge shall use only the official scorecards that are provided by the commission or a sanctioned body approved by the commission.

(d) Each judge shall reach a scoring decision for each round of a bout without conferring in any manner with any other official or person, including the other judges on the panel. Each judge shall award points for each round immediately after the end of the round, total the scores of both contestants from that round, and sign or initial the scorecard.

(e) (1) The judges shall score each round on the ten-point must system using the following criteria:

(A) The maximum total score awarded by each judge in any round shall be 20 points. The better contestant of each round shall receive 10 points, and the opponent shall receive a score that is proportionately lower.

(B) If the round is tied, each contestant shall receive 10 points.

(C) No fraction of a point shall be awarded.

(2) Each erasure or change on a scorecard shall be approved and initialed by both the judge and the inspector.

(3) At the end of each round, each judge shall give that judge's scorecard to the referee. At the end of each bout for professional and amateur mixed martial arts, each judge shall give that judge's scorecard to the referee.

(f) A final decision regarding the outcome of the bout shall be made before the judges may leave the arena.

(g) After the final decision for the bout has been announced, the referee shall give the scorecards to the chief inspector, who shall retain custody of the scorecards and transmit the scorecards to the commission for safekeeping. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186, 74-50,187, and 74-50,190; effective April 4, 2008; amended Dec. 20, 2013.)

128-4-4. Matchmaker. (a) A matchmaker shall be present at each contest. The matchmaker for a contest shall not directly or indirectly serve as the promoter for the same contest or as the manager or the second for any contestant competing in that contest.

(b) Each bout shall be arranged by the matchmaker, and the contestants shall be even-

ly 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 4a.—INSPECTORS AND THEIR RESPONSIBILITIES

128-4a-1. Inspector. (a) One or more inspectors shall be assigned by the commission to each contest and each professional wrestling event to supervise the sale of tickets, to verify the counting of receipts, to enforce the act and these regulations to the extent that they apply, and to perform other duties as specified by these regulations. The duties of an inspector may be performed by one or more members of the commission.

(b) For each contest, all contestants, promoters, and officials shall be under the direction of the commission and its inspectors at all times.

(c) Direct or indirect financial interest in any contest, performance, or contestant by any licensee or by any employee of the commission, including any inspector, shall be prohibited. The inspector shall ensure that as each person admitted to a contest or performance hands the ticket taker an admission ticket, pass, or complimentary ticket, the ticket taker immediately deposits the ticket or pass in a securely locked box. The locked box may be opened only in the presence of an inspector, who shall ensure that all tickets and passes are carefully counted and reported to the commission, along with the price of admission charged for each type of ticket, the number of tickets exchanged and the value of each exchanged ticket, and the gross receipts from all ticket sales and exchanges.

(d) Before the start of each contest, each contestant, promoter, and official shall present to the inspector a valid license issued by the commission to that contestant, promoter, or official. If a contestant, promoter, or official does not have a current license issued by the commission, that contestant, promoter, or official shall not participate in the contest until a complete application and the applicable fee have been submitted to the commission and the appropriate license has been issued by the commission.

(e) An inspector shall be admitted to the dressing rooms at the designated time for weighing in contestants and inspecting all equipment. The inspector shall examine and approve each hand wrapping placed on a contestant.

(f) Pursuant to K.A.R. 128-4-7(c), the chief inspector shall provide an interpretation of the application of the act or these regulations, or both, with respect to any disputed issue.

(g) Pursuant to K.A.R. 128-4-7(d), if there are

no regulations in place 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.

(h) No licensee shall interfere with the inspector's duties, make threats of physical harm towards the inspector, or use foul language that is directed towards the inspector. (Authorized by K.S.A. 2007 Supp. 74-50,187; implementing K.S.A. 2007 Supp. 74-50,186 and 74-50,187; effective April 4, 2008.)

Article 5.—FACILITY AND EQUIPMENT REQUIREMENTS FOR PROFESSIONAL BOXING, PROFESSIONAL KICKBOXING, PROFESSIONAL FULL-CONTACT KARATE, PROFESSIONAL MIXED MARTIAL ARTS, AMATEUR MIXED MARTIAL ARTS, AND AMATEUR SANCTIONING ORGANIZATIONS

128-5-1. Professional boxing, professional kickboxing, professional bare-knuckle fighting, and professional full-contact karate contests. (a) Each ring used for professional boxing, professional kickboxing, professional bare-knuckle fighting, or professional full-contact karate contests shall consist of an area that is no smaller than 16 by 16 feet square and no larger than 20 by 20 feet square when measured within the ropes. The apron of the ring platform shall extend at least two feet beyond the ropes. The ring platform shall not be more than four feet above the floor of the building or the grounds of an outdoor arena. Steps to the ring shall be provided for the use of the contestants and officials.

(b)(1) Except as specified in paragraph (b)(2), each ring shall be fenced in with at least three ropes and not more than four ropes. Each rope shall be at least one inch in diameter. The ropes may be composed of Manila hemp, synthetic material, plastic, or any other similar material. Each rope shall be wrapped securely in soft material. If three ropes are used, the ropes shall extend in triple parallel lines at the heights of two feet, three feet, and four feet above the platform floor. If four ropes are used, the ropes shall be placed in parallel lines at the following heights:

Height above the ring floor

- (A) Lowest rope 18 inches
- (B) second rope 30 inches
- (C) third rope 42 inches
- (D) top rope 54 inches

(2) For professional and amateur mixed martial art contests, a ring may have a fifth-rope conversion to meet the requirements of the act.

(3) The ring platform shall be padded with a one-inch layer of Ensolite®, 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 or the ground in an outdoor arena to a minimum height of 58 inches above the ring platform. Each ring post shall be at least 18 inches away from the ring ropes. Each turnbuckle shall be covered with a protective padding.

(d) The promoter shall provide a bell, buzzer, gong, or horn that is sufficiently loud to enable the officials and contestants to hear it clearly.

(e) The spectator seats shall be placed no closer than eight feet from the outside edge of the apron of the ring. A physical barrier shall be placed eight feet outside the ring. The ringside area within that physical barrier shall be under the jurisdiction of the commission and shall be reserved for the sole use of designated working officials and the contestants.

(f) Gloves used in a boxing or kickboxing contest or exhibition shall meet the following requirements and shall be delivered to the commission at least one hour before the commencement of the first match of the event:

(1) Each glove shall weigh at least eight ounces but not more than 16 ounces, except that the weight of the gloves to be used in a championship contest shall be specified by the commission.

(2) The gloves shall be examined by the inspector and the referee. If padding in any glove is found to be misplaced or lumpy or if any glove is found to be imperfect, the glove shall be changed before the event starts. No breaking, roughing, or twisting of any glove shall be permitted.

(3) If the gloves to be used have been used before, they shall be whole, clean, and in sanitary

condition. The gloves shall be subject to inspection by the referee and a representative of the commission. If any glove is found to be unfit, it shall be replaced with a glove that meets the requirements of this subsection.

(4) Each promoter shall have an extra set of gloves of the appropriate weight available to be used if a glove is broken or otherwise damaged during an event.

(5) Each glove shall have the distal portion of the thumb attached to the body of the glove to minimize the possibility of injury to an opponent's eye. (Authorized by K.S.A. 74-50,187; implementing K.S.A. 74-50,186 and 74-50,187; effective April 4, 2008; amended Dec. 20, 2013; amended Oct. 25, 2019.)

128-5-2. Professional and amateur mixed martial arts contests. Each ring used for professional or amateur mixed martial arts contests shall meet either the requirements of K.A.R. 128-5-1 or the following requirements for the fenced-in area: (a) Each fenced-in area used in a contest of mixed martial arts shall either be circular, with a diameter of at least 20 feet, or have at least four equal sides and be no smaller than 20 feet by 20 feet and no larger than 32 feet by 32 feet.

(b) The supporting platform structure of each fenced-in area shall be made of steel. The ring floor of each fenced-in area shall extend at least 18 inches beyond the ropes. The ring floor shall be padded with Ensolite® 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 submitted and approved governing rules may be grounds for revocation of the organization's approval. The approval of any organization may be revoked or suspended by the commission, after a hearing. (Authorized by K.S.A. 2012 Supp. 74-50,187; implementing K.S.A. 2012 Supp. 74-50,186, 74-50,187, and 74-50,195; effective Dec. 20, 2013.)

Article 6.—RULES OF CONDUCT AND EQUIPMENT REQUIREMENTS FOR PROFESSIONAL BOXING, PROFESSIONAL KICKBOXING, PROFESSIONAL FULL-CONTACT KARATE, AND PROFESSIONAL MIXED MARTIAL ARTS

128-6-1. Professional boxing. Each professional boxing contest shall be conducted in accordance with this regulation. (a) Each bout of

professional boxing shall consist of at least four rounds but no more than 12 rounds. Each round involving male contestants shall be no more than three minutes in length, with a one-minute rest period between rounds. Each round involving female contestants shall be no more than two minutes in length, with a one-minute rest period between rounds.

(b) The schedule for each professional boxing contest may include a main bout consisting of at least six rounds and at least one co-main event consisting of at least six rounds. All other bouts shall be at least four rounds each. Any contest may have a minimum of four bouts with a total of at least 24 rounds.

(c) No professional boxing bout shall be advertised or promoted as a championship bout unless the commission specifically approves the bout as a championship bout.

(d) A boxing contestant shall not participate in a boxing, kickboxing, karate, or mixed martial arts bout in Kansas for at least seven days following a previous bout in Kansas or in any other jurisdiction.

(e) A boxing contestant whose license is currently suspended or has been revoked by the commission or any other athletic commission, domestic or foreign, shall not participate in any bout in Kansas until the suspension is lifted or until the license is reinstated.

(f) If a bout is deemed by the commission to be a mismatch that could expose one or both contestants to serious injury based on the record, experience, skill, or condition of each of the contestants, the bout shall be disapproved and cancelled by the commission.

(g) The schedule of weight classifications shall be as follows:

Classification	Weight
(1) Strawweight	up to and through 105 pounds
(2) Light flyweight	over 105 and through 108 pounds
(3) Flyweight	over 108 and through 112 pounds
(4) Super flyweight	over 112 and through 115 pounds
(5) Bantamweight	over 115 and through 118 pounds
(6) Super bantamweight	over 118 and through 122 pounds
(7) Featherweight	over 122 and through 126 pounds
(8) Super featherweight	over 126 and through 130 pounds

		Weight Group	Allowance
(9) Lightweight	over 130 and through 135 pounds	(1) up to and through 118 lbs.	not more than 3 lbs.
(10) Super lightweight	over 135 and through 140 pounds	(2) over 118 lbs. and through 126 lbs.	not more than 5 lbs.
(11) Welterweight	over 140 and through 147 pounds	(3) over 126 lbs. and through 135 lbs.	not more than 7 lbs.
(12) Super welterweight	over 147 and through 154 pounds	(4) over 135 lbs. and through 147 lbs.	not more than 9 lbs.
(13) Middleweight	over 154 and through 160 pounds	(5) over 147 lbs. and through 160 lbs.	not more than 11 lbs.
(14) Super middleweight	over 160 and through 168 pounds	(6) over 160 lbs. and through 175 lbs.	not more than 12 lbs.
(15) Light heavyweight	over 168 and through 175 pounds	(7) over 175 lbs. and through 195 lbs.	not more than 20 lbs.
(16) Cruiserweight	over 175 and through 195 pounds	(8) over 195 lbs.	no limit
(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:

(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 $\frac{3}{4}$ inch of the knuckles when the hand is clenched to make a fist.

(2) Each contestant shall use soft surgical bandage not over two inches wide, held in place by not more than 10 feet of surgeon's adhesive tape for each hand. Up to one 15-yard roll of gauze bandage shall be used to complete the wrappings for each hand. Strips of tape may be used between the fingers to hold down the bandages.

(3) Each bandage of the contestant shall be applied in the presence of both an inspector and the other contestant.

(4) Each hand wrapping placed on a contestant shall be examined and approved by an inspector. Each approved hand wrap shall be initialed by the inspector who examined it. The opponent may be present.

(5) Either contestant may witness the bandage and hand wrapping of the contestant. A contestant may waive the witnessing the bandaging or hand wrapping of the opponent's hands.

(6) The weight of each glove shall be at least eight ounces and not more than 16 ounces, and each glove shall have the thumb attached.

(7) Each contestant shall be gloved only in the presence of an inspector. The tape around the string of each approved glove shall be initialed by the inspector.

(8) No contestant or second shall twist or manipulate that contestant's gloves in any way. If a glove breaks or a string becomes untied during the bout, the referee shall instruct the timekeeper to signal a time-out while the glove is being adjusted.

(9) Each contestant's gloves shall be inspected by the referee of each bout. The referee shall ascertain that no foreign substances detrimental to an opponent have been applied to the gloves of any contestant. If the referee detects a problem with the gloves or any other equipment, the problem shall be fixed to the satisfaction of the referee and the inspector before the bout continues.

(10) Each contestant shall wear boxing-appropriate attire and protective devices, including a dental appliance or mouthpiece that has been individually fitted and approved by the boxing commissioner. Each male contestant shall wear a protective cup. Each contestant shall wear an abdominal protector, which shall protect the contestant against injury from a foul blow. The abdominal protector shall not cover or extend above the umbilicus. Each female contestant shall wear a protective pelvic girdle and either a plastic breast protector or a sport bra.

(11) The belt of the shorts shall not extend above the waistline. Shorts shall be without pockets or openings and shall be subject to approval by the chief inspectors.

(12) For each bout, male contestants shall not wear the same colors in the ring or, if the contest or exhibition is being held in a fenced area, without the approval of the chief inspector. Female contestants shall have two uniforms in contrasting colors, with each uniform consisting of a body shirt, blouse, and shorts.

(13) Contestants shall not use any cosmetic when competing.

(14) The inspector shall determine whether head or facial hair presents any hazard to the safety of a contestant or contestant's opponent or will interfere with the supervision of the contest or exhibition. A contestant shall not compete in the contest or exhibition unless the circumstances creating the hazard or potential interference are corrected to the satisfaction of the inspector.

(15) A contestant shall not wear any jewelry or any piercing accessories when competing in the contest or exhibition.

(16) The contestants' fingernails and thumbnails shall not extend past the tip of the fingers and thumbs.

(17) Only Vaseline® or a similar petroleum-based product may be lightly applied to the face, arms, or any other exposed part of a contestant's body.

(v) Before starting a bout, the referee shall ascertain from each contestant the name of the

contestant's chief second. Before each bout, the referee shall call together both of the contestants and their chief seconds for final instructions.

(w) No person other than the contestants and the referee shall enter the ring during a bout. A second or manager shall not stand or engage in any distracting actions while the bout is in progress. For each contestant's seconds and manager, a combined total of two warnings for violating any requirement of this subsection shall result in the removal of the seconds and manager from the ringside area, all of whom may be subject to discipline by the commission.

(x) Each preliminary contestant shall be ready to enter the ring immediately after the end of the preceding bout. Any contestant who is not ready to immediately proceed when called and, as a result, causes a delay may be subject to discipline by the commission.

(y) Before the referee requests the physician to aid or examine a contestant, the referee shall direct the timekeeper to stop the clock until otherwise directed by the referee.

(z) Any serious cuts or injuries to either contestant shall be treated by the physician. The physician shall determine whether to continue the bout as follows:

(1) The physician may enter the ring if requested by the referee to examine an injury to a contestant.

(2) If serious cuts or injuries to either contestant occur, the referee shall summon the physician, who shall aid the contestant and decide if the bout will be stopped. The final authority to determine whether to continue the bout shall rest with the physician.

(3) If the physician determines that a contestant who is cut or injured by legal blows cannot continue, the referee shall announce that contestant loses by a technical knockout.

(4) The referee may request that the attending physician examine a contestant during the bout. The physician may order the referee to stop the bout. The referee shall then render the appropriate decision regarding the outcome of the bout in accordance with K.A.R. 128-4-7.

(5) Except at the request of the physician, no manager or second shall be permitted to aid a stricken contestant.

(aa) If a contestant loses a dental appliance or mouthpiece during a round, the referee may call a time-out. If the referee calls a time-out for this reason, the referee shall direct the contestant's

second to replace the dental appliance or mouthpiece.

(bb) Before a contestant may resume competing after having been knocked down or having fallen or slipped to the floor of the ring, the referee shall wipe the gloves of the contestant with a damp towel or the referee's shirt.

(cc) A boxer shall be deemed to be down when either of the following occurs:

(1) Any part of the boxer's body other than the feet is on the floor.

(2) The boxer is hanging over the ropes without the ability to protect that boxer, and the boxer cannot fall to the floor.

(dd) When a boxer is knocked down, the referee shall order the opponent to retire to the farthest neutral corner of the ring, by pointing to the corner, and shall immediately begin the count over the contestant who is down. The referee shall audibly announce the passing of the seconds and accompany the count with motions of the referee's arm, with the downward motion indicating the end of each second.

(ee) The timekeeper, by signaling, shall give the referee the correct one-second interval for the referee's count. The referee's count shall be the official count. Once the referee picks up the count from the timekeeper, the timekeeper shall cease counting. No boxer who is knocked down may be allowed to resume competing until the referee has finished counting to 10. The boxer may take the count either on the floor or standing.

(ff) If the opponent fails to stay in the farthest corner, the referee shall cease counting until the contestants have returned to their corners and shall then resume the count from the point at which the count was interrupted. If the boxer who is down arises before the count of 10, the referee may step between the contestants long enough to assure the referee that the contestant who has just arisen is in a condition to continue. If so assured, the referee shall, without loss of time, order both contestants to go on with the contest or exhibition. During the intervention by the referee, the striking of a blow by either contestant may be ruled a foul.

(gg) When a boxer is knocked out, the referee shall perform a full 10-second count unless, in the judgment of the referee, the safety of the boxer would be jeopardized by such a count. If the boxer who is knocked down is still down when the referee calls a count of 10, the referee shall wave both arms to indicate that the downed contestant has been knocked out.

(hh) If both contestants go down at the same time, the count shall continue as long as one contestant is still down. If both contestants remain down until the count of 10, the contest or exhibition shall be stopped and the decision shall be a technical draw.

(ii) If a boxer is down and the referee is in the process of counting at the end of a round, the bell indicating the end of a round shall not be sounded, but the bell shall be sounded as soon as the downed contestant stands up.

(jj) When a contestant has been knocked down before the normal termination of a round and the round is terminated before the contestant has arisen from the floor of the ring, the referee's count shall continue. If the contestant who is down fails to arise before the count of 10, the contestant shall be considered to have lost the contest or exhibition by a knockout in the round that just concluded.

(kk) If a legal blow struck in the final seconds of a round causes a contestant to go down after the bell has sounded, that knockdown shall be regarded as having occurred during the round just ended and the appropriate count shall continue.

(ll) If a knockdown occurs before the normal termination of a round and the contestant who is down stands up before the count of 10 is reached and then falls down immediately without being struck, the referee shall resume the count from the point at which the count was left off.

(mm) A contest or exhibition may be adjudged a technical knockout to the credit of the winner if the contest or exhibition is terminated because a boxer meets any of the following conditions:

- (1) Is unable to continue;
- (2) is not honestly competing;
- (3) is injured; or
- (4) is disqualified.

(nn) Each contest or exhibition that is won by other than a full count of 10 or the scoring of the judges shall be adjudged a technical knockout to the credit of the winner.

(oo) A referee may count a contestant out if the contestant is on the floor or being held up by the ropes.

(pp) Each contestant who has been knocked out shall be kept lying down until the contestant has recovered. If a contestant is knocked out, no one other than the referee and the physician shall touch the contestant. The referee shall remove the injured contestant's mouthpiece and stay with the contestant until the ringside physician enters

the ring, personally attends to the contestant, and issues any necessary instructions to the contestant's second.

(qq) Each of the following tactics or actions shall be an intentional foul:

- (1) Hitting the opponent below the belt;
- (2) hitting an opponent who is down or is getting up after being down;
- (3) holding the opponent with one hand and hitting the opponent with the other hand;
- (4) holding the opponent or deliberately maintaining a clinch;
- (5) wrestling or kicking the opponent;
- (6) striking an opponent who is helpless as the result of blows but is supported by the ropes and does not fall;
- (7) butting the opponent with the head, shoulder, or knee;
- (8) hitting the opponent with the open glove, with the butt of the hand, with the wrist or the elbow, or with backhand blows;
- (9) going down without being hit;
- (10) striking the opponent's body over the kidneys;
- (11) hitting the opponent on the back of the head or neck;
- (12) jabbing the opponent's eyes with the thumb of the glove;
- (13) using abusive language in the ring;
- (14) hitting during a break, which is signaled by the referee's command or physical act to separate two contestants;
- (15) hitting the opponent after the bell has sounded, ending the round;
- (16) using the ropes to gain an advantage over the opponent;
- (17) pushing the opponent around the ring or into the ropes;
- (18) spitting out the mouthpiece;
- (19) biting the opponent; and
- (20) engaging in any other action not described in this subsection that is deemed an intentional foul by the referee on the basis that the action poses a danger to the safety of either contestant, impedes fair and competitive play, or is unsportsmanlike.

(rr)(1) If a boxer fouls the opponent during a contest or exhibition or commits any other infraction, the referee may penalize the boxer by deducting points from boxer's score, whether or not the foul or infraction was intentional. The referee may determine the number of points to be deducted in each instance and shall base the deter-

mination 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 continue. 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 re-

commend 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.)

128-6-2. Professional kickboxing. Each professional kickboxing contest shall be conducted in accordance with this regulation. (a) 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. The maximum number of rounds for males and females shall be 12 rounds. Each contest shall consist of a minimum of four bouts.

(b) A kickboxing 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.

(c) A kickboxing 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.

(d) 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.

(e) The schedule of weight classifications shall be as follows:

Classification	Weight
(1) Mini flyweight	up to and through 105 pounds
(2) Junior 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 200 pounds
(17) Heavyweight	over 200 pounds

(f) Each contestant shall be weighed by the commissioner or designee within 48 hours before the contest. If a contestant's weight does not fall within the range for the weight classification in which the contestant is scheduled to compete in that contest, the contestant shall be reweighed within two hours. If the contestant's weight still does not fall within the range for that weight classification, the contestant shall be disqualified by the commissioner.

(g) Each contestant shall fight only opponents who are in the contestant's weight classification, except that a bout between two contestants in different weight classifications may be approved by the commission if the difference between the weights of the two contestants does not exceed nine pounds.

(h) 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.

(i) The weight of each contestant or the classification in which each contestant will compete, or both, shall be announced at ringside.

(j) Each contestant's equipment shall meet the following requirements:

(1) Surgeon's adhesive tape, with a width that is not greater than one and one-half inches, shall be placed directly on the hand and wound once around each hand to protect the hand near the wrist. The tape may cross the back of the hand twice but shall not extend within one inch of the knuckles when the hand is clenched to make a fist. The second or contestant shall then wrap each hand with a soft surgical bandage that is not more than two inches wide and that is held in place by not more than two feet of surgeon's adhesive tape for each hand. One 20-yard roll of bandage shall be wound over the surgeon's adhesive tape to complete the wrappings for each hand.

(2) Each bandage shall be applied in the presence of both an inspector and the other contestant. Each hand wrapping placed on a contestant shall be examined and approved by an inspector. The tape around the strings of each approved glove shall be initialed by the inspector. A contestant may waive the privilege of witnessing the bandaging of the opponent's hands.

(3) All gloves worn by contestants shall be made of leather and shall fully cover the hand. The weight of each glove shall be at least eight ounces and not more than 16 ounces.

(4) Each contestant shall be gloved only in the presence of an inspector. The tape around the strings of each approved glove shall be initialed by the inspector.

(5) A contestant or second shall not twist or manipulate that contestant's glove in any way. If a glove breaks or a string becomes untied during a bout, the referee shall instruct the timekeeper to signal a time-out while the glove is being adjusted.

(6) The referee shall inspect the gloves of each contestant for each bout. The referee shall check to determine 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 prob-

lem shall be fixed to the satisfaction of the referee and the inspector before the bout continues.

(7) Each contestant shall wear kickboxing-appropriate attire and protective devices, including a dental appliance or mouthpiece approved by the commission. Each male contestant shall wear a protective cup. Each female contestant shall wear a protective pelvic girdle and either a plastic breast protector or a sport bra.

(8) 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.

(k) Only officials and members of the media may enter into the contestants' dressing rooms or area.

(l) Each contestant shall be ready to enter the ring immediately after the end of the preceding bout. Any contestant who is not ready to immediately proceed when called and, as a result, causes a delay may be subject to discipline by the commission.

(m) Before each bout, the referee shall call together both of the contestants and their chief seconds for final instructions.

(n) 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.

(o) No person other than the contestants and the referee shall enter the ring during a bout. A second or manager shall not stand or engage in distracting actions while the bout is in progress. For each contestant's seconds and manager, a combined total of two warnings for violating any requirement of this subsection shall result in the removal of the seconds and manager from the ringside area, all of whom shall be subject to discipline by the commission.

(p) With the approval of the commission, the promoter and contestants in a bout may agree to specialized rules for the conduct of that bout, including the minimum or maximum number of punches or kicks allowed for each round.

(q) If a contestant loses a mouthpiece or dental appliance 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 mouthpiece or dental appliance.

(r) 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.

(s) If a contestant claims to be injured during the bout, the referee may request that the physician examine the contestant. If the physician decides that the contestant has been injured and should not continue, the physician shall so advise the referee.

(t) Any serious cuts or injuries to either contestant shall be administered to by a 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.

(5) Except at the request of the physician, no manager or second shall be permitted to aid a stricken contestant.

(u) If a contestant is knocked down, the referee shall immediately begin a mandatory count of eight. The referee shall audibly announce the passing seconds, accompanying the count with arm motions. A contestant shall be deemed to be knocked down if, as a result of any legal blow or strike, any part of the contestant's body with the exception of the feet is on the floor or if the contestant is hanging on or over the ropes and is not defending oneself. A contestant shall not be considered to have been knocked down until the referee announces that the contestant is down. The referee may continue and complete the mandatory count of eight while the contestant is on the ropes, remains down on the floor, or is rising from a knocked-down position, according to the following:

(1) During any count, the opponent shall immediately go to a neutral corner and shall remain there until the referee signals that the bout is to be continued. If the contestant who has scored the knockdown fails to go to a neutral corner,

the referee may stop the count until the contestant who scored the knockdown returns to one of the two corners not assigned to either contestant, which are the neutral corners.

(2) During the mandatory count of eight, the referee shall assess the condition of the contestant and either allow the contestant to continue or stop the bout. If the contestant appears able to continue by the end of the count, the referee shall allow the bout to resume.

(3) If a fallen contestant rises before the mandatory count of eight is reached and then falls again without receiving another hit, the referee shall continue the original count from the point at which the count was stopped, rather than starting a new count.

(4) If the bell rings to end the round during the count, the count shall continue except when the bell rings, ending the last round of the bout. If a round ends before the referee reaches eight, the contestant shall be required to rise before the count of eight to avert a knockout.

(5) 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 necessary instructions to the contestant's second.

(6) If the contestant is still knocked down when the referee calls the mandatory count of eight, the referee shall wave both arms to indicate that the contestant has been knocked out and shall signal that the opponent is the winner.

(7) A contestant shall be deemed to be knocked down if, as a result of any legal blow or strike, any part of the contestant's body with the exception of the feet is on the floor or if the contestant is hanging on or over the ropes and is not defending oneself. A contestant shall not be considered to have been knocked down until the referee announces that the contestant is down. The referee may continue and complete the mandatory count of eight while the contestant is on the ropes, remains down on the floor, or is rising from a knocked-down position.

(8) If the contestant appears able to continue by the end of the mandatory count of eight, the referee shall allow the bout to resume.

(9) If a fallen contestant rises and then falls again without receiving another hit, the refer-

ee shall continue the original count, rather than starting a new count. If the bell rings to end the round during the count, the count shall continue except when the bell rings, ending the last round of the bout. If a round ends before the referee reaches eight, the contestant shall be required to rise before the count of eight to avert a knockout.

(10) Each contestant who has been knocked down 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. A contestant shall be declared knocked down when, as a result of any legal blow or strike, any portion of the contestant's body other than the feet touches the floor.

(11) If the contestant is still knocked down when the referee calls the mandatory count of eight, the referee shall wave both arms to indicate that the contestant has been knocked out and shall signal that the opponent is the winner.

(v) Before a felled contestant resumes fighting after slipping, falling, or being knocked to the floor, the referee shall wipe the contestant's gloves free of any foreign substance.

(w) If a contestant fails to resume fighting when the bell sounds to start the next round, the referee shall award a technical knockout to the contestant's opponent.

(x) Each of the following tactics or actions shall be an intentional foul:

(1) Using headbutts;

(2) hitting the opponent with a low blow or striking the opponent's groin, the opponent's breast if a woman, or the opponent's spine, throat, collarbone, or that part of the body over the kidneys;

(3) striking the opponent with the heel of the palm;

(4) jabbing the opponent's eye with the thumb of the glove;

(5) hitting the opponent with an open glove or with the wrist;

(6) grabbing or holding the opponent's leg or foot;

(7) holding the opponent with one hand and hitting the opponent with the other;

(8) putting one's leg around the opponent's leg or stepping on the opponent's foot to prevent the opponent from moving or kicking;

- (9) falling or going down without being hit;
- (10) using abusive language in the ring;
- (11) attacking during a break, which is signaled by the referee's command or physical act to separate two contestants;
- (12) attacking the opponent after the bell has sounded to end the round;
- (13) pushing, shoving, or wrestling an opponent out of the ring;
- (14) biting the opponent;
- (15) using the ropes to gain an advantage over the opponent; and
- (16) 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.

(y) The referee may warn any contestant who commits an intentional foul or may penalize the contestant by either of the following:

- (1) Directing the judges to deduct one or more points from the contestant's score for that round; or
- (2) disqualifying the contestant, subject to the following requirements:

(A) If an intentional foul causes an injury severe enough to terminate a bout immediately, the contestant causing the injury shall lose by disqualification.

(B) If an intentional foul causes an injury but the bout is allowed to continue, the referee shall notify the judges of the foul and instruct the judges to deduct two points from the score for that round of the contestant who caused the foul.

(z)(1) If an intentional foul causes an injury and the injury results in termination of the bout in a later round, the bout shall be decided as follows:

(A) The injured contestant shall win by a technical decision if the injured contestant has the higher score when the bout is terminated.

(B) The bout shall result in a technical draw if the score of the injured contestant is lower than or even with the opponent's score when the bout is terminated.

(2) If a contestant is injured while attempting to commit an intentional foul against the opponent, the referee shall not take any action in the contestant's favor, and this injury shall be treated in the same manner as that for an injury produced by a fair blow.

(3) If the referee determines that a contestant is using an unsportsmanlike trick or action, the referee may stop the bout and disqualify the contestant.

(4) If an accidental foul, other than a low blow, is committed before the completion of the fourth round and causes an injury severe enough that the physician determines that the bout should be immediately stopped, the bout shall result in a no-contest decision.

(5) If an accidental foul, other than a low blow, is committed after the completion of the fourth round and causes an injury severe enough that the physician determines that the bout should be immediately stopped, the bout shall result in a technical decision, which shall be awarded to the contestant who has the higher score when the bout is stopped. The judges shall first score any partial or incomplete round. If no blows have landed by that point in the round, the round may be scored as an even round.

(6) If a contestant is hit with an accidental low blow, the round shall continue after a reasonable amount of recovery time that is no longer than five minutes, or the contestant shall lose the fight by a technical knockout. (Authorized by K.S.A. 2007 Supp. 74-50,187; implementing K.S.A. 2007 Supp. 74-50,186 and 74-50,187; effective April 4, 2008.)

128-6-4. Professional mixed martial arts contests. Except as otherwise specified in this regulation, each professional mixed martial arts contest shall be conducted in accordance with this regulation. If a contestant is a professional in boxing, kickboxing, or karate, the contestant shall compete only as a professional in any mixed martial arts contest. (a) Each contest shall be limited to those forms of martial arts that consist of unarmed combat.

(b) Except with the prior approval of the commission, a nonchampionship bout shall not exceed three rounds in duration. Each championship bout shall be five rounds in duration. Each contest shall consist of at least four bouts.

(c) Each round during a bout of professional mixed martial arts shall be five minutes in duration. Each period of rest following a round of combat shall be one minute in duration.

(d) Each contestant shall be weighed by the commissioner or designee within 48 hours before the contest. If a contestant's weight does not fall within the range for the weight classification in which the contestant is scheduled to compete in that contest, the contestant shall be reweighed within two hours. If the contestant's weight does not then fall within the range for that weight clas-

sification, the contestant shall be disqualified by the boxing commissioner.

(e) A mixed martial arts contestant shall not participate in a boxing, kickboxing, full-contact karate, or professional mixed martial arts bout in Kansas for at least seven days following a previous bout in Kansas or in any other jurisdiction.

(f) Each contestant shall fight only opponents who are in the contestant's weight classification. A bout between two contestants in different weight classifications may be approved by the commission if the difference between the weights of the two contestants does not exceed nine pounds, except for heavyweights and super heavyweights.

(g) The schedule of weight classifications shall be as follows:

Classification	Weight
(1) Atomweight	over 95 and through 105 pounds
(2) Strawweight	over 105 and through 115 pounds
(3) Flyweight	over 115 and through 125 pounds
(4) Bantamweight	over 125 and through 135 pounds
(5) Featherweight	over 135 and through 145 pounds
(6) Lightweight	over 145 and through 155 pounds
(7) Welterweight	over 155 and through 170 pounds
(8) Middleweight	over 170 and through 185 pounds
(9) Light heavyweight	over 185 and through 205 pounds
(10) Heavyweight	over 205 and through 265 pounds
(11) Super heavyweight	over 265 pounds

(h) If a substitute contestant is scheduled for a bout, the substitute contestant shall be subject to the same physical examination requirements as those for the original contestant, and the substitute contestant shall be approved by both the physician and the commission.

(i) Any contestant who fails to appear at the appointed place and at the specified time to be examined and weighed or who leaves the designated area without the permission of the commission before the weigh-in or the physical examination is complete may be subject to discipline by the commission.

(j) If a bout is deemed by the commission to be a mismatch that could expose one or both contestants to serious injury based on the record, experi-

ence, skill, or condition of each of the contestants, the bout shall be disapproved and cancelled by the boxing commissioner.

(k) The weight of each contestant or the classification in which the contestant will compete, or both, shall be announced at ringside.

(l) Each contestant's equipment shall meet the following requirements:

(1) Each contestant shall wear mixed martial arts-appropriate attire and protective devices, including a dental appliance or a mouthpiece approved by the commissioner. Each male contestant shall wear a protective cup. Each female contestant shall wear a protective pelvic girdle and either a short-sleeved or sleeveless formfitting rash guard or a sports bra. Any female contestant may also wear a plastic breast protector. Contestants shall not wear shoes or any padding on their feet during the contest.

(2) Only Vaseline® or a similar petroleum-based product may be lightly applied to the face, arms, or any other exposed part of a contestant's body.

(m) Only officials and members of the media may enter into the contestants' dressing rooms or area.

(n) Each contestant shall be ready to enter the ring immediately after the end of the preceding bout. Any contestant who is not ready to immediately proceed when called and, as a result, causes a delay may be subject to discipline by the commission.

(o) No person other than the contestants and the referee shall enter the ring during a bout. A second or manager shall not stand or engage in distracting actions while the bout is in progress. For each contestant's seconds and manager, a combined total of two warnings for violating any requirement of this subsection shall result in the removal of the seconds and manager from the ringside area, all of whom shall be subject to discipline by the commission.

(p) Before starting a bout, the referee shall call together both of the contestants and the chief seconds for final instructions.

(q) Each of the following acts shall constitute an intentional foul in a contest:

- (1) Using a head butt;
- (2) gouging the opponent's eye in any manner;
- (3) biting the opponent;
- (4) pulling the opponent's hair;
- (5) attacking the opponent's groin in any manner;
- (6) putting a finger into any orifice of the opponent or into any cut or laceration on an opponent, including fishhooking;

(7) manipulating any of the opponent's joints in the fingers or toes;

(8) striking the opponent's spine or the back of the opponent's head;

(9) striking downward using the point of the elbow;

(10) striking the opponent's throat, including grabbing the trachea;

(11) clawing, pinching, or twisting the opponent's flesh;

(12) in the standing position, moving the arm toward the opponent with an open hand and fingertips pointed at the opponent's face or eyes;

(13) kicking or kneeling the head of a grounded opponent. An opponent shall be deemed grounded if any part of the body, other than a single hand and soles of the feet, is touching the fighting area floor;

(14) stomping a grounded opponent;

(15) thrusting an opponent to the canvas on the opponent's head or neck;

(16) throwing an opponent out of the ring or fenced area;

(17) holding the shorts or gloves of an opponent;

(18) spitting at an opponent;

(19) engaging in any unsportsmanlike conduct that causes an injury to an opponent;

(20) using the ropes or fence to gain an advantage over the opponent;

(21) using abusive language in the ring or fenced area;

(22) attacking an opponent on or during a break, which is signaled by the referee's command or physical act to separate two contestants;

(23) attacking an opponent who is under the care of the referee;

(24) attacking an opponent after the bell has sounded the end of the round;

(25) disregarding the instructions of the referee;

(26) competing in a noncombative manner, including avoiding contact with an opponent, consistently dropping the mouthpiece, or faking an injury;

(27) abandoning the contest during competition; and

(28) engaging in any other action not described in this subsection that is deemed an intentional foul by the referee on the basis that the action poses a danger to the safety of either contestant, impedes fair and competitive play, or is unsportsmanlike.

(r)(1) If a contestant or the contestant's second commits any intentional foul, the contestant may have points deducted or be disqualified.

(2) The referee may penalize the contestant by directing the judges to deduct points from the contestant's score for that round, whether or not the foul was an intentional foul. Except as otherwise provided by this regulation, the referee may determine the number of points to be deducted for each intentional foul and shall base that determination on the severity of the foul and its effect upon the opponent.

(3) If the referee determines that it is necessary to deduct one or more points because of an intentional foul or an accidental foul, the referee shall inform the offender of the penalty to be assessed and, as soon as it is practical after the foul, notify the judges and both contestants of the number of points to be deducted from the offender's score.

(4) All points deducted from a contestant's score for any intentional foul or any accidental foul shall be deducted in the round in which the foul occurred. These points shall not be deducted from the score of any subsequent round.

(s) If a contestant loses a mouthpiece during a bout, the referee may call a time-out. If the referee calls a time-out for this reason, the referee shall direct the contestant's second to replace the mouthpiece.

(t) If a contestant claims to be injured during the bout, the referee may request that the physician examine the contestant. If the physician decides that the contestant has been injured and should not continue, the physician shall so advise the referee.

(u)(1) If a round is interrupted because of an accidental foul, the physician shall determine whether the contestant who has been fouled can continue. If the physician determines that the injured contestant's chance of winning has not been seriously jeopardized as a result of the accidental foul and that the foul did not involve a concussive impact to the head of the injured contestant, the referee may order the contestants to continue the round after a recuperative interval of not more than five minutes. Immediately after separating the contestants, the referee shall inform the inspector or other representative of the commission of the referee's determination that the foul was an accidental foul.

(2) If the physician determines that a contest cannot continue due to an injury caused by an accidental foul during the first two rounds of a contest that is scheduled for three rounds or less or during the first three rounds of a contest that is scheduled for more than three rounds, the referee shall declare a no-contest decision.

(3) If the physician determines that an accidental foul has rendered a contestant unable to continue the contest after completion of the second round of a contest that is scheduled for three rounds or less or after completion of the third round of a contest that is scheduled for more than three rounds, the outcome shall be determined by scoring both the completed rounds and the round during which the referee stops the contest. The contest shall be awarded to the contestant who has the higher score when the contest is stopped.

(4) If an injury inflicted by an accidental foul later becomes aggravated by any legal blow and the physician orders the contest stopped because of that injury, the outcome shall be determined by scoring both the completed rounds and the round during which the referee stops the contest. The contest shall be awarded to the contestant who has the higher score when the contest is stopped.

(v) Each contestant who fails to engage an opponent shall receive an immediate warning from the referee. If the contestant continues to fail to engage the opponent after a warning, the referee shall direct each of the judges to deduct a point from the contestant's score for that round.

(w) If a contestant fails to resume fighting when the bell sounds starting the next round, the referee shall award a technical knockout to the contestant's opponent.

(x) Each contest shall end with one of the following outcomes:

(1) A technical knockout;
 (2) a decision by the judges consisting of one of the following:

- (A) A unanimous decision;
- (B) a split decision;
- (C) a majority decision;
- (D) a unanimous draw;
- (E) a majority draw;
- (F) a split draw;
- (G) a technical decision; or
- (H) a technical draw; or

(3) a decision by the referee consisting of one of the following:

- (A) A disqualification;
 - (B) a forfeit;
 - (C) a no-contest decision; or
 - (D) a submission, either verbally or by tapout.
- (Authorized by K.S.A. 2016 Supp. 74-50,187; implementing K.S.A. 2016 Supp. 74-50,186 and 74-50,187; effective April 4, 2008; amended, T-128-12-20-16, Jan. 1, 2017; amended April 21, 2017.)

128-6-6. Grappling. The north American grappling association's "no gi rules," dated January 31, 2012, is hereby adopted by reference, except for the following portions: (a) In the table on page 11, the two rows of text applicable to "Kids (ages 13 and under) & Teens (ages 14-17) Novice, Beginner & Intermediate" and "Kids (ages 13 and under) & Teens (ages 14-17) Expert";

(b) on pages 15 and 16, the text titled "Kids and Teens No-Gi Competitors";

(c) on pages 17 and 18, the column titled "Kids & Teens (Kids Novice Divisions DO NOT ALLOW Submissions)"; 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.)

128-6-8. Professional bare-knuckle fighting. Each professional bare-knuckle fighting (BKF) contest, also known as a professional bare-knuckle boxing contest, shall be conducted in accordance with this regulation. (a) Each bout of professional BKF shall consist of at least four rounds but no more than 12 rounds. Each round shall be no more than two minutes in length, with a one-minute rest period between rounds.

(b) No professional BKF bout shall be advertised or promoted as a championship bout unless the commission specifically approves the bout as a championship bout.

(c) A BKF contestant shall not participate in a boxing, BKF, kickboxing, karate, or mixed martial arts bout in Kansas for at least seven days following a previous bout in Kansas or in any other jurisdiction.

(d) A BKF contestant whose license is currently suspended or has been revoked by the commission or any other athletic commission, domestic or foreign, shall not participate in any bout in Kansas until the suspension is lifted or until the license is reinstated.

(e) If a bout is deemed by the commission to be a mismatch that could expose one or both contestants to serious injury based on the record, experience, skill, or condition of each of the contestants, the bout shall be disapproved and cancelled by the commission.

(f) The schedule of weight classifications shall be as follows:

Classification	Weight
(1) Atomweight	over 105 and through 115 pounds
(2) Strawweight	over 115 and through 125 pounds
(3) Flyweight	over 125 and through 135 pounds
(4) Bantamweight	over 135 and through 145 pounds
(5) Featherweight	over 145 and through 155 pounds
(6) Lightweight	over 155 and through 165 pounds
(7) Welterweight	over 165 and through 175 pounds
(8) Middleweight	over 175 and through 185 pounds
(9) Light heavyweight	over 185 and through 200 pounds
(10) Cruiserweight	over 200 and through 225 pounds
(11) Heavyweight	over 225 and through 265 pounds
(12) Super heavyweight	over 265 pounds

(g) Each contestant shall be weighed by the commissioner or the commissioner's designee within 48 hours before the contest. During the weigh-in, each male contestant shall have only his body on the scale, without any attire or equipment, but any female contestant may wear shorts and a top. If a contestant's weight does not fall within the range for the weight classification of the contested weight in which the contestant is scheduled to compete, the contestant shall be reweighed within two hours. If the contestant's

weight still does not fall within the range for that weight category, the contestant may be disqualified by the commissioner for the safety of both contestants.

(h) Any contestant may be required by the commission to be reweighed one additional time if doubt concerning the contestant's actual weight exists.

(i) For each contestant whose weight exceeds the maximum amount, one or more of the following may be required as determined by the commission:

(1) The contestant shall be allowed to lose up to two pounds of the contestant's existing weight.

(2) The contestant shall forfeit a portion of the purse.

(3) The contestant shall forfeit the contest.

(j) Each subsequent weigh-in shall be conducted at the venue of the event before the commencement of the event, as directed by the commission. Any contestant or the contestant's designee may be present to witness the weigh-in of the opponent.

(k) Each contestant shall fight only opponents who are in the contestant's weight classification. A bout between two contestants in different weight classifications may be approved by the commission if the difference between the weights of the two contestants does not exceed nine pounds, except for heavyweights and super heavyweights.

(l) After the time of the weigh-in, weight loss in excess of two pounds of the weight that the contestant had at the weigh-in shall not be permitted and shall not occur later than one hour after the contestant's initial weigh-in.

(m) Contestants scheduled to compete against one another may mutually agree to waive the requirements of subsection (i). This agreement shall be evidenced by a provision in the respective bout agreement and initialed by the contestants. The provision shall also provide notice to the contestants that there will be no restriction as to the amount of weight that the opponent may put on after the initial weigh-in and before the scheduled match.

(n) A one-pound allowance in the weight agreed upon in the bout agreement may be allowed by the commission. The one-pound allowance shall still be within the weight limits specified in subsection (f). No allowance shall be made for a championship bout.

(o) A contestant who is required to appear at the specified time and place to be examined and

weighed shall not leave the designated area without permission of the commission before the weigh-in or the physical examination.

(p) For each failure to make weight as specified in this regulation, the contestant may be subject to discipline or imposition of a civil penalty.

(q) If a contestant is unable due to illness to take part in a contest or exhibition in which the contestant has agreed to fight, the contestant shall immediately report the fact to the commission and, if requested by the commission, shall submit to an examination by a physician. The fee for the physician's examination shall be paid by the promoter if an examination is requested. Otherwise, the fee shall be paid by the contestant.

(r) The weight of each contestant or the classification in which each contestant will compete, or both, shall be announced at ringside.

(s) Each contestant's equipment shall meet the following requirements:

(1) The contestant's hands may be wrapped with gauze and tape that end no closer than 1 ¼ inch from the contestant's knuckles. The wrap shall include the wrist and may extend up to three inches past the junction of the wrist bone.

(A) Gauze may be applied to the wrist, palm of the hand, back of the hand, and thumb. The length of gauze used shall not exceed 15 feet per hand.

(B) Tape may be applied to the wrist, palm of the hand, back of the hand, and thumb. The tape shall not be greater than one inch in width and shall not exceed 10 feet in length per hand.

(2) Each bandage of the contestant shall be applied in the presence of both an inspector and the other contestant.

(3) Each hand wrapping placed on a contestant shall be examined and approved by an inspector. Each approved hand wrap shall be initialed by the inspector who examined it. The opponent may be present.

(4) Either contestant may witness the bandaging and hand wrapping of the other contestant. A contestant may waive witnessing the bandaging or hand wrapping of the opponent's hands.

(5) Each contestant shall wear BKF-appropriate attire and protective devices, including a dental appliance or mouthpiece that has been individually fitted to the contestant and approved by the commissioner. Each male contestant shall wear a protective cup. Each contestant shall wear an abdominal protector that protects the contestant against injury from a foul blow.

The abdominal protector shall not cover or extend above the umbilicus. Each female contestant shall wear a protective pelvic girdle and either a plastic breast protector or a sport bra.

(6) The belt of the shorts shall not extend above the waistline. Shorts shall be without pockets or openings and shall be subject to approval by the chief inspectors.

(7) Contestants shall not use any cosmetics when competing in the contest or exhibition.

(8) The inspector shall determine whether head or facial hair presents any hazard to the safety of a contestant or contestant's opponent or will interfere with the supervision of the contest or exhibition. A contestant shall not compete in the contest or exhibition unless the circumstances creating the hazard or potential interference are corrected to the satisfaction of the inspector.

(9) A contestant shall not wear any jewelry or any piercing accessories when competing in the contest or exhibition.

(10) The contestants' fingernails and thumbnails shall not extend past the tip of the fingers and thumbs.

(11) Only Vaseline® or a similar petroleum-based product may be lightly applied to the face, arms, or any other exposed part of a contestant's body.

(t) Before starting a bout, the referee shall ascertain from each contestant the name of the contestant's chief second. Before each bout, the referee shall call together both contestants and their chief seconds for final instructions.

(u) No person other than the contestants and the referee shall enter the ring during a bout. A second or manager shall not stand or engage in any distracting actions while the bout is in progress. For each contestant's seconds and manager, a combined total of two warnings for violating any requirement of this subsection shall result in the removal of the seconds and manager from the ringside area, and any licensee may be subject to disciplinary action or civil penalty.

(v) Each preliminary contestant shall be ready to enter the ring immediately after the end of the preceding bout. Any contestant who is not ready to immediately proceed when called and, as a result, causes a delay may be subject to disciplinary action or civil penalty.

(w) Before the referee requests the physician to aid or examine a contestant, the referee shall direct the timekeeper to stop the clock until otherwise directed by the referee.

(x) All serious cuts or injuries to either contestant shall be treated by the physician. The physician shall determine whether to continue the bout as follows:

(1) The physician may enter the ring if requested by the referee to examine an injury to a contestant.

(2) If serious cuts or injuries to either contestant occur, the referee shall summon the physician, who shall aid the contestant and decide if the bout will be stopped. The final authority to determine whether to continue the bout shall rest with the physician.

(3) If the physician determines that a contestant who is cut or injured by legal blows cannot continue, the referee shall announce that the cut or injured contestant loses by a technical knockout.

(4) The referee may request that the attending physician examine a contestant during the bout. The physician may order the referee to stop the bout. The referee shall then render the appropriate decision regarding the outcome of the bout in accordance with K.A.R. 128-4-7.

(5) Except at the request of the physician, no manager or second shall be permitted to aid a stricken contestant.

(y) If a contestant loses a dental appliance or mouthpiece during a round, the referee may call a time-out. If the referee calls a time-out for this reason, the referee shall direct the contestant's second to replace the dental appliance or mouthpiece.

(z) Before a contestant may resume competing after having been knocked down or having fallen or slipped to the floor of the ring, the referee shall wipe the hands of the contestant with a damp towel or the referee's shirt.

(aa) A contestant shall be deemed to be down when either of the following occurs:

(1) Any part of the contestant's body other than the feet is on the floor.

(2) The contestant is hanging over the ropes without the ability to protect that contestant, and the contestant cannot fall to the floor.

(bb) When a contestant is knocked down, the referee shall order the opponent to retire to the farthest neutral corner of the ring by pointing to the corner and shall immediately begin the count over the downed contestant. The referee shall audibly announce the passing of the seconds and accompany the count with motions of the referee's arm, with the downward motion indicating the end of each second.

(cc) The timekeeper, by signaling, shall give the referee the correct one-second interval for the referee's count. The referee's count shall be the official count. Once the referee picks up the count from the timekeeper, the timekeeper shall cease counting. No contestant who is knocked down may be allowed to resume competing until the referee has finished counting to 10. The contestant may take the count either on the floor or standing.

(dd) If the opponent fails to stay in the farthest corner, the referee shall cease counting until the contestants have returned to their corners. The referee shall then resume the count from the point at which the count was interrupted. If the contestant who is down arises before the count of 10, the referee may step between the contestants long enough to assure the referee that the contestant who has just arisen is in a condition to continue. If so assured, the referee shall, without loss of time, order both contestants to continue the contest or exhibition. During the intervention by the referee, the striking of a blow by either contestant may be ruled a foul.

(ee) When a contestant is knocked out, the referee shall perform a full 10-second count unless, in the judgment of the referee, the safety of the contestant would be jeopardized by such a count. If the contestant who is knocked down is still down when the referee calls a count of 10, the referee shall wave both arms to indicate that the downed contestant has been knocked out.

(ff) If both contestants go down at the same time, the count shall continue as long as one contestant is still down. If both contestants remain down until the count of 10, the contest or exhibition shall be stopped and the decision shall be a technical draw.

(gg) If a contestant is down and the referee is in the process of counting at the end of a round, the bell indicating the end of a round shall not be sounded, but the bell shall be sounded as soon as the downed contestant stands up.

(hh) When a contestant has been knocked down before the normal termination of a round and the round is terminated before the contestant has arisen from the floor of the ring, the 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.

(ii) If a legal blow struck in the final seconds of

a round causes a contestant to go down after the bell has sounded, that knockdown shall be regarded as having occurred during the round just ended and the appropriate count shall continue.

(jj) If a knockdown occurs before the normal termination of a round and the downed contestant stands up before the count of 10 is reached and then falls down immediately without being struck, the referee shall resume the count from the point at which the count was left off.

(kk) Any contest or exhibition may be adjudged a technical knockout to the credit of the winner if the contest or exhibition is terminated because a contestant meets any of the following conditions:

- (1) Is unable to continue;
- (2) is not honestly competing;
- (3) is injured; or
- (4) is disqualified.

(ll) Each contest or exhibition that is won by other than a full count of 10 or the scoring of the judges shall be adjudged a technical knockout to the credit of the winner.

(mm) A referee may count a contestant out if the contestant is on the floor or being held up by the ropes.

(nn) Each contestant who has been knocked out shall be kept lying down until the contestant has recovered. If a contestant is knocked out, only the referee and the physician may touch the contestant. The referee shall remove the injured contestant's mouthpiece and stay with the contestant until the physician enters the ring, personally attends to the contestant, and issues any necessary instructions to the contestant's second.

(oo) Each of the following tactics or actions shall be an intentional foul:

- (1) Hitting an opponent below the belt;
- (2) hitting an opponent who is down or is getting up after being down;
- (3) holding an opponent with one hand and hitting the opponent with the other hand;
- (4) holding an opponent or deliberately maintaining a clinch;
- (5) wrestling or kicking an opponent;
- (6) striking an opponent who is helpless as the result of blows but is supported by the ropes and does not fall;
- (7) butting an opponent with the head, shoulder, knee, or elbow;
- (8) hitting an opponent with the back of the hand, with the butt of the hand, with the wrist or the elbow, or with pivot blows or spinning back fists;
- (9) going down without being hit;

(10) striking an opponent's body over the kidneys;

(11) hitting an opponent on the back of the head or neck;

(12) gouging an opponent's eye;

(13) using abusive language in the ring;

(14) hitting during a break, which is signaled by the referee's command or physical act to separate two contestants;

(15) hitting an opponent after the bell has sounded, ending the round;

(16) using the ropes to gain an advantage over an opponent;

(17) pushing an opponent around the ring or into the ropes;

(18) showing timidity, including intentionally spitting out the mouthpiece;

(19) biting an opponent;

(20) putting a finger into any orifice of an opponent or into any cut or laceration on an opponent;

(21) pulling an opponent's hair;

(22) manipulating an opponent's fingers; and

(23) engaging in any other action not described in this subsection that is deemed an intentional foul by the referee on the basis that the action poses a danger to the safety of either contestant, impedes fair and competitive play, or is unsportsmanlike.

(pp)(1) If a contestant fouls the opponent during a contest or exhibition or commits any other infraction, the referee may penalize the contestant by deducting points from contestant's score, whether or not the foul or infraction was intentional. The referee may determine the number of points to be deducted in each instance and shall base the determination on the severity of the foul or infraction and its effect upon the opponent.

(2) If the referee determines that it is necessary to deduct one or more points because of a foul or infraction, the referee shall warn the offender of the penalty to be assessed.

(3) The referee shall, as soon as is practical after the foul, notify the judges and both contestants of the number of points, if any, to be deducted from the score of the offender.

(4) Each point to be deducted for any foul or infraction shall be deducted in the round in which the foul or infraction occurred. These points shall not be deducted from the score in any subsequent round.

(qq) A contestant shall not be declared the winner of a contest or exhibition on the basis of that contestant's claim that the opponent committed a

foul by hitting the contestant below the belt. If a contestant falls to the floor of the ring or otherwise indicates that the contestant is unwilling to continue because of an overruled claim of a low blow, the contest or exhibition shall be declared to be a technical knockout in favor of the contestant who is willing to continue.

(rr) Any contestant guilty of a foul in a contest or exhibition may be disqualified by the referee, and the contestant's purse may be withheld by the commission. Disposition of the purse and the penalty to be imposed upon the contestant shall be determined by the commission.

(ss) If the referee determines that a contest or exhibition shall not continue because of an injury caused by an intentional foul, the contestant who committed the intentional foul shall lose by disqualification.

(tt) If the referee determines that a contest or exhibition may continue despite an injury caused by an intentional foul, the contestant who committed the intentional foul shall lose by disqualification.

(uu) If an injury caused by an intentional foul results in the contest or exhibition being stopped in a later round, one of the following shall apply:

(1) The injured contestant shall win by technical decision if that individual is ahead on the scorecards.

(2) The contest or exhibition shall be declared a technical draw if the injured contestant is behind or even on the scorecards.

(vv) If a contestant is injured while attempting to foul the contestant's opponent, the referee shall not take any action in the contestant's favor and the injury shall be treated the same as an injury produced by a fair blow.

(ww) If a contest or exhibition is stopped because of an accidental foul, the referee shall determine whether the contestant who has been fouled can continue. If the contestant's chance of winning has not been seriously jeopardized as a result of a foul and if the foul did not involve a concussive impact to the head of the contestant who was fouled, the referee may order the contest or exhibition to be continued after a reasonable interval. Before the contest or exhibition resumes, the referee shall inform the commission of the referee's determination that the foul was accidental.

(xx) If the referee determines that a contest or exhibition shall not continue because of an injury suffered as a result of an accidental foul, the contest

or exhibition shall be declared a no-contest decision if the foul occurs during either of the following:

(1) The first three rounds of a contest or exhibition that is scheduled for six rounds or less; or

(2) the first four rounds of a contest or exhibition that is scheduled for more than six rounds.

(yy) The outcome of a contest or exhibition shall be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition if an accidental foul renders a contestant unable to continue the contest or exhibition after either of the following:

(1) The completed third round of a contest or exhibition that is scheduled for six rounds or less; or

(2) the completed fourth round of a contest or exhibition that is scheduled for more than six rounds.

(zz) If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the contest or exhibition stopped because of the injury, the outcome shall be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.

(aaa) A contestant shall not leave the ring or, if the contest or exhibition is being held in a fenced area, the fenced area, during any period of rest that follows each round. If any contestant fails or refuses to resume competing when the bell sounds signaling the commencement of the next round, the referee shall award a decision of technical knockout to the contestant's opponent at the round that has last been finished. However, a determination of whether the circumstances warrant reversal of the referee's decision, disciplinary action, or civil penalty may be made later by the commission.

(bbb) If a contestant has been knocked or has fallen through the ropes and over the edge of the ring platform during a contest or exhibition, both of the following shall apply:

(1) The contestant may be helped back by anyone except the contestant's seconds or manager. The referee shall stop the clock, assess the 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.

(ccc) For a contestant who has been knocked or has fallen on the ring platform outside the ropes but not over the edge of the ring platform, both of the following shall apply:

(1) The contestant shall not be helped back by anyone, including the contestant's second and manager. The referee may stop the clock and assess the situation until the contestant is able to return to the ring.

(2) The contestant shall be given 10 seconds to regain the contestant's feet and get back into the ring.

(ddd) If the second or manager of a contestant who has been knocked down or has fallen helps the contestant back into the ring, this help may be cause for disqualification.

(eee) If one contestant has fallen through the ropes, the other contestant shall retire to the farthest corner and stay there until ordered by the referee to continue the contest or exhibition.

(fff) Any contestant who deliberately wrestles or throws an opponent from the ring or who hits an opponent when the opponent is partly out of the ring and is prevented by the ropes from assuming a position of defense may be penalized.

(ggg) At the termination of each contest or exhibition, the announcer shall announce the winner and the referee shall raise the hand of the winner.

(hhh) A decision rendered at the end of any contest or exhibition shall not be changed by the commission, unless one of the following occurs:

(1) The commission determines that there was collusion affecting the result of the contest or exhibition.

(2) The compilation of the scorecards of the

judges discloses an error showing that the decision was given to the wrong contestant.

(3) The referee has rendered an incorrect decision as the result of an error in interpreting a provision of this regulation.

(iii) Each judge of a BKF contest shall score the contest and determine the winner through the use of the ten-point must system as follows:

(1) The better contestant of each round shall receive 10 points and the opponent proportionately less.

(2) If the round is even, each contestant shall receive 10 points.

(3) No fraction of a point may be given.

(4) Points for each round shall be awarded immediately after the end of the round.

(jjj)(1) After the end of the BKF contest or exhibition, the announcer shall pick up the scores of the judges from the commission's desk. The majority opinion shall be conclusive. If there is no majority opinion, the decision shall be a draw.

(2) When the inspector has checked the scores, the inspector shall inform the announcer of the decision, and the announcer shall inform the audience of the decision over the speaker system.

(3) Incomplete rounds shall be scored by the judges. If the referee penalizes either contestant in an incomplete round, the appropriate points shall be deducted. (Authorized by K.S.A. 74-50,187, 74-50,193, and 74-50,197; implementing K.S.A. 74-50,186, 74-50,187, and 74-50,197; effective Oct. 25, 2019.)

Agency 129

Department of Health and Environment— Division of Health Care Finance

Editor's Note:

Pursuant to Executive Reorganization Order (ERO) No. 38, the Kansas Health Policy Authority was abolished on July 1, 2011. Powers, duties and functions were transferred to the Kansas Department of Health and Environment (KDHE), Division of Health Care Finance. See L. 2012, Ch. 102.

Editor's Note:

K.S.A. 2005 Supp. 75-7401 thru 75-7405 and Section 42 of Chapter 187, 2005 Session Laws of Kansas transferred specific powers, duties, and regulatory authority of the Division of Health Policy and Finance (DHPF) within the Department of Administration to the Kansas Health Policy Authority (KHPA), effective July 1, 2006. The statutes provide that KHPA will be the single state agency for Medicaid, Medikan, and Healthwave in Kansas.

Editor's Note:

The Division of Health Policy and Finance was established by 2005 Senate Bill 272. K.S.A. 2005 Supp. 75-7413 transferred specific powers, duties, and regulatory authority of the Secretary of Social and Rehabilitation Services on an interim basis to a new Division of Health Policy and Finance (DHPF) within the Department of Administration, created under K.S.A. 2005 Supp. 75-7406, effective July 1, 2005. The statute provides that DHPF will be the single state agency for Medicaid, Medikan, and Healthwave in Kansas. The statute also establishes the Kansas Health Policy Authority (KHPA) which will eventually assume these programs as well as other medical programs for the state of Kansas.

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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 au-

thorized 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) etanercept;
 (F) abatacept;
 (G) rituximab;
 (H) golimumab;
 (I) certolizumab;
 (J) tocilizumab;
 (K) tofacitinib; and
 (L) apremilast;
- (11) cervical dystonias:
 (A) Onabotulinum toxin A;
 (B) abobotulinum toxin A;
 (C) rimabotulinum toxin B; and
 (D) incobotulinum toxin A;
- (12) drugs for the treatment of osteoporosis:
 teriparatide;
- (13) antituberculosis products:
 (A) Aminosalicylate sodium;
 (B) capreomycin;
 (C) ethambutol;
 (D) ethionamide;
 (E) isoniazid;
 (F) pyrazinamide; and
 (G) rifampin and rifampin-isoniazid combinations;
- (14) all decubitus and wound care products;
 (15) all intravenous and oral dietary and nutritional products, including the following:
 (A) Amino acids, injectable;
 (B) l-cysteine;
 (C) lipids, injectable; and
 (D) sodium phenylbutyrate;
- (16) beta-blockers:
 (A) Betaxolol;
 (B) bisoprolol;
 (C) carteolol;
 (D) penbutolol;
 (E) propranolol XL; and
 (F) nebivolol;
- (17) short-acting, inhaled beta 2 agonists:
 (A) Metaproterenol inhaler;
 (B) levalbuterol solution;
 (C) albuterol solutions: 0.021% and 0.042%;
 (D) levalbuterol inhaler; and
 (E) pirbuterol inhaler;
- (18) calcium channel blockers:
 (A) Diltiazem extended release, with the following brand names:
 (i) Cardizen SR[®];
 (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) fibrin 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 NaHCO₃; and
 (H) dexlansoprazole;
 (24) monoclonal antibody for respiratory syncytial virus (RSV), including palivizumab;
 (25) muscle relaxants:
 (A) Tizanidine;
 (B) orphenadrine;
 (C) carisoprodol;
 (D) carisoprodol-aspirin;
 (E) carisoprodol-aspirin-caffeine;
 (F) cyclobenzaprine;
 (G) metaxalone;
 (H) dantrolene; and
 (I) orphenadrine-aspirin-caffeine;
 (26) narcotics:
 (A) Buprenorphine-naloxone;
 (B) buprenorphine;
 (C) morphine-naltrexone;
 (D) hydromorphone HCL ER;
 (E) morphine sulfate ER;
 (F) tapentadol;
 (G) oxymorphone;
 (H) tramadol ER; and
 (I) hydrocodone bitartrate ER;
 (27) nonsteroidal, anti-inflammatory drugs:
 (A) Nabumetone;
 (B) diclofenac patches;
 (C) diclofenac, topical; and
 (D) ketorolac, intranasal;
 (28) drugs for the treatment of obesity:
 (A) Orlistat;
 (B) phentermine;
 (C) lorcaserin;
 (D) phentermine-topiramate ER; and
 (E) naltrexone-bupropion;
 (29) oxazolidinones, including linezolid;
 (30) HMG-CoA reductase inhibitors:
 (A) Pravastatin;
 (B) fluvastatin;
 (C) lovastatin;
 (D) pitavastatin; and
 (E) rosuvastatin;
 (31) nonsedating antihistamines:
 (A) Desloratidine;
 (B) fexofenadine;
 (C) levocetirizine; and
 (D) loratadine;
 (32) H₂ 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 detemir;
- (36) hypnotics:
 - (A) Zaleplon;
 - (B) zolpidem;
 - (C) zolpidem CR;
 - (D) eszopiclone; and
 - (E) tasimelteon;
- (37) serotonin 5-HT₃ 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) Enalapril maleate-felodipine;
 - (B) trandolapril-verapamil; and
 - (C) telmisartan-amlodipine;
- (42) ophthalmic prostaglandin analogues:
 - (A) Bimatoprost; and
 - (B) unoprostone;
- (43) topical immunomodulators:
 - (A) Protopic® (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) progesterin 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: collagenase clostridium histolyticum;
- (63) agents for cataplexy: sodium oxybate;
- (64) topical acne agents:
 - (A) Adapalene;
 - (B) adapalene-benzyl peroxide;
 - (C) azelaic acid;
 - (D) dapsone;
 - (E) tazarotene; and
 - (F) tretinoin-clindamycin;
- (65) interferons:
 - (A) Interferon alfacon-1;
 - (B) interferon alfa-2b;

- (C) interferon beta-1a;
 (D) interferon beta-1b;
 (E) peginterferon alfa-2a; and
 (F) peginterferon alfa-2b;
- (66) pulmonary arterial hypertension agents:
 (A) Ambrisentan;
 (B) bosentan;
 (C) epoprostenol;
 (D) iloprost;
 (E) macitentan;
 (F) riociguat;
 (G) sildenafil;
 (H) tadalafil; and
 (I) treprostinil;
- (67) testosterone agents:
 (A) Androderm Transdermal®;
 (B) AndroGel®;
 (C) Axiron Topical Solution®;
 (D) Delatestryl®;
 (E) Fortesta Gel®;
 (F) Striant Buccal®;
 (G) Testim Gel®; and
 (H) Testopel Pellets®;
 (I) Vogelxo®;
 (J) Natesto®; and
 (K) testosterone powder;
- (68) antineoplastic agents:
 (A) Afatinib;
 (B) dabrafenib;
 (C) everolimus;
 (D) methotrexate;
 (E) sipuleucel-T;
 (F) trametinib; and
 (G) trastuzumab;
- (69) multiple sclerosis agents:
 (A) Dalfampridine;
 (B) dimethyl fumarate;
 (C) fingolimod;
 (D) glatiramer;
 (E) teriflunomide; and
 (F) alemtuzumab;
- (70) immunosuppressive agents: belimumab;
- (71) long-acting, inhaled beta 2 agonists and corticosteroid products:
 (A) Budesonide-formoterol; and
 (B) fluticasone-vilanterol;
- (72) ammonia detoxicants:
 (A) Glycerol phenylbutyrate; and
 (B) sodium phenylbutyrate;
- (73) heavy metal antagonists:
 (A) Deferasirox;
 (B) deferiprone; and
 (C) trientine;
- (74) pituitary corticotropin: H.P. Acthar® Gel;
- (75) ocular agents:
 (A) Ocriplasmin; and
 (B) ranibizumab;
- (76) miscellaneous antileptic agents:
 (A) Lomitapide; and
 (B) mipomersen;
- (77) miscellaneous analgesics: ziconotide intrathecal infusion;
- (78) miscellaneous central nervous system agents: riluzole;
- (79) calcimimetics: cinacalcet;
- (80) radioactive agents: radium Ra 223 dichloride;
- (81) dipeptidyl peptidase IV inhibitors:
 (A) Alogliptin; and
 (B) linagliptin;
- (82) antimuscarinics-antispasmodics: acridinium bromide;
- (83) ophthalmic antihistamine-mast cell stabilizer combinations:
 (A) Bepotastine;
 (B) epinastine;
 (C) alcaftadine; and
 (D) azelastine;
- (84) inhaled tobramycin products: Tobi Podhaler®;
- (85) oral mesalamine products:
 (A) Mesalamine DR; and
 (B) mesalamine ER;
- (86) pancreatic enzyme replacements: pancrelipase;
- (87) alpha-1 proteinase inhibitors:
 (A) Aralast NP®;
 (B) Glassia®;
 (C) Prolastin C®; and
 (D) Zemaira®;
- (88) enzyme replacement therapy:
 (A) Eliglustat;
 (B) imiglucerase;
 (C) taliglucerase alfa; and
 (D) velaglucerase alfa;
- (89) cholesterol absorption inhibitor: ezetimibe;
- (90) gonadotropin-releasing hormone agonist: leuprolide;
- (91) constipation agents:
 (A) Linaclotide; and
 (B) lubiprostone; and
- (92) idiopathic pulmonary fibrosis agents:
 (A) Nintedanib; and
 (B) pirfenidone.
- (c) Failure to obtain prior authorization, if required, shall negate reimbursement for the ser-

vice 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.)

129-5-65. Filing limitations for medical claims. (a) Each provider shall submit all medical claims to the Kansas medical assistance program within 12 months from the date of service.

(b) Any provider may resubmit a denied claim for payment to the Kansas medical assistance program if the resubmission meets the following requirements:

(1) Is within 24 months from the date of service; and

(2) is in conformance with all billing requirements of the medicaid/medikan program.

(c) The Kansas medical assistance program shall reimburse only claims that are submitted in accordance with subsection (a) or with subsections (a) and (b).

(d) Each of the following claims shall be an exception to subsections (a) and (b) and shall be payable by the Kansas medical assistance program:

(1) Any claim that is submitted to medicare within 12 months from the date of service, is paid or denied for payment by medicare, and is subsequently received by the Kansas medical assistance program within 30 days from the date of medicare's payment or denial of payment;

(2) any claim determined by the Kansas health policy authority to be payable by reason of administrative appeals, court action, or agency error;

(3) any claim for emergency services rendered

by an out-of-state provider who is not already enrolled as a program provider;

(4) any claim for services provided to a recipient that is submitted to the Kansas medical assistance program within 12 months from the date on which the agency issues a notice of action under K.A.R. 129-6-38; and

(5) any claim specified in paragraph (d) (1), (2), (3), or (4) that is not payable under that paragraph but that the Kansas health policy authority determines is the result of extraordinary circumstances. (Authorized by K.S.A. 2006 Supp. 75-7403 and 75-7412; implementing K.S.A. 2006 Supp. 75-7405 and 75-7408; effective July 13, 2007.)

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.)

129-5-88. Scope of physician services. (a) Except as specified in subsection (b), the program shall cover medically necessary services recognized under Kansas law provided to program recipients by physicians who are licensed to practice medicine and surgery in the jurisdiction in which the service is provided.

(b) The following services shall be excluded from coverage under the program:

(1) Visits. The following types of visits shall be excluded:

(A) Office visits when the only service provided is an injection or some other service for which a charge is not usually made;

(B) psychotherapy services when provided concurrently by the same provider with both targeted case management services and partial hospitalization services;

(C) psychotherapy services exceeding an average of 32 hours of individual therapy or 32 hours of group therapy or any combination of these in a calendar year for each recipient, unless the recipient is a Kan Be Healthy program participant and either of these conditions is met:

(i) Psychotherapy services do not exceed 40 hours in a calendar year for each Kan Be Healthy program participant; or

(ii) psychotherapy services are being rendered pursuant to a plan approved by the agency. The provider of psychotherapy services shall obtain prior authorization for the plan. The plan shall not exceed a two-year period and shall be subject to a reimbursement limit established by the agency. Quarterly progress reports shall be submitted to the division of medical programs;

(D) inpatient hospital visits in excess of those allowable days for which the hospital is paid or would be paid if there were no spend-down requirements; and

(E) nursing home visits in excess of one each

month, unless the service provider documents medical necessity.

(2) Consultations. The following types of consultations shall be excluded:

(A) Consultations for which there is no written report;

(B) inpatient hospital consultations in excess of one for each condition in a 10-day period, unless written documentation confirming medical necessity is attached to the claim; and

(C) consultations in excess of one for each condition in a 60-day period, unless written documentation confirming medical necessity is attached to the claim.

(3) Surgical procedures. The following types of surgical procedures and services shall be excluded:

(A) Procedures that are experimental, pioneering, cosmetic, or designated as noncovered;

(B) all transplant surgery, except for the following:

(i) Liver transplants, which shall be performed only at a hospital designated by the agency, unless the medical staff of that hospital recommends another location; and

(ii) corneal, heart, kidney, pancreas, and bone marrow transplants and related services;

(C) the services of a surgical assistant if the surgeon determines that an assistant is not required for a particular surgery; and

(D) elective surgery, except for sterilization operations or for Kan Be Healthy beneficiaries.

(4) Miscellaneous procedures. The following types of miscellaneous procedures shall be excluded:

(A) Diagnostic radiological and laboratory services, unless the services are medically necessary to diagnose or treat injury, illness, or disease;

(B) physical therapy, unless the following conditions are met:

(i) The therapy is performed by a physician or registered physical therapist under the direction of a physician; and

(ii) the therapy is prescribed by the attending physician;

(C) medical services of medical technicians, unless the technicians are under the direct supervision of a physician; and

(D) inpatient services that were provided on any day during a hospital stay and that are determined to not be medically necessary.

(5) Family planning services and materials.

(A) Family planning services and materials shall

be excluded, unless all of the following conditions are met:

(i) The services are provided by a physician, family planning clinic, or county health department.

(ii) Written informed consent from the consumer is obtained as required by federal law and regulation.

(iii) The scope of services provided is in compliance with applicable federal and state statutes and regulations.

(B) Reverse sterilizations shall be excluded.

(6) Concurrent care shall be excluded, unless both of the following conditions are met:

(A) The patient has two or more diagnoses involving two or more systems.

(B) The special skills of two or more physicians are essential in rendering quality medical care. The occasional participation of two or more physicians in the performance of one procedure shall be recognized. Each physician involved shall submit that physician's usual charge for only that portion of the procedure for which the physician is actually responsible.

(7) Psychological services for an individual entitled to receive these services as a part of care or treatment from a facility already being reimbursed by the program or by a third-party payor shall be excluded.

(c) The services provided by mid-level practitioners, including advanced registered nurse practitioners and physician assistants, shall be covered. (Authorized by L. 2005, Ch. 187, § 45 and K.S.A. 2005 Supp. 75-7403; implementing L. 2005, Ch. 187, § 41; effective Jan. 12, 2007.)

129-5-108. Scope of services for durable medical equipment, medical supplies, orthotics, and prosthetics.

(a) Selected durable medical equipment (DME) shall be available to each beneficiary, with the following limitations:

(1) The DME shall be the most economical to meet the beneficiary's need.

(2) The least expensive and most appropriate method of delivery shall be used. If round-trip delivery is over 100 miles, prior authorization shall be required.

(3) Used equipment with a warranty specified by the agency shall be used if available.

(4) Certain DME designated by the agency shall be the property of the agency.

(5) Educational, environmental control, and convenience items shall not be covered.

(6) DME shall be covered for only the following types of beneficiaries:

(A) Participants in the Kan Be Healthy program;

(B) beneficiaries who require the DME for life support;

(C) beneficiaries who require the DME for employment; and

(D) beneficiaries who would require more expensive care if the DME was not provided.

(7) DME services provided for the parenteral administration of total nutritional replacements and intravenous medication in the beneficiary's home shall require the provision of services by a local home health agency, physician, advanced registered nurse practitioner, physician assistant, or pharmacist.

(b) Selected medical supplies shall be available to each beneficiary for use in the beneficiary's home.

(c) Selected DME and medical supplies shall be considered for coverage only in cases in which exceptional hardship or medical need has been justified by documentation of medical necessity or by the granting of prior authorization.

(d) Orthotics and prosthetics shall be available to program beneficiaries from orthotic and prosthetic dealers enrolled under K.A.R. 30-5-59. (Authorized by K.S.A. 2007 Supp. 75-7403 and 75-7412; implementing K.S.A. 2007 Supp. 75-7405 and 75-7408; effective Nov. 17, 2006; amended Sept. 19, 2008.)

129-5-118. Scope of federally qualified health center services.

For purposes of this regulation, a federally qualified health center shall mean a community health center, federally qualified health center (FQHC) look-alike, or an urban Indian organization receiving funds under the Indian health care improvement act that is accepted by the centers for medicare and medicaid to furnish federally qualified health center services for participation under medicare and medicaid. An FQHC look-alike shall mean an organization that meets all of the eligibility requirements of an organization that receives a public health service (PHS) section 330 grant but does not receive grant funding. (a) The services provided by the following health care professionals shall be billable as federally qualified health center services:

(1) Physician and physician assistant pursuant to K.A.R. 129-5-88;

(2) advanced registered nurse practitioner pursuant to K.A.R. 30-5-113;

(3) dentist and dental hygienist pursuant to K.A.R. 30-5-100;

(4) licensed mental health practitioner pursuant to K.A.R. 30-5-104;

(5) clinical social worker pursuant to K.A.R. 30-5-86;

(6) visiting nurse pursuant to K.A.R. 30-5-89; and
 (7) for can be healthy nursing assessments only, registered nurse pursuant to K.A.R. 30-5-87.

(b) Covered services of federally qualified health centers shall include the following:

(1) The services and supplies furnished as an incident to the professional services provided by the health care professionals specified in subsection (a); and

(2) other ambulatory services covered under the medicaid state plan, if provided by the federally qualified health center.

(c) (1) Preventive primary services shall be furnished by or under the direct supervision of any of the following:

- (A) Physician;
- (B) nurse practitioner;
- (C) physician assistant;
- (D) nurse midwife;
- (E) licensed mental health practitioner;
- (F) clinical social worker; or

(G) either a member of the center's health care staff who is an employee of the center or a physician under arrangements with the center.

(2) Preventive primary services shall include only drugs and biologicals that cannot be self-administered, unless §1861(s) of the social security act provides for coverage of the drug regardless of whether the drug is self-administered.

(d) The following preventive primary services may be covered when provided by federally qualified health centers to medicaid beneficiaries:

- (1) Medical social services;
- (2) nutritional assessment and referral;
- (3) preventive health education;
- (4) children's eye and ear examinations;
- (5) prenatal and postpartum care;
- (6) prenatal services;
- (7) well child care, including periodic screening;
- (8) providing immunizations, including tetanus-diphtheria booster and influenza vaccine;
- (9) voluntary family planning services;
- (10) taking patient history;
- (11) blood pressure measurement;
- (12) weight measurement;
- (13) physical examination targeted to risk;
- (14) visual acuity screening;

(15) hearing screening;

(16) cholesterol screening;

(17) stool testing for occult blood;

(18) dipstick urinalysis;

(19) risk assessment and initial counseling regarding risks; and

(20) the following services, for women only:

(A) Clinical breast exam;

(B) referral for mammography; and

(C) thyroid function test.

(3) Preventive primary services shall not include group or mass information programs, health education classes, and group education activities, which may include media productions and publication and services for eyeglasses and hearing aids.

(e) "Visiting nurse" shall include a registered nurse or licensed practical nurse who provides part-time or intermittent nursing care to a patient at the beneficiary's place of residence under a written plan of treatment prepared by a physician. The place of residence shall not include a hospital or long-term care facility. This nursing care shall be covered only if there is no home health agency in the area.

(f) Federally qualified health center services provided at a location other than a federally qualified health center shall meet the following conditions:

(1) No services are provided at an inpatient hospital, outpatient hospital, or hospital emergency room.

(2) The services provided are listed in subsection (b).

(3) The services are provided to a patient of a federally qualified health center.

(4) The health professional providing the services is an employee of a federally qualified health center or under contract with a federally qualified health center and is required to seek compensation for that person's services from the federally qualified health center. (Authorized by K.S.A. 2008 Supp. 75-7403 and 75-7412; implementing K.S.A. 2008 Supp. 75-7405 and 75-7408; effective June 2, 2006; amended March 19, 2010.)

129-5-118a. Reimbursement for federally qualified health center services. Reimbursement shall not exceed the reasonable cost of federally qualified health center services and other ambulatory services covered under the Kansas medical assistance program. "Reasonable cost" shall consist of the necessary and proper cost

incurred by the provider in furnishing covered services to program beneficiaries, subject to the cost principles and limits specified in K.A.R. 129-5-118a (c)(1) and K.A.R. 129-5-118b. (a) Reimbursement method. An interim per visit rate shall be paid to each federally qualified health center provider, with a retroactive cost settlement for each facility fiscal year.

(1) Interim reimbursement rate. The source and the method of determination of interim rate shall depend on whether the federally qualified health center is a new enrollee of the Kansas medical assistance program or is a previously enrolled provider. Under special circumstances, the interim rate may be negotiated between the agency and the provider.

(A) Newly enrolled facility. If the facility is an already-established federally qualified health center with an available medicare cost report, an all-inclusive rate derived from the cost report may be used for setting the initial medicaid interim payment rate. If the facility is an already-established federally qualified health center opening a new service location, then the rate from the already established federally qualified health center shall be used for the new service location. If the facility converted from a rural health clinic to a federally qualified health center, then the rate from the rural health clinic shall be used for the new federally qualified health center. For all other circumstances, the initial payment rate shall be based on the average of the current reimbursement rates for previously enrolled federally qualified health center providers.

(B) Previously enrolled facility. After the facility submits a federally qualified health center cost report, the agency shall determine the maximum allowable medicaid rate per visit as specified in subsection (c). If a significant change of scope of services or a significant capital project has been implemented, the federally qualified health center shall submit an interim cost report if the center wants a change to the existing rate. The agency and the federally qualified health center shall use the interim cost report to negotiate a new interim rate.

(2) Visit. A "visit" shall mean face-to-face encounter between a center patient and a center health care professional as defined in K.A.R. 129-5-118. Encounters with more than one health professional or multiple encounters with the same health professional that take place on the same day shall constitute a single visit, except under either of the following circumstances:

(A) The patient suffers an illness or injury requiring additional diagnosis or treatment after the first encounter.

(B) The patient has a different type of visit on the same day, which may consist of a dental, medical, or mental health visit.

(3) Retroactive cost settlement. For each reporting period, the agency shall compare the total maximum allowable medicaid cost with the total payments to determine the program overpayment or underpayment. Total payments shall include interim payments, third-party liability, and any other payments for covered federally qualified health center services. The cost report and supplemental data submitted by the provider, the medicare cost report, and the medicaid-paid claims data obtained from the program's fiscal agent shall be used for these calculations.

(b) Cost reporting. Each federally qualified health center shall submit a completed cost report. The form used for cost reporting shall be the most current version of the medicare financial and statistical report form for independent rural health clinics and freestanding federally qualified health centers with adjustments made, as necessary, to report the cost and number of visits for medicaid-covered services pursuant to K.A.R. 129-5-118.

(1) Filing requirements. Each provider shall be required to file annual cost reports on a fiscal year basis.

(A) Cost reports shall be received no later than five months after the end of the facility's fiscal year. An extension in due date may be granted by the agency upon request, if necessary due to circumstances beyond the control of the federally qualified health center.

(B) Each provider filing a cost report after the due date without a preapproved extension shall be subject to the following penalties:

(i) If the cost report has not been received by the agency by the close of business on the due date, all further payments to the provider may be withheld and suspended until the complete financial and statistical report has been received.

(ii) Failure to submit the completed financial and statistical report within one year after the end of the cost report period may be cause for termination from the Kansas medical assistance program.

(2) Fiscal and statistical data. The preparation of the cost report shall be based upon the financial and statistical records of the facility and shall

use the accrual basis of accounting. The reported data shall be accurate and adequately supported to facilitate verification and analysis for the determination of allowable costs.

(3) Supplemental data. The following additional information shall be submitted to support reported data and to facilitate cost report review, verifications, and other analysis.

(A) A working trial balance. This balance shall contain account numbers, descriptions of the accounts, the amount of each account, the cost report expense line on which the account was reported, and fiscal year-end adjusting entries to facilitate reconciliation between the working trial balance and the cost report. The facility shall bear the burden of proof that the reported data accurately represents the cost and revenue as recorded in the accounting records. All unexplained differences shall be used to reduce the allowable cost.

(B) Financial statements and management letter. These documents shall be prepared by the facility's independent auditors and shall reconcile with the cost report.

(C) Depreciation schedule. This schedule shall support the depreciation expense reported on the cost report.

(D) Other data. Data deemed necessary by the agency for verification and rate determination shall also be submitted.

(c) Determination of reimbursable medicaid rate per visit.

(1) Allowable facility costs. This term shall mean costs derived from reported expenses after making adjustments resulting from cost report review and application of the cost reimbursement principles specified in K.A.R. 129-5-118b.

(2) Allocation of overhead costs.

(A) Total allowable administrative and facility costs shall be distributed to the following cost centers:

- (i) Federally qualified health center costs;
- (ii) non-federally qualified health center costs; and
- (iii) nonreimbursable costs, excluding bad debt.

(B) Accumulated direct cost in each cost center shall be used as the basis for the overhead cost allocation.

(3) Average allowable cost per visit. The total allowable facility costs shall be divided by the total number of visits.

(4) Reimbursable medicaid rate. The reimbursable medicaid rate per visit shall not be more than 100 percent of the reasonable and related cost of

furnishing federally qualified health center services covered in K.A.R. 129-5-118b.

(d) Fiscal and statistical records and audits.

(1) Recordkeeping. Each provider shall maintain sufficient financial records and statistical data for accurate determination of reasonable costs. Standardized definitions and reporting practices widely accepted among federally qualified health centers and related fields shall be followed, except to the extent that these definitions and practices may conflict with or be superseded by state or federal medicaid requirements.

(2) Audits and reviews.

(A) Each provider shall furnish any information to the agency that may be necessary to meet the following criteria:

(i) Ensure proper payment by the program pursuant to this regulation and K.A.R. 129-5-118b; and

(ii) substantiate claims for program payments.

(B) Each provider shall permit the agency to examine any records and documents necessary to ascertain information for determination of the accurate amount of program payments. These records shall include the following:

(i) Matters of the facility ownership, organization, and operation;

(ii) fiscal, statistical, medical, and other record-keeping systems;

(iii) federal and state income tax returns and all supporting documents;

(iv) documentation of asset acquisition, lease, sale, or other transaction;

(v) management arrangements;

(vi) matters pertaining to the cost of operation; and

(vii) health center financial statements.

(C) Other records and documents shall be made available to the agency as requested.

(D) All records and documents shall be available in Kansas.

(E) Each provider shall furnish to the agency, upon request, copies of patient service charge schedules and any subsequent changes to these schedules.

(F) The agency shall suspend program payments if it is determined that a provider does not maintain adequate records for the determination of reasonable and adequate rates under the program or if the provider fails to furnish requested records and documents to the agency.

(G) Thirty days before suspending payment to the provider, written notice shall be sent by the

agency to the provider of the agency's intent to suspend payment. The notice shall explain the basis for the agency's determination and identify the provider's recordkeeping deficiencies.

(H) All provider records that support reported costs, charges, revenue, and patient statistics shall be subject to audits by the agency, the United States department of health and human services, and the United States general accounting office. These records shall be retained for at least five years after the date of filing the cost report with the agency. (Authorized by K.S.A. 2008 Supp. 75-7403 and 75-7412; implementing K.S.A. 2008 Supp. 75-7405 and 75-7408; effective March 19, 2010.)

129-5-118b. Cost reimbursement principles for federally qualified health center services and other ambulatory services.

The medicare cost reimbursement principles contained in subparts A and G in 42 C.F.R. part 413, as revised on October 1, 2009 and hereby adopted by reference, and the cost principles specified in this regulation and in K.A.R. 129-5-118a shall be applicable to the financial and statistical data reported by the federally qualified health center for the determination of reasonable cost of providing covered services. (a) Nonreimbursable costs. Each cost that is not related to patient care and is not necessary for the efficient delivery of covered federally qualified health center services and other ambulatory services shall be excluded from the medicaid rate determination. In addition, the following expenses shall be considered nonreimbursable:

- (1) Salaries and fees paid to nonworking directors and officers;
- (2) uncollectible debts;
- (3) donations and contributions;
- (4) fund-raising expenses;
- (5) taxes including the following:
 - (A) Those from which the provider is entitled to obtain exemption;
 - (B) those on property not used in providing covered services; and
 - (C) those levied against a patient and remitted by the provider;
- (6) life insurance premiums for directors, officers, and owners;
- (7) the imputed value of in-kind services rendered by nonpaid workers and volunteers;
- (8) the cost of social, fraternal, civic, and other organizations associated with activities unrelated to patient care;

- (9) all expenses related to vending machines;
- (10) board of director costs;
- (11) the cost of advertising for promoting the services offered by the facility to attract more patients;
- (12) public relations and public information expenses;
- (13) penalties, fines, and late charges, including interest paid on state and federal payroll taxes;
- (14) the cost of items or services provided only to non-Kansas medical assistance program patients and reimbursed by third-party payers;
- (15) all expenses associated with the ownership, lease, or charter of airplanes;
- (16) bank overdraft charges and other penalties;
- (17) the cost associated with group health education classes, activities, and mass information programs including media productions, brochures, and other publications;
- (18) expense items without indication of their nature or purpose including "other" and "miscellaneous," without proper documentation when requested;
- (19) non-arm's-length transactions;
- (20) legal and other costs associated with litigation between a provider and state or federal agencies, unless litigation is decided in the provider's favor; and
 - (21) legal expenses not related to patient care.
- (b) Costs allowed with limitations and conditions.
 - (1) Loan acquisition fees and standby fees. These fees shall be amortized over the life of the loan and shall be allowed only if the loan is related to patient care.
 - (2) Taxes associated with financing the operations. These taxes shall be allowed only as amortized cost.
 - (3) Special assessments on land for capital improvements. These assessments shall be amortized over the estimated useful life of the improvements and allowed only if related to patient care.
 - (4) Start-up costs of a new facility.
 - (A) Start-up costs may include the following:
 - (i) Staff salaries and consultation fees;
 - (ii) utilities;
 - (iii) taxes;
 - (iv) insurance;
 - (v) mortgage interest;
 - (vi) employee training; and
 - (vii) any other allowable cost incidental to the operation of the facility.
 - (B) A start-up cost shall be recognized only if it meets the following criteria:

(i) Is incurred before the opening of the facility;
 (ii) is related to developing the facility's ability to provide covered services;

(iii) is amortized over a period of 60 months or more; and

(iv) is identified in the cost report as a start-up cost.

(5) Expenses. Each cost that can be identified as an organization expense or capitalized as a construction expense shall be appropriately classified and excluded from start-up costs.

(6) Payments made to related parties for services, facilities, and supplies. These payments shall be allowed at the lower of the actual cost to the related party and the market price.

(7) Premium payments. If a provider chooses to pay in excess of the market price for supplies or services, the agency shall use the market price to determine the allowable cost in the absence of a clear justification for the premium.

(8) Job-related training. The cost of this training shall be the actual amount minus any reimbursement or discount received by the provider.

(9) Lease payments. These payments shall be allowed only if reported in accordance with the generally accepted accounting principles appropriate to the reporting period.

(c) Interest expense. Only necessary and accurate interest on working capital indebtedness shall be an allowable cost.

(1) The interest expense shall be allowed only if it is established with either of the following:

(A) Any lender or lending organization not related to the borrower, or

(B) the central office and other related parties under the following conditions:

(i) The terms and conditions of payment of the loans are on arm's-length basis with a recognized lending institution;

(ii) the provider demonstrates, to the satisfaction of the agency, a primary business purpose for the loan other than increasing the rate of reimbursement; and

(iii) the transaction is recognized and reported by all parties for federal income tax purposes.

(2) Interest expense shall be reduced by investment income from both restricted and unrestricted idle funds and funded reserve accounts, except when the income is from restricted or unrestricted gifts, grants, and endowments held in separate accounts with no commingling with other funds. Income from the provider's qualified pension fund shall not be used to reduce interest expense.

(3) Interest earned on restricted and unrestricted industrial revenue bond reserve accounts and sinking fund accounts shall be offset against interest expense up to and including the amount of the related interest expense.

(4) The interest expense on that portion of the facility acquisition loan attributable to an excess over historic cost or other cost basis recognized for program purposes shall not be considered a reasonable cost.

(d) Central office cost. This subsection shall be applicable in situations in which the federally qualified health center is one of several programs or departments administered by a central office or organization and the total administrative cost incurred by the central office is allocated to all components.

(1) Allocation of the central office cost shall use a logical and equitable basis and shall conform to generally accepted accounting procedures.

(2) The central office cost allocated to the federally qualified health center shall be allowed only if the amount is reasonable and if the central office provided a service normally available in similar facilities enrolled in the program.

(3) The provider shall bear the burden of furnishing sufficient evidence to establish the reasonability of the level of allocated cost and the nature of services provided by the central office.

(4) All costs incurred by the central office shall be allocated to all components as a central cost pool, and no portion of the central office cost shall be directed to individual facilities operated by the provider or reported on any line of the cost report other than the appropriate line of the central office cost on any other line of the cost report outside of the central office cost allocation plan.

(5) Only patient-related central office costs shall be recognized, which shall include the following:

(A) Cost of ownership or arm's-length rent or lease expense for office space;

(B) utilities, maintenance, housekeeping, property tax, insurance, and other facility costs;

(C) employee salaries and benefits;

(D) office supplies and printing;

(E) management consultant fees;

(F) telephone and other means of communication;

(G) travel and vehicle expenses;

(H) allowable advertising;

(I) licenses and dues;

(J) legal costs;

(K) accounting and data processing; and

(L) interest expense.

(6) The cost principles and limits specified in this regulation shall also apply to central office costs.

(7) Estimates of central office costs shall not be allowed.

(e) Revenue offsets. Revenue items shall be deducted from the appropriate expense item or cost center in accordance with this subsection.

(1) Revenue with insufficient explanation of its nature or purpose shall be offset against operating costs.

(2) Expense recoveries credited to expense accounts shall not be reclassified as revenue. (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 step-sister;

(J) legally adoptive parent or another relative of an adoptive parent as listed in paragraph (a)(1); and

(K) spouse of any person listed in paragraph (a)(1) or former spouse of any of these persons, if marriage is terminated by death or divorce.

(3) "Child" means a natural or biological child, adopted child, or stepchild.

(4) "Earned income" means income, in cash or in kind, that an applicant or recipient currently earns, through the receipt of wages, salary, or profit, from activities in which the individual engages as an employer or as an employee with responsibilities that necessitate continuing activity on the individual's part.

(5) "Eligible caretaker" means a caretaker who is considered in the assistance plan with the child.

(6) "Family group" means the applicant or recipient and all individuals living together in which there is a relationship of legal responsibility or a caretaker relationship.

(7) "HCBS" means home- and community-based services. Home- and community-based services are medical and nonmedical services provided to a medicaid recipient in the recipient's home that prevent the recipient from being placed in a nursing facility, hospital, or intermediate care facility.

(8) "Household size" means the number of persons counted as members of an individual's tax household in accordance with K.A.R. 129-6-41 and 129-6-53. For each pregnant woman in the household, the household size shall include the woman and the number of children she is expected to deliver.

(9) "Independent living" means any living arrangement in which ongoing medical care or treatment is not routinely provided, including living in one's own home, renting, living with other family members or friends, living in a room-and-board arrangement, and living in certain specialized living arrangements, including homeless shelters, shelters for battered women, and alcohol and drug abuse facilities.

(10) "Legally responsible relative" means the person who has the legal responsibility to provide support for the person in the assistance plan.

(11) “Long-term care” means care that is received in a nursing facility or other institutional arrangement, a home- and community-based services arrangement, or a program of all-inclusive care for the elderly (PACE) arrangement and whose duration is expected to exceed the month the arrangement begins and the following two months.

(12) “Modified adjusted gross income” and “MAGI” mean income as defined in 26 U.S.C. 36B(d).

(13) “PACE” means program of all-inclusive care for the elderly. The program of all-inclusive care for the elderly provides medical services to frail elderly medicaid recipients in institutional settings and non-institutional settings.

(14) “Parent” means natural or biological parent, adoptive parent, or stepparent.

(15) “Protected income level” means the amount of monthly income that is not considered available for the payment of medical expenses. The protected income level is based on the number of persons in the assistance plan in accordance with K.A.R. 129-6-42 and the number of legally responsible relatives.

(16) “Sibling” means natural or biological sibling, adopted sibling, half sibling or stepsibling.

(17) “Supplemental security income” and “SSI” mean the low-income assistance program administered by the social security administration in accordance with 42 U.S.C. 1381 et seq., which provides monthly benefits to elderly and disabled persons.

(18) “Tax dependent” means a dependent under 26 U.S.C. 152 for whom another individual claims a deduction for a personal exemption under 26 U.S.C. 151 for a taxable year.

(19) “Title IV-E” means the adoption assistance and child welfare act of 1980, which provides federal funding for foster care, adoption assistance, and other permanency and placement programs for children.

(20) “Unearned income” means all income that is not earned income.

(b) The medical assistance program shall include applicants and recipients classified as automatic eligibles and as determined eligibles.

(c) The medical assistance program shall provide coverage to the following groups:

(1) MAGI-based coverage groups whose eligibility is based on the application of MAGI methodologies as specified in K.A.R. 129-6-41 and 129-6-53, including the following:

(A) Caretaker relatives and children under K.A.R. 129-6-70;

(B) newborn children who meet the provisions of K.A.R. 129-6-65(e);

(C) poverty-level pregnant women under K.A.R. 129-6-71;

(D) poverty-level children under K.A.R. 129-6-72;

(E) determined-eligible pregnant women under K.A.R. 129-6-73; and

(F) determined-eligible children under K.A.R. 129-6-74; and

(2) MAGI-excepted coverage groups whose eligibility is not based on the application of MAGI methodologies in accordance with K.A.R. 129-6-42 and 129-6-54, including the following:

(A) Children receiving title IV-E or non-title IV-E foster care payments under K.A.R. 129-6-65(f) or 129-6-80;

(B) children for whom an adoption support agreement under title IV-E is in effect under K.A.R. 129-6-65(g);

(C) children for whom a non-title IV-E adoption support agreement is in effect under K.A.R. 129-6-65(h);

(D) children receiving title IV-E guardianship care payments under K.A.R. 129-6-65(i);

(E) former foster care children under the age of 26 under K.A.R. 129-6-91;

(F) persons receiving supplemental security income (SSI) benefits in accordance with K.A.R. 129-6-65(a);

(G) persons receiving state supplemental payments in accordance with K.A.R. 129-6-65(b);

(H) persons deemed to be receiving SSI in accordance with K.A.R. 129-6-65(c);

(I) children under the age of 21 in an institutional arrangement in accordance with K.A.R. 129-6-81;

(J) aged, blind, or disabled persons under K.A.R. 129-6-85, including persons 65 years of age or older, persons whose eligibility is based on being blind or disabled under social security administration criteria, and persons whose eligibility is determined on the basis of the need for long-term care including nursing facility or institutional services, home- and community-based services, and PACE services;

(K) poverty-level and low-income medicare beneficiaries under K.A.R. 129-6-86;

(L) poverty-level working disabled individuals under K.A.R. 129-6-87;

(M) disabled individuals with earned income under K.A.R. 129-6-88;

(N) individuals with breast or cervical cancer under K.A.R. 129-6-89;

(O) persons living in nursing facilities for mental health under K.A.R. 129-6-94; and

(P) determined-eligible medicaid beneficiaries under K.A.R. 129-6-95. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-6-35. Application process. (a) An application for medical assistance shall be submitted by an applicant, an adult who is in the applicant's household or family, or another person authorized to act on the applicant's behalf, except that an application on behalf of a person mandated to receive tuberculosis care or on behalf of a deceased person may be made by any responsible person.

(b)(1) An application for medical assistance shall be made using a department-approved form. The applicant or person authorized to act on behalf of the applicant shall sign the application. Electronic signatures, including telephonically recorded signatures, and handwritten signatures transmitted by any other means of electronic transmission shall be acceptable. If any person signs by mark, the names and addresses of two witnesses shall be required. Each application on behalf of a deceased person shall be made within three months of the month of the person's death.

(2) Whenever assistance is requested for a family member following approval of assistance for other family members, the month of application for that family member shall be the month of the request, if all other eligibility requirements are met.

(3) Each application shall be submitted electronically on the state's application web site or the federally facilitated exchange web site, by telephone, in person, by mail, by electronic mail, or by fax.

(c)(1) For each application submitted online, the date of receipt of the application shall be the date the application is received from the state's application web site or the date the application is transmitted from the federally facilitated exchange web site.

(2) If the department denies an application within 90 days of the department's receipt of a signed application for medical assistance that is dependent upon a finding of disability and the applicant reapplies or provides required information within this 90-day period, the application shall be

reactivated. If the department denies any other signed application within 45 days of the department's receipt of the application and the applicant reapplies or provides required information within this 45-day period, the application shall be reactivated. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-6-36. Redetermination of eligibility process. (a) Each recipient shall provide the department with information on the recipient's 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 ap-

plicant or recipient shall be eligible for medical assistance only if all applicable eligibility requirements have been met. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-6-52. Act on own behalf. (a) For purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Emancipated minor" means either of the following:

(A) A person who is aged 16 or 17 and who is or has been married; or

(B) a person who is under the age of 18 and who has been given or has acquired the rights of majority through court action.

(2) "Medical facilitator" means a person authorized to help complete the application or reenrollment process on behalf of an applicant or recipient under written authorization made by the applicant or recipient. The medical facilitator may help with completing and submitting the application or reenrollment form, providing necessary information and verifications, and receiving copies of notices or other official communications from the department to the applicant or recipient. A medical facilitator shall not be authorized to apply for medical assistance on behalf of another person.

(3) "Medical representative" means a person who is authorized to act on behalf of an applicant or recipient under a written authorization made by the applicant or recipient and who is knowledgeable of the applicant's or recipient's financial holdings and circumstances.

(b) Each applicant or recipient shall be legally capable of acting on that individual's behalf and shall also have the right to designate a representative to assist or act on behalf of the applicant or recipient.

(1) A legally incapacitated adult who is not capable of acting in that individual's own behalf shall not be eligible for medical assistance, unless a legal guardian, conservator, medical representative, or representative payee for social security benefits applies for assistance on the adult's behalf.

(2) Each emancipated minor shall be eligible to receive medical assistance on that individual's own behalf.

(3) An unemancipated minor shall not be deemed capable of acting on that individual's own

behalf and shall not be eligible to apply for or receive medical assistance on that individual's own behalf, except as specified in this paragraph. An unemancipated minor shall not be eligible unless a caretaker, representative payee for social security benefits, or other nonrelated responsible adult who resides with the child and is approved by the parent or legal guardian applies for assistance on the minor's behalf. However, an unemancipated minor may apply for or receive medical assistance on that individual's own behalf if one of the following conditions exists:

(A) The parents of the minor are institutionalized.

(B) The minor has no parent who is living or whose whereabouts are known, and there is no other caretaker who is willing to assume parental control of the minor.

(C) The health and safety of the minor has been or would be jeopardized by remaining in the household with the minor's parents or other caretakers. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-6-53. Financial eligibility for MAGI-based coverage groups. This regulation shall apply to all groups described in K.A.R. 129-6-34(c)(1). (a) Definitions. For purposes of this regulation, each of the following terms shall have the meaning specified in this regulation.

(1) "Household income" means the sum of the MAGI-based income of every individual included in the individual's household minus an amount equivalent to five percentage points of the federal poverty level for the applicable family size, for purposes of determining the individual's eligibility under the highest income standard for which the individual is eligible.

(2) "MAGI-based income" means income calculated using the same financial methodologies used to determine MAGI as defined in 26 U.S.C. 36B(d), with the following exceptions:

(A) An amount received as a lump sum shall be counted as income only in the month received;

(B) scholarships, awards, or fellowship grants used for education purposes and not for living expenses shall be excluded from income; and

(C) for American Indian and Alaska native funds, the following shall be excluded from income:

(i) Distributions from Alaska native corporations and settlement trusts;

(ii) distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation or otherwise under the supervision of the secretary of the interior;

(iii) distributions and payments from rents, leases, rights-of-way, royalties, usage rights, or natural resource extraction and harvest from rights of ownership or possession in any lands described in this paragraph or federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources;

(iv) distributions either resulting from real property ownership interests related to natural resources and improvement located on or near a reservation or within the most recent boundaries of a prior federal reservation or resulting from the exercise of federally protected rights relating to these real property ownership interests;

(v) payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom; and

(vi) student financial assistance provided under the bureau of Indian affairs education programs.

(b) Exceptions to household income. Financial eligibility for families and children shall be based on household income, except for the following:

(1) The MAGI-based income of an individual who is included in the household of the individual's natural parent, adoptive parent, or stepparent and is not expected to be required to file a tax return under 26 U.S.C. 6012(a) for the taxable year in which eligibility is being determined shall not be included in household income whether or not the individual files a tax return.

(2) The MAGI-based income of a tax dependent described in K.A.R. 129-6-41(e)(1) who is not expected to be required to file a tax return under 26 U.S.C. 6012(a) for the taxable year in which eligibility is being determined shall not be included in household income whether or not the tax dependent files a tax return.

(c) Income deductions. No other deductions shall be applied in determining household income.

(d) Financial eligibility.

(1) Financial eligibility shall be based on the current monthly income and family size of the household, unless a change in circumstances is expected. In this case, financial eligibility shall be

based on the projected monthly income and family size of the household.

(2) For children and pregnant women determined eligible based on K.A.R. 129-6-73 and K.A.R. 129-6-74, the provisions of K.A.R. 129-6-54(a), (b), (c), and (e) regarding base periods and spenddown determinations shall be applicable.

(e) Exclusion of resources. The value of the household's resources shall not be taken into consideration in determining financial eligibility. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-6-54. Financial eligibility for MAGI-excepted coverage groups. This regulation shall apply to all groups described in K.A.R. 129-6-34(c)(2), except that subsections (c) and (d) of this regulation shall not apply to any medicare beneficiary who meets the requirements of K.A.R. 129-6-86 or to any working disabled individual who meets the requirements of K.A.R. 129-6-87. (a) Definitions. For purposes of this regulation, each of the following terms shall have the meaning specified in this regulation:

(1) "Client obligation" means the amount that the individual is required to pay towards the cost of care that the individual receives in a long-term care arrangement. Client obligation shall be based on the amount of applicable income that exceeds the income standard in the eligibility base period.

(2) "Eligibility base period" means the length of time used in the determination of financial eligibility. The length of the eligibility base period varies from one month to six months as specified in subsection (b).

(3) "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 cur-

rent 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. Residence 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 cooper-

ate 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 in-

eligible for medical assistance. Good cause shall include lack of reasonable geographic access to care such that the applicant or recipient has to routinely travel more than 50 miles to reach providers participating in the plan. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-6-57. Transfer of assets. (a) Definitions. For purposes of this regulation, each of the following terms shall have the meaning specified in this regulation:

(1) "Assets" means all income and resources of the individual and the individual's spouse, including any income or resources that the individual or the individual's spouse is entitled to but does not receive because of action by any of the following:

(A) The individual or the individual's spouse;

(B) a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse; or

(C) any person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

(2) "Compensation" means all money, real or personal property, food, shelter, or service received by the individual or spouse at or after the time of transfer in exchange for the asset in question. A service received shall be considered compensation only if the service is provided under the terms of a legally enforceable agreement to provide the service in exchange for the assets in question and if the terms are established before delivery of the service. Payment or assumption of a legal debt owned by the individual or spouse in exchange for the asset shall be deemed compensation.

(3) "Fair market value" means the market value of an asset at the earlier of the time of the transfer or the contract of sale. Current market value shall be determined in accordance with K.A.R. 129-6-106(b).

(4) "Institutionalized individual" means an applicant or recipient who meets any of the following conditions:

(A) Is residing in a nursing facility;

(B) is residing in a medical institution that is providing the individual with a level of care equivalent to the care provided by a nursing facility;

(C) is residing in an HCBS living arrangement; or

(D) is participating in PACE.

(5) “Transfer of assets” means any transfer or assignment of any legal or equitable interest in any asset that partially or totally passes the use, control, or ownership of the asset of an applicant or recipient, or the spouse of an applicant or recipient, to another person or corporation, including any of the following:

(A) Giving away an interest in an asset;

(B) placing an interest in an asset in a trust that is not available to the grantor;

(C) removing or eliminating an interest in a jointly owned asset in favor of other owners;

(D) disclaiming an inheritance of any property, interest, or right;

(E) failing to take a share of an estate as a surviving spouse; or

(F) transferring or disclaiming the right to income not yet received.

(6) “Uncompensated value” means the fair market value of an asset less the amount of any compensation received by the individual or spouse in exchange for the asset.

(b) Ineligibility for payment of services. If an individual or spouse has transferred or disposed of assets for less than fair market value on or after the specified look-back date as determined by the date of transfer, the individual shall not be eligible for payment of services for any institutionalized individual as specified in paragraphs (a)(4)(A) through (D).

(c) Exempted transfers. An individual shall not be ineligible for payment of services due to a transfer of assets in any of the following circumstances:

(1) The fair market value of the assets transferred has been received.

(2) A written request to transfer the assets has been submitted by the individual and approved by the secretary before the date of the transfer.

(3) The transfer has been executed pursuant to the division of assets provisions of K.A.R. 129-6-106.

(4) A transfer of an interest in the individual’s home has been made to any of the following, as determined by the interest conveyed:

(A) The spouse of the individual;

(B) a child of the individual who is under the age of 21 or who meets the blindness or disability criteria of K.A.R. 129-6-85;

(C) a sibling of the individual who has an equity interest in the home and who was residing in the home for at least one year immediately before

the date the individual entered an institutional or HCBS arrangement; or

(D) a child of the individual, other than the child described in paragraph (c)(4)(B), who was residing in the home for at least two years immediately before the date the individual entered an institutional or HCBS arrangement and who provided care to the individual that permitted the individual to reside at home.

(5) The assets have been transferred to any of the following:

(A) The individual’s spouse or to another individual for the sole benefit of the individual’s spouse;

(B) the institutionalized individual’s child who meets the blindness or disability criteria of K.A.R. 129-6-85 or a trust established solely for the benefit of the child; or

(C) a trust established solely for the benefit of an individual under 65 years of age who meets the blindness or disability criteria of K.A.R. 129-6-85.

(6) A transfer of assets has been made, and a satisfactory showing that the individual intended to dispose of the assets at fair market value, for other valuable consideration, or exclusively for a purpose other than to qualify for medicaid has been established. The following criteria shall be used to establish a satisfactory showing:

(A) A record of the facts, in chronological order, related to each transfer of assets within the applicable look-back period shall be assembled; and

(B) a transfer of assets for less than fair market value shall be presumed to have been for the purpose of establishing or maintaining medicaid eligibility, unless the individual presents clear and convincing evidence that the transfer was exclusively for some other purpose. The burden shall be on the individual to rebut this presumption by furnishing clear and convincing evidence that the asset was transferred exclusively for some other purpose. A signed statement by the individual shall not be, by itself, clear and convincing evidence. Each transfer shall be considered in the light of the circumstances at the time the transfer was made. The total amount of the transfer shall be considered in proportion to the length of the interval between the date of the transfer and the date of the application for medical assistance. In addition, the following factors shall be taken into account:

(i) Whether the transfer was ordered by the court and neither the individual, the spouse, the conservator, the guardian, the beneficiary of the transfer, nor anyone else acting in their legal au-

thority 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 so-

cial 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. Eligi-

bility 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 imple-

menting 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 re-determined regardless of any changes in circumstances, except for any of the following:

(1) The child reaches the age of 19.

(2) Medical assistance for the child is voluntarily terminated.

(3) The child no longer resides in Kansas.

(4) The secretary determines that eligibility was granted erroneously because of fraud or department error.

(5) The child dies.

(b) Adults. Each nonpregnant adult who becomes eligible for medicaid under K.A.R. 129-6-70 shall continue to be eligible for medical assistance for 12 months beginning with the month eligibility is determined or redetermined regardless of any change in income, except for any of the following:

(1) Medical assistance for the adult is voluntarily terminated.

(2) The adult no longer resides in the state.

(3) The secretary determines that eligibility was granted erroneously because of fraud or department error.

(4) The adult dies.

(5) The adult enters a correctional or detention facility.

(6) The adult becomes eligible for coverage of nursing facility care or HCBS.

(7) The adult becomes eligible for supplemental security income. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-6-97. Emergency medical services for certain noncitizens. (a) Each noncitizen who does not meet the requirements of K.A.R. 129-6-55(b) but who is otherwise eligible for medicaid shall receive coverage as specified in subsection (b) of this regulation. The general requirements of K.A.R. 129-6-50, except for K.A.R. 129-6-55(b) and 129-6-56(c), shall be applicable.

(b)(1) Eligibility shall be limited to coverage of an emergency medical condition, as approved by the secretary, that requires emergency medical treatment after the sudden onset of a condition, including labor and delivery, manifesting itself by acute symptoms of sufficient severity, including severe pain, so that the absence of immediate medical attention could reasonably be expected to result in any of the following:

(A) Serious jeopardy to the patient's health;

(B) serious impairment of bodily functions; or
 (C) serious dysfunction of any bodily organ or part.

(2) Coverage shall be limited only to treatment of the emergency condition. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-6-103. Determined eligibles; income standards. (a) Independent living arrangements.

(1) The income standard for each person in an independent living arrangement shall be based on the total number of persons in the assistance plan as defined in K.A.R. 129-6-41 or 129-6-42.

(2) The income standards for independent living may also be used if an applicant or recipient meets either of the following conditions:

(A) Enters a medicaid-approved facility, except that this paragraph shall not apply if only one spouse in a married couple enters an institutional living arrangement; or

(B) is absent from the home for medical care for a period not to exceed the month in which the person left the home and the two months following to allow for maintaining the applicant's or recipient's independent living arrangements.

(3) Except as specified in paragraphs (a)(4) through (13), the following table shall be used to determine the income standard for persons in an independent living arrangement.

Persons in Independent Living (per month)		
1	2	3
\$475	\$475	\$480

The income standard for additional persons shall be the sum of the basic standard for a similar public assistance family and the maximum state shelter standard in accordance with K.A.R. 30-4-101.

(4) In determining eligibility for pregnant women under K.A.R. 129-6-71 and for infants under K.A.R. 129-6-72(b), the income standard shall be 166 percent of the official federal poverty-level income guidelines.

(5) In determining eligibility for young children under K.A.R. 129-6-72(c), the income standard shall be 149 percent of the official federal poverty-level income guidelines.

(6) In determining eligibility for older children under K.A.R. 129-6-72(d), the income stan-

dard shall be 133 percent of the official federal poverty-level income guidelines.

(7) In determining eligibility for poverty-level medicare beneficiaries under K.A.R. 129-6-86, the income standard shall be 100 percent of the official federal poverty-level income guidelines.

(8) In determining eligibility for working disabled individuals under K.A.R. 129-6-87, the income standard shall be 200 percent of the official federal poverty-level income guidelines.

(9) In determining eligibility for low-income medicare beneficiaries under K.A.R. 129-6-86, the income standard shall be 120 percent of the official federal poverty-level income guidelines.

(10) In determining eligibility for expanded low-income medicare beneficiaries under K.A.R. 129-6-86, the income standard shall be 120 to 135 percent of the official federal poverty-level income guidelines, subject to available federal funding.

(11) In determining eligibility for disabled individuals with earned income under K.A.R. 129-6-88, the income standard shall be 300 percent of the official federal poverty-level income guidelines.

(12) In determining eligibility for persons in the medikan program under K.A.R. 129-6-95, the income standard shall be \$250 for a single individual and \$325 for a married couple.

(13) In determining eligibility for persons in long-term care arrangements in accordance with K.A.R. 129-6-54(d)(1), the income standard shall be 300 percent of the payment standard for one person in the SSI program. For calendar year 2013, the income standard shall be \$2,130, and this amount shall be increased at the beginning of each calendar year by any cost-of-living adjustment made to the SSI payment standard.

(b) Institutional living arrangements. For each person residing in an institutional setting, the monthly income standard for purposes of determining the client obligation shall be \$62, except as specified in paragraph (a)(2).

(c) Home- and community-based services arrangements. For each person in the HCBS program, including any person in the PACE program who is in a noninstitutional living arrangement in accordance with K.A.R. 129-6-83(b), the monthly income standard for purposes of determining the client obligation shall be \$1,177. (Authorized by and implementing K.S.A. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014; amended Jan. 1, 2021.)

129-6-106. General requirements for consideration of resources, including real property, personal property, and income. (a) For purposes of determining eligibility for medical assistance, legal title shall determine ownership. In the absence of legal title, possession shall determine ownership.

(b) Each resource shall be of a nature that the value can be defined and measured, according to the following:

(1) Real property. The value of real property shall be initially determined by the latest uniform statewide appraisal value of the property, which shall be adjusted to reflect current market value. If the property has not been appraised or if the market value determined is not satisfactory to the applicant, recipient, or department, an estimate or appraisal of the value of the property shall be obtained from an impartial real estate broker. The cost of obtaining an estimate or appraisal shall be paid by the department.

(2) Personal property. The market value of personal property shall be initially determined using a reputable trade publication. If such a publication is not available or if there is a difference of opinion between the department and the individual regarding the value of the property, an estimate from a reputable dealer shall be used. The cost of obtaining an estimate or appraisal shall be paid by the department.

(c)(1) Resources shall be considered available if the resources are actually available and the applicant or recipient has the legal ability to make the resources available. A resource shall be considered unavailable if there is a legal impediment that precludes the disposal of the resource. The applicant or recipient shall pursue reasonable steps to overcome the legal impediment, unless it is determined that the cost of pursuing legal action would exceed the resource value of the property or it is unlikely the applicant or recipient would succeed in the legal action. This paragraph shall also apply to the spouse of the applicant or recipient.

(2) Real property shall be considered unavailable if the property cannot be sold for one of the following reasons:

(A) The property is jointly owned, and its sale would cause undue hardship because of the loss of housing for the other owner or owners.

(B) The owner's reasonable efforts to sell the property have been unsuccessful.

(d) The resource value of property shall be the value of the applicant's or recipient's equity in the

property. Unless otherwise established, the proportionate share of jointly owned real property and the full value of jointly owned personal property shall be considered available to the applicant or recipient. Resources held jointly with a nonlegally responsible person may be excluded from consideration if the applicant or recipient demonstrates that all of the following conditions exist:

(1) The applicant or recipient has no ownership interest in the resource.

(2) The applicant or recipient has not contributed to the resource.

(3) Any access to the resource by the applicant or recipient is limited to those duties performed while the applicant or recipient is acting as an agent for the other person.

(e) Except for persons described in K.A.R. 129-6-34(c)(1) and 129-6-34(c)(2)(A) through (I), the nonexempt resources of all persons in the 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 institu-

tionalized 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.

(1) 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 a resource available to the individual. Each payment made from the trust to the individual or for the benefit of the individual shall be considered income. All other payments made from the trust shall be considered under the property transfer provisions of K.A.R. 129-6-57.

(B) Each portion of the trust from which no payment could be made to the individual under any circumstances shall be considered under the transfer of assets provisions of K.A.R. 129-6-57 from the date of establishment of the trust or, if later, the date on which payment to the individual was restricted or foreclosed.

(C) An individual shall be considered to have established a trust if any assets of the individual were used to form all or part of the trust and if any of the following individuals established the trust, other than by will:

- (i) The individual or the individual's spouse;
- (ii) any person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse; or
- (iii) any person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

(D) If the principal of the trust includes assets of any other person or persons, this subsection shall apply to the portion of the trust attributable to the assets of the individual.

(E) This subsection shall apply without regard to the purposes for which the trust was established, whether or not the trustees have or exercise any discretion under the trust, any restrictions on when or whether distributions can be made from the trust, or any restrictions on the use of distributions from the trust.

(F) This subsection shall not apply to a trust that contains the assets of an individual under the age of 65 who meets the blindness or disability criteria of K.A.R. 129-6-85 and that is established for the benefit of the individual by a parent, grandparent, or legal guardian of the individual, or a court. The state shall receive all amounts remaining in the trust upon the death of the individual, up to an amount equal to the total medical assistance paid on behalf of the individual;

(G) This subsection shall not apply to a trust that contains the assets of an individual who meets the blindness or disability criteria of K.A.R. 129-6-85 if the trust meets all the following conditions:

- (i) The trust is established by a nonprofit association.
- (ii) A separate account is maintained for each beneficiary of the trust.
- (iii) Accounts in the trust are established solely for the benefit of individuals who meet the blindness or disability criteria of K.A.R. 129-6-85.

(iv) Each account in the trust is established by that individual; the parent, grandparent, or legal guardian of the individual; or a court. The state shall receive all amounts remaining in the individual's account upon the death of the individual, up to an amount equal to the total medical assistance paid on behalf of the individual.

Establishment of a trust under paragraph (c)(2)(G) for an individual who is at least 65 shall be subject to the transfer of assets provisions of K.A.R. 129-6-57.

(H) The requirements of K.A.R. 129-6-109(c)(2) shall be waived if the secretary determines that a waiver is necessary to avoid undue hardship on the individual. A finding of undue hardship may be granted if the individual verifies that all of the following conditions have been met:

- (i) The individual has exhausted all legal remedies for gaining access to the principal or income of the trust.
- (ii) All otherwise available assets have been expended to meet living and medical expenses.
- (iii) The individual's health or life would be endangered if the individual were deprived of medical care.

(3) For an irrevocable trust established with the individual's own assets on or before August 10, 1993, the following provisions shall apply:

(A) The trust shall be considered available up to the maximum value of the funds that can be made available under the terms of the trust on behalf of the individual if both of the following conditions are met:

- (i) The individual is a beneficiary.
- (ii) The trustees are permitted to exercise any discretion with respect to distribution to the individual.

(B) The trust may be established by the individual, the individual's spouse or parent, a legal guardian, or a legal representative who is acting on behalf of the individual.

(C) The amount from the trust that shall be considered as an available resource is the amount that could have been distributed but was not distributed within an eligibility base period. Each amount actually distributed shall be regarded as income. Each portion of the trust that is unavailable to the individual or is not used for the benefit of the individual shall be considered a transfer of property for less than fair market value in accordance with K.A.R. 129-6-57.

(D) K.A.R. 129-6-109(c)(3) shall not be applicable to any trust established before April 7, 1986 if the individual is a developmentally disabled individual who is residing in an intermediate care facility for people with intellectual disability and the trust is solely for the benefit of the individual.

(4) For any other trust, including a trust established with assets of someone other than the individual, the trust shall be considered available to the individual only if the individual has the ability to revoke or terminate the trust or to direct the use of the trust assets for the individual's own support and maintenance. Mandatory periodic payments received from a trust by the individual shall be considered an available resource equal to the present value of the anticipated payments, unless there is a valid spendthrift clause or other language in the trust that specifically prohibits anticipation of payments. If a valid spendthrift clause or other restrictive language exists, the periodic payments shall be considered countable unearned income.

(d) Treatment of annuities. The term "annuity" shall include any contract or device that conveys a right to receive a fixed, periodic source of income for a specified period of time. For purposes of determining an individual's eligibility for assistance

or the amount of assistance, the following requirements shall apply:

(1) Each individual requesting medical assistance shall disclose any interest in an annuity. Failure to meet this requirement shall result in ineligibility for medical assistance due to noncooperation in accordance with K.A.R. 129-6-56.

(2) Retirement annuities, including civil service and railroad retirement annuities, shall be exempt as a resource, but the income received shall be countable unearned income.

(3) All other revocable and irrevocable annuities, including those reported to be nonassignable, shall be presumed to be an available resource. The right to either the principal or the income stream from an annuity shall be considered a countable resource. If the annuity can be sold, assigned, encumbered, or structured so that the benefit of the annuity can be received by someone other than the designated beneficiary, the annuity shall be considered available and shall be assigned a value.

(4) The fair market value of a revocable annuity shall be the cash value of the annuity. The fair market value of an irrevocable annuity shall be the amount yet to be paid out under the terms of the contract.

(5) If the individual can furnish evidence from a reliable source that the annuity or the income stream from the annuity is not able to be received by someone other than the designated beneficiary, the annuity shall be reevaluated. Reliable sources concerning the availability of the annuity or income stream shall include banks and other financial institutions, insurance companies, and brokers.

(e) Exempted personal property. The resource value of the following types of personal property shall be exempt:

- (1) Personal effects;
- (2) household equipment and furnishings in use or only temporarily not in use;
- (3) tools in use and necessary for the maintenance of a house or a garden;
- (4) the stock and inventory of any self-employed person that are reasonable and necessary in the production of goods and services;
- (5) items for home consumption, which shall consist of the following:

(A) Produce from a garden consumed from day to day and any excess that can be canned or stored; and

(B) a small flock of fowl or herd of livestock that is used to meet the food requirements of the family;

(6) cash assets that are traceable to income exempted as income and as a cash asset;

(7) any contract for the sale of property, if the proceeds from the contract are considered as income and the income is consistent with the repayment terms and conditions specified in the written contract;

(8) one vehicle for each family group receiving medical assistance if the primary purpose of the vehicle is to serve the needs of that family group. If someone who is not a member of that family group has the primary use, enjoyment, and possession of the vehicle, the vehicle shall not be exempted under this paragraph. Additional vehicles may be exempt if used over 50 percent of the time for employment or self-employment, if used as the family's home, if needed for medical treatment of a specific medical problem, or if specially equipped for use by a handicapped person;

(9) any individual development account (IDA) that meets the following requirements:

(A) The account shall be established by or on behalf of a temporary assistance for needy families (TANF) recipient or by or on behalf of an individual participating in the assets for independence demonstration program (AFIA) and shall be used for a qualified purpose. A qualified purpose shall mean one or more of the following: postsecondary education expenses for college or vocational-technical school, excluding learning quest and other 529 accounts; first home purchase, if the person has not owned a home within three years of acquisition; or business capitalization, if the business plan has been approved by a financial institution or nonprofit loan fund. All funds withdrawn from an IDA and used for any purpose other than one of those listed in this paragraph shall count as unearned income in the month withdrawn; and

(B) the IDA shall be a trust funded through periodic contributions by the establishing individual and may be matched by or through a qualified entity for a qualified purpose. A qualified entity to match IDA funds for a TANF recipient shall be either a not-for-profit organization described in 8 U.S.C. 501(c)(3) and exempt from taxation under 8 U.S.C. 501(a) or a state or local government agency acting in cooperation with a 501(c)(3) organization. For AFIA participants, matching contributions shall be made by the federal government through a grantee;

(10) low-income family postsecondary savings accounts incentive program established pursuant

to K.S.A. 2012 Supp. 75-650, and amendments thereto;

(11) life insurance that is owned by an applicant or recipient if one of the following conditions is met:

(A) The policy has no potential cash surrender value;

(B) the policy does not exceed \$1,500 face value. The face value shall not include and shall not be increased by accumulated dividends, but shall be decreased by any outstanding policy loan. If the total face value of insurance policies owned by any one individual exceeds \$1,500, the total cash surrender value of those policies shall be a nonexempt resource; or

(C) the policy is in excess of \$1,500 face value and has been irrevocably collaterally assigned to the state. The assignment shall be for an amount not to exceed the amount of benefits paid under the medical assistance program for the individual;

(12) any personal property of a blind or disabled person that is covered by an approved plan of self-support;

(13) burial spaces in accordance with the following:

(A) "Burial spaces" shall mean conventional grave sites, crypts, mausoleums, caskets, urns, and other repositories that are traditionally used for the remains of deceased persons. This term shall include vaults, headstones, and grave markers, as well as monies set aside for opening and closing the grave; and

(B) burial spaces purchased through a revocable or irrevocable prepaid contract shall be exempt under this paragraph, including the account in which the funds are deposited under the contract and the interest that accrues on the funds;

(14) burial funds of up to \$1,500 each, plus any interest that has accumulated in that fund beginning with the month of application but no earlier than November 1, 1984, for members of the assistance plan that are separately identifiable and clearly designated as set aside for each member's burial expenses. "Burial funds" shall mean revocable burial contracts and trusts as well as other revocable burial arrangements:

(A) The fund shall be considered separately identifiable if it is set up in a separate account and not commingled with any other funds, except funds for burial purposes including a prepaid contract fund for burial merchandise in accordance with paragraph (e)(13);

(B) the fund shall be considered as clearly designated if the account is noted “for burial purposes only” or if the client provides a signed, written statement attesting to the fact that the funds have been set aside and are intended for burial purposes only;

(C) if the fund is exempted and the client withdraws all or a portion of the funds, the amount withdrawn shall be considered as a nonexempt resource and, if transferred, shall be subject to the transfer provisions of K.A.R. 129-6-57;

(D) the \$1,500 amount that can be exempted under paragraph (e)(14) shall be reduced by the amount of any irrevocable burial agreements established under K.S.A. 16-303 and amendments thereto, except to the extent that the irrevocable burial agreement represents excludable burial spaces under paragraph (e)(13), as well as the face value of all life insurance policies that do not exceed the \$1,500 face value limitation in accordance with paragraph (e)(11). The face value of life insurance policies that exceed this \$1,500 limit shall not reduce the amount that can be exempted for burial purposes;

(15) proceeds from the sale of a home if the proceeds are conserved for the purchase of a new home and the funds so conserved are expended or committed to be expended within three months of the sale;

(16) a retroactive social security payment received by the applicant or recipient or an ineligible legally responsible person for the nine months following the month of receipt;

(17) the cash value of pension plans or funds under any of the following conditions:

(A) The person is employed and would have to terminate employment in order to obtain any payment. Each pension plan or fund that can be converted to periodic payments shall be exempt if the plan or fund is converted to periodic payments by the month following the month in which the plan or fund is eligible for conversion;

(B) the person is not retired or claiming permanent disability; or

(C) the applicant’s or recipient’s spouse or parent has funds in a work-related pension plan or fund, including Keogh plans, and IRAs and is not applying for or receiving medical assistance;

(18) retirement accounts and pensions of any employed individual who meets the requirements of K.A.R. 129-6-88;

(19) income-producing personal property, other than cash assets, that is essential for employment

or self-employment or producing income consistent with its fair market value. Income-producing property may include any of the following items:

- (A) Tools;
- (B) equipment;
- (C) machinery; or
- (D) livestock;

(20) escrow accounts established for families participating in the family self-sufficiency program through the U.S. department of housing and urban development. Interest earned on the accounts shall also be exempted as income; and

(21) monies paid as part of a contract or agreement to receive medical or assistive services from an unlicensed individual or entity if all of the following conditions are met:

(A) A written contract is executed before providing or paying for any service. The contract shall specify services to be provided and the rates for these services;

(B) the contracted amount paid for services is consistent with the market rate for the services. If there is no established rate, the federal minimum wage shall be used;

(C) the provider of the service is reporting all monies as income to the appropriate state and federal governmental revenue agencies as required by law;

(D) any amounts due under the contract are paid after the services are rendered;

(E) the agreement is revocable; and

(F) upon the death of the individual, the contract ceases. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-6-110. Income. (a) Treatment of income for MAGI-based coverage groups. For purposes of this regulation, “prospective monthly amount” shall mean an amount that is projected for purposes of determining an applicant’s or recipient’s monthly income. For those groups specified in K.A.R. 129-6-34(c)(1), all earned income and unearned income expected to be received in the month of application shall be used to determine a prospective monthly amount. This amount shall be used in the determination of both eligibility in the prior three months and current eligibility. For changes in earned income and unearned income, an estimate of those changes shall be used to determine a prospective monthly amount. For self-employment income,

a prospective monthly amount shall be based on annual federal tax information from the most recent tax year. In the absence of federal tax information from the most recent tax year, an estimate shall be used to determine a prospective monthly amount.

(b) Treatment of income for MAGI-excepted coverage groups. For those groups specified in K.A.R. 129-6-34(c)(2), income shall be classified as income in the eligibility base period in which the income is received and as a cash asset following this eligibility base period.

(1) Prior eligibility. For individuals in independent living, current income as defined in paragraph (b)(2) shall be considered in the determination of eligibility for the prior three months. For individuals in long-term care arrangements, income received in the prior three months shall be considered in the determination of 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 ameri-corps, except that volunteers in service to America (VISTA) payments shall be exempt only as income;

(i) relocation payments received under public law 91-646;

(j) death benefits from social security administration (SSA), veterans administration (VA), railroad retirement, or other burial insurance policy

if the benefits are used toward the cost of burial. This shall include payments occasioned by the death of another person to the extent that the payments have been expended or committed to be expended for purposes of the deceased person's last illness and burial;

(k) money held in trust by the VA for a child that the VA determines shall not be used for subsistence needs;

(l) retroactive corrective assistance payments in the month received or in the following month;

(m) maintenance income directly provided by rehabilitation services of the Kansas department for children and families;

(n) mandatory deductions from military pay for educational purposes while the individual is enlisted in the armed services;

(o) reimbursements for out-of-pocket expenses in the month received and the following month;

(p) proceeds from any bona fide loan requiring repayment;

(q) payments granted to certain United States citizens of Japanese ancestry and resident Japanese aliens under title I of public law 100-383;

(r) payments granted to certain eligible Aleuts under title II of public law 100-383;

(s) agent orange settlement payments;

(t) federal major disaster and emergency assistance and comparable disaster assistance provided by state or local government agencies or by disaster-assistance organizations in conjunction with a presidentially declared disaster;

(u) payments granted to the Aroostook band of Micmac Indians under public law 102-171;

(v) payments from the radiation exposure compensation trust fund made by the department of justice;

(w) special federal allowances paid monthly to children of Vietnam veterans who are born with spina bifida, under public law 104-204, or other certain birth defects, under public law 106-419;

(x) payments made from any fund established pursuant to a class settlement in the case of *Susan Walker v. Bayer corporation*, except for interest or other investment income earned on the payments;

(y) except for aged, blind, and disabled persons, a one-time payment or a portion of a one-time payment from a cash settlement for the repair or replacement of property or for legal services, medical costs, or other required obligations to a third party, if the payment is expended or committed to be expended for the intended purpose within six months of its receipt;

(z) cash donations that are based on need, do not exceed \$300 in any calendar quarter, and are received from one or more private, nonprofit, charitable organizations;

(aa) foster care and adoption support payments;

(bb) the amount of any earned income tax credit received. This credit shall not be regarded as a cash asset in the month of receipt and in the following 12 months;

(cc) for aged, blind and disabled persons, a one-time payment or a portion of a one-time payment from a cash settlement for the repair or replacement of property or for legal services, medical costs, or other required obligations to a third party, if the payment is expended or committed to be expended for the intended purpose within nine months of its receipt. This time period may be extended for good cause;

(dd) for blind and disabled persons, income necessary for fulfillment of a plan to achieve self-support established for a blind or disabled person, as approved by the social security administration;

(ee) any interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement that are left to accumulate and become a part of that burial fund, according to K.A.R. 129-6-109;

(ff) housing assistance from federal housing programs operated by state and local subdivisions;

(gg) family subsidy payments provided through the mental health and developmental disabilities commission or family support payments provided through the prevention and protection services commission;

(hh) relocation assistance provided by a state or local government that is comparable to assistance provided under title II of the uniform relocation assistance and real property acquisitions act of 1970, public law 91-646;

(ii) interest on an allowable individual development account (IDA) that meets the requirements of K.A.R. 129-6-109(e)(9), including authorized matching contributions and accrued interest. Earnings deposited in an individual development account shall also be exempted for a person who meets the requirements of K.A.R. 129-6-88;

(jj) the portion withheld to repay a prior overpayment received from a program not based on financial need, including certain programs administered by the SSA, VA, and the division of workers compensation or the division of employment security in the Kansas department of labor; and

(kk) payments made pursuant to the Ricky Ray hemophilia relief fund act, public law 105-369. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-6-113. Income exempt as applicable income for MAGI-excepted groups. For those groups specified in K.A.R. 129-6-34(c)(2), the following types of income shall be exempt as applicable income in the determination of eligibility: (a) Income-in-kind;

(b) shelter cost participation payments. In shared living arrangements in which two families contribute toward the shelter obligations, cash paid toward the shared shelter obligation by one family to the second family in the shared 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 per-

son 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 de-

partment'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 7.—APPEALS, FAIR HEARINGS AND TAF/GA DISQUALIFICATION HEARINGS

129-7-65. Notice to recipients of intended action. (a)(1) "Adequate notice" shall mean a written notice that includes a statement of what action the agency intends to take, the reasons for the intended agency action, the specific policies supporting the action, an explanation of the individual's right to request a hearing, and the circumstances under which assistance is continued if a hearing is requested.

(2) "Timely" shall mean that a notice is mailed at least 10 days, including Saturdays, Sundays, and legal holidays, before the date upon which the action that is the subject of the notice would become effective.

(b) When the agency intends to take action to discontinue, terminate, suspend, or reduce assistance, timely and adequate notice shall be given by the agency, except as specified in subsections (c) and (d) of this regulation.

(c) Under any of following circumstances, timely notice shall not be required, but an adequate notice shall be sent by the agency not later than the date of action:

(1) The agency has factual information confirming the death of a recipient.

(2) The agency receives a clear, written statement signed by a recipient that the recipient no longer wishes assistance or that provides information requiring termination or reduction of assistance, and the recipient has indicated, in writing, an understanding that termination or reduction of assistance will be the consequence of supplying the information.

(3) The recipient has been admitted or committed to an institution, and further payments to that individual are not authorized by program regulations as long as the person resides in the institution.

(4) The recipient has been placed in a skilled nursing facility, an intermediate care facility, or a long-term care facility.

(5) The recipient's whereabouts are unknown, and agency mail directed to the recipient has been returned by the post office indicating no known forwarding address.

(6) The agency has established that a recipient has been accepted for assistance in a new jurisdiction.

(7) A child is removed from the home as a result of a judicial determination or has been voluntarily placed in foster care by the child's legal guardian.

(8) A change in the level of medical care is prescribed by the recipient's physician.

(9) A special allowance granted for a specific period is terminated, and the recipient was informed in writing when the allowance was granted that it would automatically terminate at the end of the specified period.

(10) The agency takes action because of information that the recipient furnished in a status report or because the recipient has failed to submit a complete or a timely status report.

(11) The recipient is disqualified due to fraud through any of the following:

(A) A court of appropriate jurisdiction;

(B) A disqualification hearing process in accordance with K.A.R. 30-7-102; or

(C) a waiver of an administrative disqualification hearing in accordance with K.A.R. 30-7-103.

(d) When the agency takes action to discontinue, terminate, suspend, or reduce medical coverage for a child who has been determined eligible for presumptive medical assistance as specified in K.A.R. 129-6-151 or K.A.R. 129-14-152, neither timely nor adequate notice shall be required. (Authorized by and implementing K.S.A. 2005 Supp. 75-7412; effective June 30, 2006.)

Article 9.—MANAGED CARE PROVIDER GRIEVANCES, RECONSIDERATIONS, APPEALS, EXTERNAL INDEPENDENT THIRD-PARTY REVIEW, AND STATE FAIR HEARINGS; FEE-FOR-SERVICE PROVIDER GRIEVANCES AND STATE FAIR HEARINGS

129-9-9. External independent third-party review for providers. (a) Effective with each denial issued by a managed care organization (MCO) on or after January 1, 2020, each provider who has been denied an authorization for a new healthcare service to an enrollee or a claim for reimbursement to the provider for a healthcare service rendered to an enrollee shall be entitled to an external independent third-party review pursuant to K.S.A. 39-709i, and amendments thereto. Each MCO denial reviewed by the external independent third-party reviewer shall have been issued pursuant to a contract between the MCO and the Kansas medical assistance program (KMAP). The contract shall have been effective January 1, 2020 or later.

(b) The request for an external independent third-party review shall apply only to denials for which the provider has completed the internal written appeals process of an MCO on or after January 1, 2020. Each provider shall have the right to submit a request for an external independent third-party review following receipt of the MCO's adequate notice of appeal resolution or remittance advice.

(c) The MCO shall send an adequate notice of appeal resolution to the provider when the MCO reviews the request for an appeal of an action or adverse benefit determination. Each adequate notice of appeal resolution shall meet the requirements of the secretary and shall include the following:

(1) The date of the adequate notice of appeal resolution;

(2) the action or adverse benefit determination that is the subject of the appeal;

(3) the results of the resolution process and the date of the appeal resolution;

(4) the reasons for the appeal resolution, including an explanation of the medical basis for the resolution, application of policy, or accepted standard of medical practice to the enrollee's medical circumstances, if the MCO based its resolution upon a determination that the service is not medically necessary;

(5) the statute, regulation, policy, or procedure supporting the appeal resolution;

(6) a statement that the provider has completed the appeal process with the MCO;

(7) a statement of the provider's right to request an external independent third-party review following receipt of the adequate notice of appeal resolution;

(8) a statement of the required procedures by which a provider may request an external independent third-party review with the MCO issuing the decision to be reviewed within 60 days of the date of the adequate notice of appeal resolution. Pursuant to K.S.A. 77-531 and amendments thereto, three days shall be added to the 60-day response period if the notice is served by U.S. mail or by electronic means. The statement shall include the address and contact information for submission of the request;

(9) a statement that if the provider does not request an external independent third-party review, the provider has a right, pursuant to K.S.A. 39-709h(e)(4) and amendments thereto, to request a state fair hearing within 120 days of the date of the adequate notice of appeal resolution. Pursuant to K.S.A. 77-531 and amendments thereto, three days shall be added to the 120-day response period if the notice is served by U.S. mail or by electronic means;

(10) the procedures by which the provider may request a state fair hearing and the address and contact information for submission of the request or, for an action based on a change in law, the circumstances under which a state fair hearing will be granted;

(11) a statement of the provider's right to have self-representation or use legal counsel, a relative, a friend, or a spokesperson; and

(12) any other information required by Kansas statute or regulation that involves the MCO's adequate notice of appeal resolution.

(d) Each provider receiving an adequate notice

of appeal resolution from an MCO that does not include the information specified in paragraphs (c)(6) through (c)(8) shall be entitled to a penalty fee of \$333.00, \$666.00, or \$1,000.00 pursuant to paragraphs (d)(1)(A) through (C). The provider shall notify the secretary of the deficient notice.

(1) The penalty fee for each deficient notice of appeal resolution shall be calculated by the secretary according to the following fee structure:

(A) A notice failing to include one of the three requirements specified in paragraphs (c)(6) through (c)(8) shall incur a penalty fee of \$333.00.

(B) A notice failing to include two of the three requirements specified in paragraphs (c)(6) through (c)(8) shall incur a penalty fee of \$666.00.

(C) A notice failing to include three of the three requirements specified in paragraphs (c)(6) through (c)(8) shall incur a penalty fee of \$1,000.00.

(2) The MCO issuing the deficient notice shall pay the penalty fee to the provider receiving the deficient notice within 10 business days of the secretary's notification to the MCO of the deficient notice.

(3) The provider shall notify the secretary of any dispute that arises regarding the penalty fee. This dispute shall be resolved by the secretary and shall not include the right to request a reconsideration, an appeal, or a state fair hearing.

(e) Any provider may submit a written request for an external independent third-party review to the MCO issuing the decision to be reviewed. The provider's request for this review shall include the following:

(1) Identification of each specific issue and dispute directly related to the adverse appeal decision issued by the MCO;

(2) a statement of the basis upon which the provider believes the MCO's decision to be erroneous; and

(3) the provider's designated contact information, including name, postal mailing address, telephone number, fax number, and electronic-mail address.

(f)(1) Within five business days of receiving a provider's request for external independent third-party review, the MCO shall perform the following:

(A) Send to the provider's designated contact a written acknowledgement letter specifying that the MCO has received the request for review;

(B) notify the secretary of the provider's request for review; and

(C) send a copy of the written acknowledgement letter to the enrollee, if related to the denial of an authorization for a new healthcare service.

(2) If the secretary determines that the MCO failed to meet the requirements of paragraphs (f)(1)(A) through (C), then the provider who submitted the request for review shall automatically prevail in the review. Within five business days of receipt of the secretary's notification that the provider automatically prevails, the MCO shall issue an approval letter regarding the reversal of the MCO's appeal decision to the prevailing provider and the secretary. The MCO shall also issue an approval letter to the affected enrollee if the request for review is related to the denial of an authorization for a new healthcare service. The MCO shall not be required to include its decision for a request that does not include the information specified in paragraphs (e)(1) through (e)(3), is submitted by a provider who fails to complete the MCO's appeal process, is untimely, or does not involve a denied authorization for a new healthcare service or a claim for reimbursement.

(g)(1) Within 15 business days of receiving a provider's request for external independent third-party review, the MCO shall perform the following:

(A) Submit to the secretary all documentation submitted by the provider for the MCO's internal appeal process; and

(B) provide the MCO's designated contact information, including name, postal mailing address, telephone number, fax number, and electronic-mail address.

(2) If the secretary determines that the MCO failed to meet the requirements of paragraphs (g)(1)(A) and (B), then the provider who submitted the request for review shall automatically prevail in the review. Within five business days of receipt of the secretary's notification that the provider automatically prevails, the MCO shall issue an approval letter regarding the reversal of the MCO's appeal decision to the prevailing provider and the secretary. The MCO shall also issue an approval letter to the affected enrollee if the request for review is related to the denial of an authorization for a new healthcare service. The MCO shall not be required to reverse its decision for a request that does not include the information specified in paragraphs (e)(1) through (e)(3), is submitted by a provider who fails to complete the MCO's appeal process, is untimely, or does not involve a denied

authorization for a new healthcare service or a claim for reimbursement.

(h) Each request for an external independent third-party review shall be approved or denied by the secretary. A request for an external independent third-party review that does not include the information specified in paragraphs (e)(1) through (e)(3), is submitted by a provider who fails to complete the MCO's appeal process, is untimely, or does not involve a denied authorization for a new healthcare service or a claim for reimbursement shall be denied by the secretary. A letter regarding the denial of the request for an external independent third-party review shall be issued by the secretary to the requesting provider and the MCO. A denial letter shall also be issued to the affected enrollee if the request for review is related to the denial of an authorization for a new healthcare service.

(i) The decision by the external independent third-party reviewer shall be based solely upon the documentation submitted by the provider during the MCO's appeal process.

(j) The parties to each external independent third-party review shall be the following:

(1) A provider or the provider's authorized representative; and

(2) the MCO that made the decision involved in the review.

(k) Upon the request of a party, the external independent third-party reviewer may determine in one action multiple requests made to the reviewer regarding the same enrollee, a common question of fact, a common interpretation of applicable regulations, or a common reimbursement requirement. The provider shall complete the MCO's appeal process and submit a request for external review for each denial of an authorization for a new healthcare service or denial of a claim for reimbursement that the reviewer determines in one action.

(l) Any provider that initiated a request for an external independent third-party review, or one or more other providers, may add other initial denials of claims to the review before the reviewer's decision if the claims involve a common question of fact, a common interpretation of applicable regulations, or a common reimbursement requirement. The provider shall complete the MCO's appeal process for each denial of a claim for reimbursement reviewed by the reviewer. The provider shall submit a request for external independent third-party review to the MCO that denied the claim, for each additional claim.

(m) The external independent third-party reviewer shall conduct an external independent third-party review of any denial of authorization for a new healthcare service or denial of a claim for reimbursement submitted to the reviewer.

(n) The external independent third-party reviewer shall issue the reviewer's final decision in a letter to the provider's designated contact, the MCO's designated contact, and the department within 30 days from the date of receipt of the appeal documentation forwarded by the secretary. The reviewer may extend the time to issue a final decision by 14 days upon agreement of both parties to the review. The reviewer's letter shall include the following:

(1) The date of the reviewer's decision letter;

(2) the date of receipt of the provider's appeal documentation from the secretary;

(3) the date of the reviewer's decision and, if an extension was requested by the reviewer, the date of the extension request;

(4) the name and address of the requesting provider. If the reviewer determines in one action multiple provider requests or requests involving multiple claims, the reviewer shall issue a separate decision letter for each MCO, enrollee, and provider as required to protect health information;

(5) a summary statement of the reason the provider requested the external independent third-party review;

(6) the specialty or professional certification of each individual reviewing the provider appeal documentation;

(7) a summary statement of the reviewer's rationale for affirming or reversing the MCO's appeal decision. The statement shall include citation to the applicable policies, research articles, medical necessity criteria, or any other documentation relied upon by the reviewer in reaching its decision;

(8) the name of the medical director who reviewed and approved the reviewer's decision;

(9) a statement directing the losing party of the review to pay an amount equal to the costs of the review to the reviewer and the due date for payment. The statement shall include the following:

(A) A statement that if the decision of the external independent third-party reviewer is reviewed in a state fair hearing, the payment due to the reviewer under this subsection shall be delayed until the decision of the state fair hearing has been issued in the initial order;

(B) a statement that the losing party of the state fair hearing's initial order shall pay the costs of the

review to the reviewer within 45 days of service of the initial order;

(C) a statement that if the decision in the initial order is reviewed by the state appeals committee, the payment due to the reviewer under this subsection shall be delayed until the decision by the state appeals committee has been issued in the final order; and

(D) a statement that the losing party of the state appeal committee's final order shall pay the costs of the review to the reviewer within 45 days of service of the final order;

(10) the unique number assigned by the MCO to each provider appeal;

(11) the unique number assigned by the reviewer to each request for external independent third-party review; and

(12) a statement that the provider will receive an additional notice from one or more MCOs that includes the right to request a state fair hearing regarding the reviewer's decision.

(o) Within 10 business days of the MCO's receipt of the external independent third-party reviewer's decision letter, the MCO shall issue a notice of the reviewer's decision to the provider and the department. The MCO shall also issue a notice of the reviewer's decision to the affected enrollee if the request for review is related to the denial of an authorization for a new health-care service. The notice shall include the state fair hearing rights for the enrollee and the provider.

(p) Each request for an external independent third-party review shall automatically extend the deadline to request a state fair hearing pending the outcome of the review. Any party, including the affected enrollee, may request a state fair hearing within 30 days of the date of the MCO's notice of the reviewer's decision. Pursuant to K.S.A. 77-531 and amendments thereto, three days shall be added to the 30-day response period if the notice is served by U.S. mail or by electronic means.

(q) The decision of the external independent third-party reviewer shall be reviewed by the secretary or the secretary's designee. If the MCO is the losing party of the review, a determination regarding a review by OAH of the reviewer's decision shall be made by the secretary.

(r) The scheduling of any state fair hearing that involves a denial of an authorization for a new healthcare service or a claim for reimbursement for which the provider has requested an external independent third-party review shall be delayed until after the reviewer's decision has been issued.

The reviewer's decision letter, the documents relevant to the reviewer's decision, and the MCO's notice of the reviewer's decision shall be included in the state fair hearing case file for consideration by the presiding officer, together with any other facts of the case.

(s) Any provider requesting an external independent third-party review may withdraw the request for review and request a state fair hearing within 123 days of the date of the MCO's adequate notice of appeal resolution. (Authorized by and implementing K.S.A. 2019 Supp. 39-709i, K.S.A. 65-1,254, and K.S.A. 75-7403; effective, T-129-5-4-20, May 4, 2020; effective Aug. 21, 2020.)

Article 10.—ADULT CARE HOME PROGRAM

129-10-15a. Reimbursement. (a) Each provider with a current signed provider agreement shall be paid a per diem rate for services furnished to Kansas medical assistance-eligible residents. Payment shall be for the type of medical or health care required by the resident, as determined by the attending physician's or physician extender's certification upon admission, and the individual's level of care needs, as determined through assessment and reassessment. However, payment for services shall not exceed the type of care that the provider is certified to provide under the Kansas medical assistance program. The type of care required by the resident may be verified by the agency before and after payment.

(b) Payment for routine services and supplies, pursuant to K.A.R. 30-10-1a, shall be included in the per diem reimbursement. No provider shall otherwise bill or be reimbursed for these services and supplies.

(1) The durable medical equipment, medical supplies, and other items and services specified in paragraphs (b)(1)(A) through (OOO) shall be considered routine for each resident to attain and maintain the highest practicable physical and psychosocial well-being, in accordance with the comprehensive assessment and plan of care. No provider shall bill or be reimbursed for the following separately from the per diem rate:

- (A) Alternating pressure pads and pumps;
- (B) armboards;
- (C) bedpans, urinals, and basins;
- (D) bed rails, beds, mattresses, and mattress covers;
- (E) blood glucose monitors and supplies;

- (F) canes;
 - (G) commodes;
 - (H) compressors;
 - (I) crutches;
 - (J) denture cups;
 - (K) dialysis, including supplies and maintenance, if the service is provided in the facility by facility staff;
 - (L) dressing items, including applicators, tongue blades, tape, gauze, bandages, adhesive bandages, pads, compresses, elasticized bandages, petroleum jelly gauze, cotton balls, slings, triangle bandages, pressure pads, and tracheostomy care kits;
 - (M) emesis basins and bath basins;
 - (N) enemas and enema equipment;
 - (O) extra nursing care and supplies;
 - (P) facial tissues and toilet paper;
 - (Q) first-aid ointments and similar ointments;
 - (R) footboards;
 - (S) foot cradles;
 - (T) gel pads or cushions;
 - (U) geriatric chairs;
 - (V) gloves, rubber or plastic;
 - (W) heating pads;
 - (X) heat lamps and examination lights;
 - (Y) humidifiers;
 - (Z) ice bags and hot water bottles;
 - (AA) intermittent positive-pressure breathing (IPPB) machines;
 - (BB) irrigation solution, both water and normal saline;
 - (CC) IV stands, clamps, and tubing;
 - (DD) laundry, including personal laundry;
 - (EE) laxatives;
 - (FF) lifts;
 - (GG) lotions, creams, and powders, including baby lotion, oil, and powders;
 - (HH) maintenance care for residents who have head injuries;
 - (II) mouthwash;
 - (JJ) nebulizers;
 - (KK) nonemergency transportation;
 - (LL) nutritional supplements;
 - (MM) occupational therapy;
 - (NN) orthoses and splints to prevent or correct contractures;
 - (OO) over-the-counter analgesics and antacids taken for the occasional relief of pain or discomfort, as needed;
 - (PP) over-the-counter vitamins;
 - (QQ) oxygen, masks, stands, tubing, regulators, hoses, catheters, cannulae, humidifiers, concentrators, and canisters;
 - (RR) parenteral and enteral infusion pumps;
 - (SS) patient gowns, pajamas, and bed linens;
 - (TT) physical therapy;
 - (UU) respiratory therapy;
 - (VV) restraints;
 - (WW) sheepskins and foam pads;
 - (XX) skin antiseptics, including alcohol;
 - (YY) speech therapy;
 - (ZZ) sphygmomanometers, stethoscopes, and other examination equipment;
 - (AAA) stool softeners;
 - (BBB) stretchers;
 - (CCC) suction pumps and tubing;
 - (DDD) syringes and needles;
 - (EEE) thermometers;
 - (FFF) traction apparatus and equipment;
 - (GGG) underpads and adult diapers, disposable or nondisposable;
 - (HHH) walkers;
 - (III) water pitchers, glasses, and straws;
 - (JJJ) weighing scales;
 - (KKK) wheelchairs;
 - (LLL) urinary supplies, urinary catheters, and accessories;
 - (MMM) total nutritional replacement therapy;
 - (NNN) gradient compression stockings; and
 - (OOO) ostomy supplies.
- (2) Each nursing facility shall provide at no cost to residents over-the-counter drugs, supplies, and personal comfort items that meet these criteria:
- (A) Are available without a prescription at a commercial pharmacy or medical supply outlet; and
 - (B) are provided by the facility as a reasonable accommodation for individual needs and preferences. These over-the-counter products shall be included in the nursing facility cost report. A nursing facility shall not be required to stock all products carried by vendors in the nursing facility's community that are viewed as over-the-counter products.
- (3) Occupational, physical, respiratory, speech, and other therapies. The Kansas medical assistance program cost of therapies shall be determined as follows:
- (A) Compute the medicaid therapy ratio as the total number of medicaid therapy units not otherwise reimbursed to the total number of therapy units provided to all nursing facility residents during the cost report period;
 - (B) multiply the medicaid therapy ratio by the total reported therapy costs to determine the allowable medicaid portion of therapy costs;

(C) multiply the allowable medicaid portion of the therapy costs by the ratio of the total number of days to the number of medicaid resident days to determine the allowable therapy expenses for the cost report period;

(D) offset the nonallowable portion of the therapy cost in the provider adjustment column and on the related therapy expense line in the cost report; and

(E) submit a work paper with the cost report that supports the calculation of the allowable Kansas medical assistance program therapy expenses determined in accordance with paragraphs (b)(5)(A) through (C).

(c) Each provider of ancillary services, as defined in K.A.R. 30-10-1a, shall bill separately for each service when the services or supplies are required.

(d) Payment for specialized rehabilitative services or active treatment programs shall be included in the per diem reimbursement.

(e) Payment shall be limited to providers who accept, as payment in full, the amount paid in accordance with the fee structure established by the Kansas medical assistance program.

(f) Payment shall not be made for allowable, nonroutine services and items unless the provider has obtained prior authorization.

(g) Private rooms for recipients shall be provided if medically necessary or, if not medically necessary, at the discretion of the facility. If a private room is not medically necessary or is not occupied at the discretion of the facility, then a family member, guardian, conservator, or other third party may pay the incremental difference that would be charged to a private-pay resident to move from a semiprivate room to a private room. (Authorized by K.S.A. 2007 Supp. 75-7403 and 75-7412; implementing K.S.A. 2007 Supp. 75-7405 and 75-7408; effective Sept. 19, 2008.)

129-10-15b. Financial data. (a) General. The per diem rate or rates for providers participating in the Kansas medical assistance program shall be based on an audit or desk review of the costs reported to provide resident care in each facility. The basis for conducting these audits or reviews shall be form MS-2004, as adopted by reference in K.A.R. 129-10-17. Each provider shall maintain sufficient financial records and statistical data for proper determination of reasonable and adequate rates. Standardized definitions, accounting, statistics, and reporting practices that are

widely accepted in the nursing facility and related fields shall be followed, except to the extent that they conflict with or are superseded by state or federal medicaid requirements. Changes in these practices and systems shall not be required in order to determine reasonable and adequate rates.

(b) Cost reports. Pursuant to K.A.R. 129-10-17, cost reports shall be required from providers on an annual basis.

(c) Adequate cost data and cost findings. Each provider shall provide adequate cost data on the cost report. This cost data shall be in accordance with state and federal medicaid requirements and general accounting rules and shall be based on the accrual basis of accounting. Estimates of costs shall not be allowable except on projected cost reports submitted pursuant to K.A.R. 129-10-17.

(d) Recordkeeping requirements.

(1) Each provider shall furnish any information to the agency that is necessary to meet these criteria:

(A) To ensure proper payment by the program pursuant to paragraph (d)(2);

(B) to substantiate claims for program payments; and

(C) to complete determinations of program overpayments.

(2) Each provider shall permit the agency to examine any records and documents that are necessary to ascertain information pertinent to the determination of the proper amount of program payments due. These records shall include the following:

(A) Documentation of the nursing facility ownership, organization, and operation, including documentation as to whether transactions occurred between related parties;

(B) fiscal, medical, and other documents;

(C) federal and state income tax returns and all supporting documents;

(D) documentation of asset acquisition, lease, sale, or other action;

(E) documentation of franchise or management arrangements;

(F) documentation pertaining to costs of operations;

(G) a record of the amounts of income received, by source and purpose; and

(H) a statement of changes in financial position.

(3) Other records and documents shall be made available as necessary.

(4) Records and documents shall be made available in Kansas.

(5) Each provider, when requested, shall furnish the agency with copies of resident service charge schedules and changes to these charge schedules as they are put into effect. The charge schedules shall be evaluated by the agency to determine the extent to which the schedules may be used for determining program payment.

(6) Suspension of program payments may be made if the agency determines that any provider does not maintain or no longer maintains adequate records for the determination of reasonable and adequate per diem rates under the program or the provider fails to furnish requested records and documents to the agency. Payments to that provider may be suspended.

(7) 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 payments, except as provided in paragraph (e)(2). The notice shall explain the basis for the agency's determination with respect to the provider's records and shall identify the provider's recordkeeping deficiencies.

(8) All records of each provider that are used in support of costs, charges, and payments for services and supplies shall be subject to inspection and audit by the agency, the United States department of health and human services, and the United States general accounting office. All financial and statistical records used to support cost reports shall be retained for five years following the last day on which rates determined from those cost reports are effective.

(e) Desk review requirement.

(1) Each provider shall submit all information requested by the agency that is necessary to complete the desk review of the cost report.

(2) If a provider does not submit the information deemed necessary by the agency to complete the desk review of the cost report for a nursing facility, the provider shall be notified in writing by the agency that the provider has 10 working days from the date of this notice to submit the required information, or the Kansas medical assistance program payments shall be suspended for the nursing facility. (Authorized by K.S.A. 2007 Supp. 75-7403 and 75-7412; implementing K.S.A. 2007 Supp. 75-7405 and 75-7408; effective Sept. 19, 2008.)

129-10-17. Cost reports. (a) Historical cost data.

(1) For cost reporting purposes, each provider shall submit the "nursing facility financial and

statistical report," form MS-2004, revised August 2004 and hereby adopted by reference, completed in accordance with the accompanying instructions. The MS-2004 cost report shall be submitted on diskette, using software designated by the agency for cost report periods ending on or after December 31, 1999.

(2) Each provider who has operated a facility for 12 or more months on December 31 shall file the nursing facility financial and statistical report on a calendar year basis.

(b) Projected cost data.

(1) Projected cost reports.

(A) If a provider is required to submit a projected cost report under K.A.R. 129-10-18 (c) or (e), the provider's rate shall be based on a proposed budget with costs projected on a line item basis.

(B) The projected cost report for each provider who is required to file a projected cost report shall begin according to either of the following schedules:

(i) On the first day of the month in which the nursing facility was certified by the state licensing agency if that date is on or before the 15th of the month; or

(ii) on the first day of the following month if the facility is certified by the state licensing agency on or after the 16th but on or before the 31st of the month.

(C) The projected cost report shall end on the last day of the 12-month period following the date specified in paragraph (b)(1)(B), except under either of the following:

(i) The projected cost report shall end on December 31 if that date is not more than one month before or after the end of the 12-month period.

(ii) The projected cost report shall end on the provider's normal fiscal year-end used for the internal revenue service if that date is not more than one month before or after the end of the 12-month period and the criteria in K.A.R. 129-10-18 for filing the projected cost report ending on December 31 do not apply.

(D) The projected cost report period shall cover a consecutive period of time not less than 11 months and not more than 13 months.

(E) The projected cost report shall be reviewed for reasonableness and appropriateness by the agency. The projected cost report items that are determined to be unreasonable shall be disallowed before the projected rate is established.

(2) Projected cost reports for each provider with more than one facility.

(A) Each provider who is required to file a projected cost report in accordance with this subsection and who operates more than one facility, either in state or out of state, shall allocate central office costs to each facility that is paid rates from the projected cost data. The provider shall allocate the central office cost at the end of the provider's fiscal year or the calendar year that ends during the projection period.

(B) The method of allocating central office costs to those facilities filing projected cost reports shall be consistent with the method used to allocate the costs to those facilities in the chain that are filing historical cost reports.

(c) Amended cost reports.

(1) Each provider shall submit an amended cost report revising cost report information previously submitted if an error or omission is identified that is material in amount and results in a change in the provider's rate of \$.10 or more per resident day.

(2) An amended cost report shall not be allowed after 13 months have passed since the last day of the year covered by the report.

(d) Due dates of cost reports.

(1) Each calendar year cost report shall be received not later than the close of business on the last working day of February following the year covered by the report.

(2) A historical cost report covering a projected cost report period shall be received by the agency not later than the close of business on the last working day of the second month following the close of the period covered by the report.

(3) Each cost report approved for a filing extension in accordance with subsection (e) shall be received not later than the close of business on the last working day of the month approved for the extension request.

(e) Extension of time for submitting a cost report.

(1) A one-month extension of the due date for the filing of a cost report may be granted by the agency if the cause for delay is beyond the control of the provider. The causes for delay beyond the control of the provider that may be considered by the agency in granting an extension shall include the following:

(A) Disasters that significantly impair the routine operations of the facility or business;

(B) destruction of records as a result of a fire, flood, tornado, or another accident that is not reasonably foreseeable; and

(C) computer viruses that impair the accurate completion of cost report information.

(2) The provider shall make the request in writing. The request shall be received by the agency on or before the due date of the cost report. Requests received after the due date shall not be accepted.

(3) A written request for a second one-month extension may be granted by the Kansas medical assistance program director if the cause for further delay is beyond the control of the provider. The request shall be received by the agency on or before the due date of the cost report, or the request shall not be approved.

(f) Penalty for late filing. Each provider filing a cost report after the due date shall be subject to the following penalties:

(1) If the complete cost report has not been received by the agency by the close of business on the due date, all further payments to the provider shall be suspended until the complete cost report has been received. A complete cost report shall include all the required documents listed in the cost report.

(2) Failure to submit the cost report within one year after the end of the cost report period shall be cause for termination from the Kansas medical assistance program.

(g) Balance sheet requirement. Each provider shall file a balance sheet prepared in accordance with cost report instructions as part of the cost report forms for each provider.

(h) Working trial balance requirement. Each provider shall submit a working trial balance with the cost report. The working trial balance shall contain account numbers, descriptions of the accounts, the amount of each account, and the cost report expense line on which the account was reported. Revenues and expenses shall be grouped separately and totaled on the working trial balance and shall reconcile to the applicable cost report schedules. A schedule that lists all general ledger accounts grouped by cost report line number shall be attached.

(i) Allocation of hospital costs. An allocation of expenditures between the hospital and the long-term care unit facility shall be submitted through a step-down process prescribed in the cost report instructions.

(j) Interest documentation requirement. A signed promissory note and loan amortization schedule shall be submitted with the cost report for all fixed-term loan agreements with interest reported in the operating cost center. For working capital loans for one year or less, amortization

schedules shall not be required. (Authorized by K.S.A. 2007 Supp. 75-7403 and 75-7412; implementing K.S.A. 2007 Supp. 75-7405 and 75-7408; effective Sept. 19, 2008.)

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 in-

dex, 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.)

129-10-23a. Nonreimbursable costs. (a) Costs not related to resident care, as set forth in K.A.R. 30-10-1a, shall not be considered in computing reimbursable costs. In addition, the following expenses or costs shall not be allowed:

(1) Fees paid to nonworking directors and the salaries of nonworking officers;

(2) uncollectable debts, which are also known as "bad debts";

(3) donations and contributions;

(4) fund-raising expenses;

(5) taxes, as follows:

(A) Federal income and excess profit taxes, including any interest or penalties paid on these taxes;

(B) state or local income and excess profits taxes;

(C) taxes from which exemptions are available to the provider;

(D) taxes on property that is not used in providing covered services;

(E) taxes levied against any resident and collected and remitted by the provider;

(F) self-employment taxes applicable to individual proprietors, partners, or members of a joint venture; and

(G) interest or penalties paid on federal and state payroll taxes;

(6) insurance premiums on lives of owners and related parties;

(7) the imputed value of services rendered by nonpaid workers and volunteers;

(8) utilization review not related to quality assurance;

(9) costs of social, fraternal, civic, and other organizations that concern themselves with activities unrelated to their members' professional or business activities;

(10) accrued expenses that are not liquidated within 180 days after the end of the cost reporting period;

(11) vending machines and related supplies;

(12) board of director costs;

(13) resident personal purchases;

(14) advertising for resident utilization;

(15) public relations expenses;

(16) penalties, fines, and late charges;

(17) prescription drugs as defined in K.A.R. 30-10-1a;

- (18) dental services;
 - (19) radiology;
 - (20) lab work;
 - (21) items or services provided only to non-Kansas medical assistance program residents and reimbursed from third-party payors;
 - (22) automobiles and related accessories in excess of \$25,000.00 each. Buses and vans for resident transportation shall be reviewed for reasonableness and may exceed \$25,000.00 in costs;
 - (23) provider-owned or related party-owned, -leased, or -chartered airplanes and related expenses;
 - (24) bank overdraft charges or other penalties;
 - (25) personal expenses not directly related to the provision of long-term resident care in a nursing facility;
 - (26) management fees paid to a related organization that are not clearly derived from the actual cost of materials, supplies, or services provided directly to an individual nursing facility;
 - (27) business expenses not directly related to the care of residents in a long-term care facility. These expenses shall include business investment activities, stockholder and public relations activities, and farm and ranch operations;
 - (28) legal and other costs associated with litigation, unless the litigation is decided in the provider's favor and is directly related to Kansas nursing facility operations;
 - (29) lobbying expenses and political contributions.
- (b) Purchase discounts, allowances, and refunds shall be deducted from the cost of the items purchased. Refunds of prior years' expenses shall be deducted from the related expenses. (Authorized by K.S.A. 2007 Supp. 75-7403 and 75-7412; implementing K.S.A. 2007 Supp. 75-7405 and 75-7408; effective Sept. 19, 2008.)

129-10-23b. Costs allowed with limitations. (a) The following amortized expenses or costs shall be allowed with limitations:

- (1) The provider shall amortize loan acquisition fees and standby fees over the life of the related loan if the loan is related to resident care.
- (2) Only the following taxes shall be allowed as amortized costs:
 - (A) Taxes in connection with financing, refinancing, or refunding operations; and
 - (B) special assessments on land for capital improvements over the estimated useful life of those improvements.

(3) The start-up cost of a provider with a newly constructed facility or a facility that has been closed for 24 months or more shall be recognized if the cost meets the following criteria:

- (A) Is incurred within 90 days of the opening of the facility and related to developing the ability to care for residents;
- (B) Is amortized over a period of at least 60 months;
- (C) is consistent with the facility's federal income tax return and internal and external financial reports, with the exception of paragraph (a)(3)(B); and
- (D) is identified in the cost report as a start-up expense, which may include the following:
 - (i) Administrative and nursing salaries;
 - (ii) utilities;
 - (iii) taxes, as identified in paragraphs (a)(2)(A) and (B);
 - (iv) insurance;
 - (v) mortgage interest;
 - (vi) employee training costs; and
 - (vii) any other allowable costs incidental to the operation of the facility.

(4) Each cost that can properly be identified as an organization expense or can be capitalized as a construction expense shall be appropriately classified and excluded from the start-up cost.

(5) Organization and other corporate costs, as defined in K.A.R. 30-10-1a, of a provider that is newly organized shall be amortized over a period of at least 60 months beginning with the date of organization.

(A) The costs shall be reasonable and limited to the preparation and filing of documents required by the various governmental entities, the costs of preparing sale or lease contracts, and the associated legal and professional fees.

(B) The costs shall not include expenses of resolving contested issues of title or disputes arising from the performance of contracts or agreements related to the purchase or sale of a property or business.

(b) Membership dues and costs incurred as a result of membership in professional, technical, or business-related organizations shall be allowable. However, similar expenses specified in paragraph (a)(9) of K.A.R. 129-10-23a shall not be allowable.

(c) Each provider shall include the costs associated with services, facilities, equipment, and supplies furnished to the nursing facility by related parties, as defined in K.A.R. 30-10-1a, in the allowable cost of the facility at the actual cost to

the related party, except that the allowable cost to the nursing facility provider shall not exceed the lower of the actual cost or the market price.

(d) If a provider pays an amount in excess of the market price for equipment, supplies, or services, the agency shall use the market price to determine the allowable cost under the Kansas medical assistance program in the absence of a clear justification for the premium.

(e) The net cost of job-related training and educational activities shall be an allowable cost. The allowable cost shall include the net cost of orientation and on-the-job training.

(f) Resident-related transportation costs shall include only reasonable costs that are directly related to resident care. Transportation costs not directly related to resident care shall not be allowable. Estimates shall not be acceptable.

(g)(1) Lease payments shall be reported in accordance with the financial accounting statements of the financial accounting standards board.

(2) Sale-leaseback transactions shall have the costs limited to the amount that the provider would have included in reimbursable costs if the provider had retained legal title to the facilities and equipment. These costs shall include mortgage interest, taxes, depreciation, insurance, and maintenance costs. The lease cost shall not be allowable if it exceeds the ownership costs before the sale-leaseback transaction.

(h) If the expenses reported for the current period are not paid within one year after the invoice date, the expenses shall be disallowed. (Authorized by K.S.A. 2007 Supp. 75-7403 and 75-7412; implementing K.S.A. 2007 Supp. 75-7405 and 75-7408; effective Sept. 19, 2008.)

129-10-25. Real and personal property fee. (a) A real and personal property fee shall be developed by the agency in lieu of an allowable cost for ownership or lease expense, or both. The fee shall be facility-specific and shall not change as a result of change of ownership, a change in lease, or reenrollment in the medicaid program by providers. An inflation factor may be applied to the fee on an annual basis.

The real and personal property fee shall include an appropriate component for the following:

- (1) Rent or lease expense;
- (2) interest expense on a real estate mortgage;
- (3) amortization of leasehold improvements; and
- (4) depreciation on buildings and equipment.

(b)(1) The real and personal property fee shall be determined based on one of the following methodologies:

(A) For providers enrolled in the Kansas medical assistance program with a real and personal property fee for each facility, the real and personal property fee shall be the sum of the property allowance and value factor.

(B) For providers reenrolling in the Kansas medical assistance program or providers enrolling for the first time but operating in a facility that was previously enrolled in the program, the real and personal property fee shall be the sum of the last effective property allowance and the last effective value factor for the facility.

(C) The real and personal property fee for a newly constructed nursing facility or a nursing facility that enters the Kansas medical assistance program and has not had a fee established previously shall be calculated based on the following methodology:

(i) A projected real and personal property fee shall be calculated using a projected cost report by dividing the total of the four real and personal property fee components reported in the ownership cost center by the greater of the total number of resident days reported or 85 percent of the licensed capacity for the cost report period.

(ii) A historical real and personal property per diem shall be calculated using a historical cost report by dividing the total of the four line items reported in the ownership cost center by the greater of the total number of resident days reported or 85 percent of the licensed capacity for the cost report period.

(iii) A settlement between the projected and historical rates, which shall include the real and personal property fee, shall be made in accordance with K.A.R. 129-10-18 (e).

(2) The real and personal property fee shall be subject to an upper payment limit. The upper payment limit for the real and personal property fee shall be determined by the median real and personal property fee plus a percentage of the median. The percentage factor applied shall be determined by the secretary.

(c)(1) The depreciation and amortization component of the real and personal property fee shall meet these criteria:

(A) Be identifiable and recorded in the provider's accounting records;

(B) be based on the historical cost of the asset as established in this regulation; and

(C) be prorated over the estimated useful life of the asset using the straight-line method.

(2)(A) Appropriate recording of depreciation shall include the following:

(i) Identification of the depreciable assets in use;

(ii) the assets' historical costs;

(iii) the method of depreciation;

(iv) the assets' estimated useful life; and

(v) the assets' accumulated depreciation.

(B) Each provider shall report gains and losses on the sale of depreciable personal property on the cost report at the time of the sale. The provider shall record trading of depreciable property in accordance with the income tax method of accounting for the basis of property acquired. Under the income tax method, gains and losses arising from the trading of assets shall not be recognized in the year of trade but shall be used to adjust the basis of the newly acquired property.

(3) The cost basis shall not include costs attributable to the negotiation or final purchase of the facility, which may include legal fees, accounting fees, travel costs, and the cost of feasibility studies.

(d) Any provider may request that the agency rebase the real and personal property fee. Providers shall submit rebase requests for completed capital improvement projects or phases of capital improvements projects. The following methodology shall be used to determine a revised real and personal property fee based on the rebase request.

(1) Rebase requests shall be reviewed to determine a revised real and personal property fee if the provider meets the following capital expenditure thresholds:

(A) \$25,000.00 for facilities with 50 or fewer beds; or

(B) \$50,000.00 for facilities with 51 or more beds.

(2) The per diem based on the interest expense, depreciation expense, and amortization of leasehold improvements shall be added to the real and personal property fee in effect on the date that the rebase is made effective. Interest expense reported in the operating cost center shall not be included in the request for a rebase of the real and personal property fee. Interest on loans for real and personal property that is included in a rebase shall be reported with mortgage interest in the ownership cost center.

(3) The number of resident days used in the denominator of the real and personal property fee calculation shall be based on the total number of

resident days from the most recent desk-reviewed cost report to rebase the property fee. The resident days shall be subject to the 85 percent minimum occupancy requirement, including any new beds documented in the request for a rebase.

(4) The revised real and personal property fee shall be subject to the upper payment limit in effect on the date the rebase is made effective.

(5)(A) If the number of beds of an existing nursing facility is increased by the construction of a new addition to the existing facility, the real and personal property fee established through the rebase shall be effective according to either of the following schedules:

(i) On the first day of the month in which the new beds were certified if the certification date was on or before the 15th of the month; or

(ii) on the first day of the month following the month in which the beds were certified if the certification date is on or after the 16th of the month.

(B) If the capital expenditure that is the basis for the rebase request is not related to an increased number of beds, the real and personal property fee established through the rebase shall be effective according to either of the following schedules:

(i) On the first day of the month in which the complete documentation is received, if the request is received on or before the 15th of the month; or

(ii) on the first day of the month following the month in which the complete documentation is received, if the request is received on or after the 16th of the month.

(C) Complete documentation shall include the following:

(i) The depreciation or amortization schedule reflecting the expense, including the construction-in-progress subsidiary ledger;

(ii) the loan agreement;

(iii) the amortization schedule for interest;

(iv) invoices;

(v) receipts for contractor fees; and

(vi) receipts for other costs associated with the capital expenditure.

(6) Invoices or contractor statements dated more than two years before the date the rebase request is received shall not be allowed. (Authorized by K.S.A. 2007 Supp. 75-7403 and 75-7412; implementing K.S.A. 2007 Supp. 75-7405 and 75-7408; effective Sept. 19, 2008.)

129-10-26. Interest expense. (a) Only necessary interest on working capital or person-

al property loans shall be an allowable expense. Interest on real estate or personal property covered by the real and personal property fee in accordance with K.A.R. 129-10-25 shall not be included.

(b) The interest expense shall be incurred on indebtedness established with either of the following:

(1) Lenders or lending organizations not related to the borrower; or

(2) partners, stockholders, home office organizations, or related parties, if the following requirements are met:

(A) The terms and conditions of payment of the loans shall resemble terms and conditions of an arm's-length transaction by a prudent borrower with a recognized, local lending institution with the capability of entering into a transaction of the required magnitude. Allowable interest expense shall be limited to the annual expense submitted on the loan amortization schedule, unless the loan principal is retired before the end of the amortization period, or working capital loans if the period is one year or less; and

(B) the provider shall demonstrate, to the satisfaction of the agency, a primary business purpose for the loan other than increasing the per diem rate.

(C) The transaction shall be recognized and reported by all parties for federal income tax purposes.

(c) If the general fund of a nursing facility borrows from a donor-restricted fund, this interest expense shall be an allowable cost. In addition, if a nursing facility operated by members of a religious order borrows from the order, interest paid to the order shall be an allowable cost.

(d) The interest expense shall be reduced by the investment income from restricted or unrestricted idle funds or funded reserve accounts, unless that income is from gifts and grants, whether restricted or unrestricted, that are held in a separate account and not commingled with other funds. Income from the provider's qualified pension fund shall not be used to reduce interest expense.

(e) Interest earned on restricted or unrestricted reserve accounts of industrial revenue bonds or sinking fund accounts shall be offset against interest expense and limited to the interest expense on the related debt.

(f) Loans made to finance that portion of the cost of acquisition of a facility that exceeds historical cost or the cost basis recognized for program purposes shall not be considered to be reasonably

related to resident care. (Authorized by K.S.A. 2007 Supp. 75-7403 and 75-7412; implementing K.S.A. 2007 Supp. 75-7405 and 75-7408; effective Sept. 19, 2008.)

129-10-27. Central office costs. (a) Allocation of costs. Allocation of central office costs shall be reasonable, conform to general accounting rules, and allowed only to the extent that the central office is providing a service normally available in the nursing facility. Central office costs shall not be recognized or allowed to the extent that they are unreasonably in excess of the central office costs of similar nursing facilities in the program. The burden of furnishing sufficient evidence to establish a reasonable level of costs shall be on the provider. All expenses reported as central office costs shall be limited to the actual resident-related costs of the central office.

(1) The provider shall report cost of ownership or the arm's-length lease expense, utilities, maintenance, property taxes, insurance, and other plant operating costs of the central or regional office space for resident-related activities report as central office costs.

(2) The provider shall report all administrative expenses incurred by central and regional offices as central office costs. These may include the following:

- (A) Salaries;
- (B) benefits;
- (C) office supplies;
- (D) printing, management, and consultant fees;
- (E) telephones and other forms of communications;
- (F) travel and vehicle expenses;
- (G) allowable advertising;
- (H) licenses and dues; and
- (I) legal, accounting, data processing, insurance, and interest expenses.

The administrative expenses reported as central office costs shall not be directed to individual facilities operated by the provider or reported on any other line of the cost report.

(3) Nonreimbursable costs in K.A.R. 129-10-23a, costs allowed with limitations in K.A.R. 129-10-23b, and the revenue offsets in K.A.R. 30-10-23c shall apply to central office costs.

(4) Estimates of central office costs shall not be allowable.

(b) Central office salary and other limitations.

(1) Salaries of employees performing the duties for which they are professionally qualified shall be

allocated to the direct health care cost center or the indirect health care cost center as appropriate for the duties performed. Professionally qualified employees shall include licensed and registered nurses, dietitians, and others that may be designated by the agency.

(2) Salaries of chief executives, corporate officers, department heads, and other employees with ownership interests of five percent or more shall be deemed owner's compensation, and the provider shall report these salaries as owner's compensation in the operating cost center.

(3) The provider shall include the salary of an owner or related party performing a resident-related service for which the person is professionally qualified in the appropriate cost center for that service, subject to the salary limitations for the owner or related party.

(4) The provider shall report salaries of all other central office personnel performing resident-related administrative functions in the operating cost center.

(5) Each provider operating a central office shall complete and submit detailed schedules of all salaries and expenses incurred in each fiscal year. Failure to submit detailed central office expenses and allocation methods shall result in an incomplete cost report. The provider shall submit methods for allocating costs to all facilities in this and any other states.

(6) A central office cost limit may be established by the agency within the overall operating cost center upper payment limit.

(7) The provider may allocate and report bulk purchases by the central office staff in the appropriate cost center of each facility if sufficiently documented. Questionable allocations shall be transferred to the central office cost line within the operating cost center. (Authorized by K.S.A. 2007 Supp. 75-7403 and 75-7412; implementing K.S.A. 2007 Supp. 75-7405 and 75-7408; effective Sept. 19, 2008.)

129-10-31. Responsibilities of, assessment of, and disbursements for the nursing facility quality care assessment program. (a) In addition to the terms defined in K.S.A. 75-7435 and amendments thereto, each of the following terms shall have the meaning specified in this subsection, unless the context requires otherwise:

(1) "High medicaid volume skilled nursing care facility" means any facility that provided more than 25,000 days of nursing facility care to med-

icaid recipients during the most recent calendar year cost-reporting period.

(2) "Kansas homes and services for the aging," as used in K.S.A. 75-7435 and amendments thereto, means leadingage Kansas.

(3) "Nursing facility quality care assessment program" means the determination, imposition, assessment, collection, and management of an annual assessment imposed on each licensed bed in a skilled nursing care facility required by K.S.A. 75-7435, and amendments thereto.

(4) "Skilled nursing care facility that is part of a continuing care retirement facility" means a provider who is certified as such by the Kansas insurance department before the start of the state's fiscal year in which the assessment process is occurring.

(5) "Small skilled nursing care facility" means any facility with fewer than 46 licensed nursing facility beds.

(b) The assessment shall be based on a state fiscal year. Each skilled nursing facility shall pay the annual assessment as follows:

(1) The assessment amount shall be \$818 annually per licensed bed for the following:

(A) Each skilled nursing care facility that is part of a continuing care retirement facility; (B) each small skilled nursing care facility; and (C) each high medicaid volume skilled nursing care facility.

(2) The assessment amount for each skilled nursing care facility other than those identified in paragraphs (c)(1)(A) through (C) shall be \$4,908 annually per licensed bed.

(3) The assessment amount shall be paid according to the method of payment designated by the secretary of the Kansas department of health and environment. Any skilled nursing care facility may be allowed by the secretary of the Kansas department of health and environment to have an extension to complete the payment of the assessment, but no such extension shall exceed 90 days. (Authorized by and implementing K.S.A. 75-7435; effective Feb. 18, 2011; amended Dec. 27, 2013; amended June 26, 2020.)

129-10-200. Definitions for intermediate care facility for mentally retarded (ICF-MR).

(a) "Accrual basis of accounting" means that the revenue of the provider is reported in the period when the revenue is earned, regardless of when it is collected, and expenses are reported in the period in which the expenses are incurred, regardless of when the expenses are paid.

(b) “Adequate cost and other accounting information” means that the data, including source documentation, is accurate, current, and in sufficient detail to accomplish the purposes for which the data is intended. Source documentation, including petty cash payout memoranda and original payout invoices, shall be valid only if the documentation originated at the time and near the place of the transaction. In order to provide the required costs data, financial and statistical records shall be maintained in a manner that is consistent from one period to another. This requirement shall not preclude a beneficial change in accounting procedures if there is a compelling reason to effect a change of procedures.

(c) “Agency” means the Kansas department of social and rehabilitation services.

(d) “Ancillary services and other medically necessary services” mean those special services or supplies for which charges are made in addition to those for routine services.

(e) “Approved staff educational activities” means formally organized or planned programs of study usually engaged in by providers in order to enhance the quality of client care in an ICF-MR. These activities shall be licensed when required by state law.

(f) A “client day” means that period of service rendered to a client between the census-taking hours on two successive days and all other days for which the provider receives payment, either full or partial, for any Kansas medical assistance program or non-Kansas medical assistance program client who was not in the home. The census-taking hours consist of 24 hours beginning at midnight.

(g) “Common ownership” means that any individual or an organization holds five percent or more ownership or equity of the ICF-MR and of the facility or organization serving the ICF-MR.

(h) “Control” means that an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or facility.

(i) “Cost finding” means the process of recasting the data derived from the accounts ordinarily kept by a provider to ascertain costs of the various types of services rendered.

(j) “Costs related to client care” means all necessary and proper costs, arising from arm’s-length transactions in accordance with general accounting rules, that are appropriate and helpful in developing and maintaining the operation of client care facilities and activities. Specific items of ex-

pense shall be limited pursuant to K.A.R. 30-10-218, K.A.R. 30-10-219, K.A.R. 30-10-220, K.A.R. 30-10-221, K.A.R. 30-10-222, K.A.R. 30-10-223, K.A.R. 30-10-224, and K.A.R. 30-10-225.

(k) “Costs not related to client care” means costs that are not appropriate or not necessary and proper in developing and maintaining the ICF-MR operation and activities. These costs shall not be allowable in computing reimbursable costs.

(l) “Extra care” means temporary care required by a client that takes more time, services, and supplies than the care provided an average ICF-MR client. Extra care shall require prior authorization before reimbursement.

(m) “General accounting rules” mean the generally accepted accounting principles as established by the American institute of certified public accountants except as otherwise specifically indicated by ICF-MR program policies and regulations. Adoption of any of these principles shall not supersede any specific regulations and policies of the ICF-MR program.

(n) “Inadequate care” means any act or failure to take action that potentially could be physically or emotionally harmful to a recipient.

(o) “Inspection of care review of intermediate care facilities for the mentally retarded” means a yearly, client-oriented review of only Kansas medical assistance program clients, conducted by a team from the Kansas department on aging consisting of a nurse, a social worker, and a medical doctor, to determine whether those clients’ needs are being met.

(p) “Intermediate care facility for the mentally retarded” and “ICF-MR” mean a facility that has met state licensure standards and meets the following conditions:

(1) Is primarily for the diagnosis, treatment, or habilitation of the mentally retarded or persons with related conditions; and

(2) provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration of health or habilitative services to help each individual function at that person’s greatest ability.

(q) “Levels-of-care model” means a residential model with five residential facility levels established by service-intensity categories and size of facilities, according to the following:

(1) Small facility: four through eight beds;

(2) medium facility: nine through 16 beds; and

(3) large facility: more than 16 beds.

(r) “Mental retardation” means subaverage general intellectual functioning that originates in the

developmental period and is associated with impairment in adaptive behavior, as defined by the 1983 revision of “classification in mental retardation,” authored by the American association of mental deficiency.

(s) “Net cost of educational activities” means the cost of approved educational activities less any grants, specific donations, or reimbursements of tuition.

(t) “Nonworking owners” means any individual or organization who has an interest of at least five percent in the provider and does not perform a client-related function for the ICF-MR.

(u) “Nonworking related party” means any related party, as defined in this regulation, who does not perform a client-related function for the ICF-MR.

(v) “Organization costs” mean those costs directly incidental to the creation of the corporation or other form of business. These costs are intangible assets in that they represent expenditures for rights and privileges that have value to the enterprise. The services inherent in organization costs extend over more than one accounting period and shall be amortized over a period of not less than 60 months from the date of incorporation.

(w) “Owner-related party compensation” means salaries, drawings, consulting fees, or other payments paid to or on behalf of any owner with an interest of at least five percent in the provider or any related party, as defined in this regulation, whether the payment is from a sole proprietorship, partnership, corporation, or nonprofit organization.

(x) “Persons with related conditions” means individuals who have a severe, chronic disability that meets all of the following conditions:

(1) Is attributable to either of the following:

(A) Cerebral palsy or epilepsy; or

(B) any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons and requires treatment or services similar to those required for these persons;

(2) is manifested before the person attains the age of 22;

(3) is likely to continue indefinitely; and

(4) results in substantial functional limitations in three or more of the following areas of major life activity:

(A) Self-care;

(B) understanding and use of language;

(C) learning;

(D) mobility;

(E) self-direction; and

(F) capacity for independent living.

(y) “Physician extender” means a person who is registered as a physician’s assistant or licensed advanced registered nurse practitioner in the jurisdiction where the service is provided and who is working under supervision as required by law or state regulation.

(z) “Plan of care” means a document that states the need for care, the estimated length of the program, the methodology to be used, and the expected results.

(aa) “Projected cost report” means a cost report submitted to the agency by a provider prospectively for a 12-month period. The projected cost report is based on an estimate of the costs, revenues, resident days, and other financial data for the 12-month period.

(bb) “Projection status” means that a provider has been assigned a previous provider’s rate for a set period or is allowed to submit a projected cost report. The provider shall submit a historic cost report at the end of the projection period to be used for a settlement of the interim rates and to determine a prospective rate.

(cc) “Provider” means the operator of the ICF-MR specified in the provider agreement.

(dd) “Psychological evaluations or reevaluations in intermediate care facilities for the mentally retarded” means a review of the previous pertinent psychological material to determine if the evaluation is consistent with the client’s present status.

(ee) “Related parties” means two or more parties with a relationship in which one party has the ability to influence another party to the transaction such that one or more of the transacting parties might fail to pursue its own separate interests fully. This term shall include parties related by family, business, or financial association or by common ownership or control. Transactions between related parties shall not be considered to have arisen through arm’s-length negotiations. Transactions or agreements that are illusory or a sham shall not be recognized.

(ff) “Related to the ICF-MR” means that the facility, to a significant extent, is associated or affiliated with, has control of, or is controlled by, the organization furnishing the services, facilities, or supplies.

(gg) “Representative” means legal guardian, conservator, or representative payee as designated by the social security administration, or any person who is designated in writing by the client to

manage the client's personal funds and is willing to accept the designation.

(hh) "Routine services and supplies" mean services and supplies that are commonly stocked for use by or provided to any client. These services and supplies shall be included in the provider's cost report.

(1) Routine services and supplies may include the following:

(A) All general nursing services;

(B) items that are furnished routinely to all clients;

(C) items stocked at nursing stations in large quantities and either distributed or utilized individually in small quantities;

(D) routine items covered by the pharmacy program if ordered by a physician for occasional use; and

(E) items that are used by individual clients but are reusable and expected to be available in a facility.

(2) Routine services and supplies shall be distinguished from nonroutine services and supplies that are ordered or prescribed by a physician on an individual or scheduled basis. Medication ordered may be considered nonroutine if either of the following conditions is met:

(A) The medication is not a stock item of the facility.

(B) The medication is a stock item with unusually high usage by the individual for whom prior authorization may be required.

(3) Routine services and supplies shall not include ancillary services and other medically necessary services as defined in subsection (d) and also shall not include those services and supplies the client must provide.

(4) Reasonable transportation expenses necessary to secure routine and nonemergency medical services shall be considered reimbursable through the medicaid per diem rate.

(ii) "Working trial balance" means the summary from the provider's general ledger that was used in completing the cost report. This summary shall contain the account number, a description of the account, the amount of the account, and the line of the cost report specifying the account. (Authorized by K.S.A. 2007 Supp. 75-7403 and 75-7412; implementing K.S.A. 2007 Supp. 75-7405 and 75-7408; effective Sept. 19, 2008.)

129-10-210. ICF-MR reimbursement.

(a)(1) Each provider with a current signed provider

agreement shall be paid a per diem rate for services furnished to eligible Kansas medical assistance program clients. Payment shall be for the type of medical or health care required by the beneficiary as determined by either of the following:

(A) The attending physician's or physician extender's certification upon admission; or

(B) inspection of care and utilization review teams, as specified in K.A.R. 30-10-207.

(2) Payment for services shall not exceed the type of care the provider is certified to provide under the Kansas medical assistance program. The type of care required by the beneficiary may be verified by the agency before and after payment. No payment shall be made for care or services determined to be the result of unnecessary utilization.

(A) Initial eligibility for ICF-MR level services shall be determined based on a screening completed by the agency or its designee.

(B) Continued eligibility for ICF-MR level services shall be determined by a professional review of the client by the utilization review team of the Kansas department on aging.

(b) Payment for routine services and supplies, pursuant to K.A.R. 129-10-200, shall be included in the per diem reimbursement. No provider shall bill or be reimbursed for these services and supplies.

(1) The following durable medical equipment, medical supplies, and other items and services shall be considered routine:

(A) Alternating pressure pads and pumps;

(B) armboards;

(C) bedpans, urinals, and basins;

(D) bed rails, beds, mattresses, and mattress covers;

(E) canes;

(F) commodes;

(G) crutches;

(H) denture cups;

(I) dressing items, including applicators, tongue blades, tape, gauze, bandages, adhesive bandages, pads and compresses, elasticized bandages, petroleum jelly gauze, cotton balls, slings, triangle bandages, and pressure pads;

(J) emesis basins and bath basins;

(K) enemas and enema equipment;

(L) facial tissues and toilet paper;

(M) footboards;

(N) foot cradles;

(O) gel pads or cushions;

(P) geriatric chairs;

(Q) gloves, rubber or plastic;

(R) heating pads;

- (S) heat lamps and examination lights;
 - (T) humidifiers;
 - (U) ice bags and hot water bottles;
 - (V) intermittent positive-pressure breathing (IPPB) machines;
 - (W) IV stands and clamps;
 - (X) laundry, including personal laundry;
 - (Y) lifts;
 - (Z) nebulizers;
 - (AA) occupational therapy that exceeds the quantity of services covered by the Kansas medical assistance program;
 - (BB) oxygen masks, stands, tubing, regulators, hoses, catheters, cannulae, and humidifiers;
 - (CC) parenteral and enteral infusion pumps;
 - (DD) patient gowns and bed linens;
 - (EE) physical therapy that exceeds the quantity of services covered by the Kansas medical assistance program;
 - (FF) restraints;
 - (GG) sheepskins and foam pads;
 - (HH) speech therapy that exceeds the quantity of services covered by the Kansas medical assistance program;
 - (II) sphygmomanometers, stethoscopes, and other examination equipment;
 - (JJ) stretchers;
 - (KK) suction pumps and tubing;
 - (LL) syringes and needles;
 - (MM) thermometers;
 - (NN) traction apparatus and equipment;
 - (OO) underpads and adult diapers, disposable and nondisposable;
 - (PP) walkers;
 - (QQ) water pitchers, glasses, and straws;
 - (RR) weighing scales;
 - (SS) wheelchairs;
 - (TT) irrigation solution, including water and normal saline;
 - (UU) lotions, creams, and powders, including baby lotion, oil and powders;
 - (VV) first aid-type ointments;
 - (WW) skin antiseptics, including alcohol;
 - (XX) antacids;
 - (YY) mouthwash;
 - (ZZ) over-the-counter analgesics;
 - (AAA) two types of laxatives;
 - (BBB) two types of stool softeners;
 - (CCC) nutritional supplements;
 - (DDD) blood glucose monitors and supplies;
 - (EEE) urinary supplies; and
 - (FFF) nutritional therapy.
- (c) Payment for ancillary services, as defined

in K.A.R. 129-10-200, shall be billed separately when the services are required.

(d) Payment for a day service program for clients of an ICF-MR shall be included in the per diem reimbursement. Each provider shall allow the client or the client's guardian to select a day service program offered by another agency. The other agency shall be licensed and unencumbered by documented service deficiencies that would prevent the provider from becoming certified or remaining certified as a medicaid provider. The provider shall pay the actual cost of the service provided by the other agency, which shall not exceed 24 percent of the provider's approved per diem rate. Expenses incurred by the provider for this service shall be allowable expenses and may be reported on the provider's financial and statistical report.

(e) Payment shall be limited to providers who accept, as payment in full, the amount paid in accordance with the fee structure established by the Kansas medical assistance program. (Authorized by K.S.A. 2007 Supp. 75-7403 and 75-7412; implementing K.S.A. 2007 Supp. 75-7405 and 75-7408; effective Sept. 19, 2008.)

Article 14.—CHILDREN'S HEALTH INSURANCE PROGRAM

129-14-2. Definitions. The terms defined in K.A.R. 129-1-1 shall be applicable to this article. In addition and for purposes of this article, each of the following terms shall have the meaning specified in this regulation, unless the context clearly indicates otherwise: (a) "Capitated managed care" means health care services provided by a contracted provider for which payment is made on an approved contracted rate for each enrolled person assigned to the provider, regardless of the number or nature of the services provided.

(b) "Caretaker" means the person who is assigned the primary responsibility for the care and control of the child and who is any of the following persons:

- (1) Parent, including parent of an unborn child;
- (2) guardian, conservator, legal custodian, or person claiming the child as a tax dependent;
- (3) sibling;
- (4) nephew;
- (5) niece;
- (6) aunt;
- (7) uncle;

(8) person of a preceding generation who is denoted by a term that includes any of the following prefixes: "grand," "great-," "great-great-," or "great-great-great-";

(9) stepfather, stepmother, stepbrother, or step-sister;

(10) legally adoptive parent or another relative of adoptive parents as listed in this subsection; or

(11) spouse of any person listed in this subsection or former spouse of any of those persons, if marriage is terminated by death or divorce.

(c) "Child" means natural or biological child, adopted child, or stepchild, if the child is under the age of 19.

(d) "Earned income" means all income, in cash or in kind, that an applicant or recipient currently earns through the receipt of wages, salary, or profit from activities in which the individual engages as an employer or as an employee.

(e) "Family group" means the applicant or recipient and all individuals living together in which there is a relationship of legal responsibility or a caretaker relationship.

(f) "Household size" means the number of persons counted as members of an individual's tax household in accordance with K.A.R. 129-14-33. For each pregnant woman in the household, the household size shall include the woman and the number of children she is expected to deliver.

(g) "Legally responsible relative" means the person who has the legal responsibility to provide support for the person in the assistance plan.

(h) "Modified adjusted gross income" and "MAGI" mean income as defined in 26 U.S.C. 36B(d).

(i) "Parent" means natural or biological parent, adoptive parent, or stepparent.

(j) "Sibling" means natural or biological sibling, adopted sibling, half sibling, or stepsibling.

(k) "Tax dependent" means a dependent under 26 U.S.C. 152 for whom another individual claims a deduction for a personal exemption under 26 U.S.C. 151 for a taxable year.

(l) "Unearned income" means all income that is not earned income. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-14-3. Providers. (a) Subject to provider availability, any recipient may be required to be enrolled in a managed care option in order to access covered program services.

(b) Managed care contractors shall be selected by the secretary from willing providers, as determined by the secretary or designees.

(c) Before signing a contract to provide services, each provider of capitated managed care shall demonstrate the ability to meet contract requirements, including providing or maintaining the following:

(1) Financial solvency;

(2) a panel of service providers, who shall meet the following requirements:

(A) Have professional credentials required by the state in which the services are provided;

(B) be in active practice;

(C) be available to provide services to program enrollees; and

(D) be able to provide services sensitive to the needs of a diverse population, including individuals of any race, ethnicity, or disability;

(3) a quality management process under 42 C.F.R. Part 438; and

(4) any other relevant requirements as determined by the secretary.

(d) Penalties for failure to abide by the contract provisions shall be imposed by the secretary, or other appropriate actions, as specified in the contract, may be taken.

(e) Each capitated managed care contractor shall be reimbursed at a rate agreed to by the secretary. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-14-20. Application process. (a) An application for kancare-CHIP shall be made by an applicant or by another person authorized to act on the applicant's behalf.

(b) An application for kancare-CHIP shall be made using a department-approved form. The applicant or person authorized to act on behalf of the applicant shall sign the application. Electronic signatures, including telephonically recorded signatures, and handwritten signatures transmitted by any other electronic transmission shall be acceptable. If any person signs by mark, the names and addresses of two witnesses shall be required.

Each application shall be submitted on the state application web site or the federally facilitated exchange web site, by telephone, in person, by mail, by electronic mail, or by fax.

(c) If the department denies an application within 45 days of receipt of the application and the applicant reapplies or provides required infor-

mation within this 45-day period, the application shall be reactivated. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-14-21. Reenrollment process. (a) Each recipient shall reenroll for the program by providing the department with information on the recipient's current situation and having an opportunity to review the eligibility factors so that the department can redetermine the recipient's eligibility for coverage under the program.

(b) Each recipient shall complete the reenrollment process by either of the following:

(1) Reviewing and, if necessary, responding to information provided from the department's records, including information obtained through electronic data matching with other state or federal agencies; or

(2) completing and returning information on the recipient's current situation requested by the department.

(c) Each recipient shall reenroll for coverage at least once each 12 months or as often as a need for review is indicated. Coverage under the program shall not be provided for more than 12 months, unless the recipient completes the required reenrollment process. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-14-22. (Authorized by K.S.A. 2005 Supp. 75-7412; implementing K.S.A. 2005 Supp. 75-7412 and 75-7413, as amended by L. 2006, ch. 4, § 2; effective Aug. 11, 2006; revoked, T-129-10-31-13, Nov. 1, 2013; revoked Feb. 28, 2014.)

129-14-23. Responsibilities of applicants and recipients. Each applicant or recipient shall meet the following requirements: (a) Submit an application for medical assistance on a department-approved form. Any applicant may withdraw the application between the date the application is submitted and the date of the notice of the department's decision;

(b) supply information essential to the determination of initial and continuing eligibility, insofar as the applicant or recipient is able to do so;

(c) give written permission for release of information, when needed;

(d) report each change in circumstances that could affect eligibility within 10 calendar days of

the change or as otherwise required by the program. Changes to be reported shall include changes to income, living arrangement, household size, family group members, residency, alienage status, health insurance coverage, and employment;

(e) take all necessary action to obtain any income due the person; and

(f) except for children for whom a determination under presumptive medical assistance as defined in K.A.R. 129-14-51 has been made, request a fair hearing in writing if the individual is dissatisfied with any department decision or lack of action in regard to the application for or the receipt of assistance. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-14-25. Act on own behalf. (a) For purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Emancipated minor" means either of the following:

(A) A person who is aged 16 or 17 and who is or has been married; or

(B) a person who is under the age of 18 and who has been given or has acquired the rights of majority through court action.

(2) "Medical facilitator" means a person authorized to help complete the application or reenrollment process on behalf of an applicant or recipient under written authorization made by the applicant or recipient. The medical facilitator may help with completing and submitting the application or reenrollment form, providing necessary information and verifications, and receiving copies of notices or other official communications from the department to the applicant or recipient. A medical facilitator shall not be authorized to apply for medical assistance on behalf of another person.

(3) "Medical representative" means a person who is authorized to act on behalf of an applicant or recipient under a written authorization made by the applicant or recipient and who is knowledgeable of the applicant's or recipient's financial holdings and circumstances.

(b) Each applicant or recipient shall be legally capable of acting on that individual's own behalf.

(1) An incapacitated person aged 18 for whom a court has named a guardian or conservator shall not be eligible for kancare-CHIP, unless the

named legal guardian or conservator applies for assistance on the person's behalf.

(2) An incapacitated person aged 18 for whom a court has not named a guardian or conservator shall not be eligible for kancare-CHIP, unless a representative payee for the person's social security benefits, a person with durable power of attorney for financial decisions for the individual, or a medical representative applies for assistance on the person's behalf.

(3) Each emancipated minor shall be eligible to apply for and receive assistance under kancare-CHIP on that individual's own behalf.

(4) An unemancipated minor shall not be deemed capable of acting on that individual's own behalf and shall not be eligible to apply for or receive assistance under kancare-CHIP on that individual's own behalf, except as specified in this paragraph. An unemancipated minor shall not be eligible unless a caretaker, representative payee for social security benefits, or other nonrelated responsible adult who is approved by the parent or legal guardian and who resides with the child applies for assistance on the minor's behalf. However, an unemancipated minor may apply for or receive assistance on that individual's own behalf if one of the following conditions exists:

(A) The parents of the minor are institutionalized.

(B) The minor has no parent who is living or whose whereabouts are known, and there is no other caretaker who is willing to assume parental control of the minor.

(C) The health and safety of the minor has been or would be jeopardized by remaining in the household with the minor's parents or other caretakers. (Authorized by and implementing K.S.A. 2012 Supp. 65-1,254 and 75-7403; effective, T-129-10-31-13, Nov. 1, 2013; effective Feb. 28, 2014.)

129-14-26. Residence. Each applicant or recipient shall be a resident of Kansas. Temporary absence from a state with subsequent return to the state, or intent to return when the purposes of the absence have been accomplished, shall not be considered to interrupt continuity of residence. Residence shall be considered to be retained until abandoned or established in another state. Residency shall be established as follows: (a) For each individual who is not residing in an institution, capable of stating intent, and either is emancipated from the individual's parents or is married, the in-

dividual 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 fam-

ily 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 as-

sistance 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

Editor's Note:

The Kansas home inspectors professional competence and financial responsibility act expired effective July 1, 2019. The powers, duties, and functions of the Kansas Home Inspectors Registration Board were not transferred to another entity. See K.S.A. 58-4501 et seq.

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,
2011no 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. DEFINITIONS.

Article 1.—DEFINITIONS

131-1-1. Definition of purchase. (a) “Purchase,” as used in K.S.A. 75-4101 and amendments thereto, shall not include the purchase of insurance through a lease of real property that meets all of the following conditions:

- (1) The state agency is the lessee.
- (2) (A) The cost to insure the property is included as a part of the lease payment; or
(B) the lessee is required to reimburse the lessor for the cost of the insurance.
- (3) The secretary of administration has approved the lease in accordance with K.S.A. 75-3739, and amendments thereto.

(b) “Purchase,” as used in K.S.A. 75-4101 and amendments thereto, shall include the purchase of insurance through a lease of real property if all of the following conditions are met:

- (1) The state agency is the lessee.
- (2) The lease requires that the property be insured.
- (3) The lease requires the lessee to pay the insurance premium to the insurance company. (Authorized by K.S.A. 75-4111; implementing K.S.A. 2010 Supp. 75-4101 and K.S.A. 2010 Supp. 75-4109; effective March 18, 2011.)

Agency 132

911 Coordinating Council

Articles

- 132-1. FEES.
- 132-2. LOCAL COLLECTION POINT ADMINISTRATOR REQUIREMENTS.
- 132-3. GRANT FUNDS.
- 132-4. PENALTIES.
- 132-5. TRAINING STANDARDS.
- 132-6. GEOGRAPHIC INFORMATION SYSTEM (GIS) DATA REQUIREMENTS.

Article 1.—FEES

132-1-1. (Authorized by K.S.A. 2014 Supp. 12-5364; implementing K.S.A. 2014 Supp. 12-5364 and 12-5369; effective Oct. 2, 2015; revoked Oct. 15, 2021.)

132-1-2. Public safety answering point (PSAP). An entity shall be considered to be a public safety answering point (PSAP), as defined in K.S.A. 2020 Supp. 12-5363 and amendments thereto, when the governing body of the city or county in which the entity is located takes official action by resolution or ordinance establishing and designating the entity as the city's or county's PSAP. (Authorized by K.S.A. 2020 Supp. 12-5364; implementing K.S.A. 2020 Supp. 12-5363; effective Oct. 15, 2021.)

Article 2.—LOCAL COLLECTION POINT ADMINISTRATOR REQUIREMENTS

132-2-1. LCPA; prerequisites; selection; contract. (a) Each qualified entity selected to provide the services of the local collection point administrator (LCPA) pursuant to the Kansas 911 act ("act"), K.S.A. 2020 Supp. 12-5362 et seq. 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 achieve the purposes of the act.

(b) Each LCPA shall be selected by the council with the approval 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.

(c)(1) The initial contract with the selected entity shall be for a two-year period. A yearly performance review of the LCPA shall be conducted by the council. The initial contract with each LCPA shall have a single, two-year extension option, which may be used to extend the contract period by affirmative vote of nine of the voting members of the council.

(2) The council shall annually review the performance of the LCPA. If the council determines that the LCPA contract, pursuant to a competitive procurement process administered by the Kansas department of administration, will be awarded to an entity other than the current LCPA, the decision shall be approved by the legislative coordinating council, pursuant to K.S.A. 2020 Supp. 12-5367 and amendments thereto. (Authorized by K.S.A. 2020 Supp. 12-5364; implementing K.S.A. 2020 Supp. 12-5364 and K.S.A. 2020 Supp. 12-5367; effective March 2, 2012; amended Oct. 15, 2021.)

Article 3.—GRANT FUNDS

132-3-1. 911 federal grants; distribution. When federal grant funds are received by the council and the council establishes a subgrant

award program, the grant funds shall be distributed by the chair of the 911 coordinating council (“council”) to any entity only if both of the following conditions are met:

(a) The PSAP obtains the terms and conditions for the grant from the council.

(b) The PSAP application for the grant accepts all terms and conditions and proposes use of the funds by the subgrant entity that is consistent with all grant guidance terms and conditions. (Authorized by K.S.A. 2020 Supp. 12-5364; implementing K.S.A. 2020 Supp. 12-5364 and K.S.A. 2020 Supp. 12-5365; effective Jan. 11, 2013; amended Oct. 15, 2021.)

Article 4.—PENALTIES

132-4-1. Violation of the act; penalties.

(a) Each provider, as defined by K.S.A. 2020 Supp. 12-5363 and amendments thereto, shall meet the following requirements to comply with K.S.A. 2020 Supp. 12-5364 and K.S.A. 2020 Supp. 12-5370, and amendments thereto:

(1) Complete and submit, or update within 30 days of a change, the provider’s contact information, pursuant to K.S.A. 2020 Supp. 12-5364 and amendments thereto, on the “telecommunications provider contact information” form provided on the council’s web site;

(2) submit collected 911 fees, pursuant to K.S.A. 2020 Supp. 12-5370 and amendments thereto, to the LCPA; and

(3) complete and submit, on or before the 15th day of each calendar month following the remittance of collected 911 fees, the return identifying the amount of 911 fees contained in the remittance attributable to each PSAP’s jurisdictional boundary through the council’s web portal.

(b)(1) If the 911 coordinating council determines that a provider is in violation of the act, a penalty may be assessed against the provider by written order of the 911 coordinating council.

The penalty for violation of the act shall be no more than \$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) A written order, specifying any penalty assessment, the violation, and the provider’s right to appeal to the 911 coordinating council shall be issued to the provider. Each penalty payment shall be remitted directly to the 911 coordinating council.

(c) Upon receipt of an order of the council, any provider may, within 15 days, request a hear-

ing, pursuant to K.S.A. 2020 Supp. 12-5364 and amendments thereto. (Authorized by K.S.A. 2020 Supp. 12-5364; implementing K.S.A. 2020 Supp. 12-5364 and K.S.A. 2020 Supp. 12-5370; effective March 2, 2012; amended Oct. 15, 2021.)

132-4-2. Annual report. Each public safety answering point (PSAP) shall complete and submit annually, by March 1, the annual report module on the council’s web portal, pursuant to K.S.A. 2020 Supp. 12-5364 and amendments thereto. (Authorized by K.S.A. 2020 Supp. 12-5364; implementing K.S.A. 2020 Supp. 12-5364 and K.S.A. 2020 Supp. 12-5375; effective Oct. 15, 2021.)

132-4-3. Expenditure preapproval process. (a) Each public safety answering point (PSAP) seeking preapproval of an expenditure of 911 fee funds shall follow the process specified in this regulation.

(b) Each request for preapproval of 911 fee fund expenditures shall be submitted through the preapproval application in the annual report module of the council’s web portal.

(c) If the proposed expenditure is disapproved and the PSAP does not concur with the decision of the expenditure review committee, the PSAP may, within 15 days of service of the written decision disapproving the expenditure, request a hearing before the council’s presiding officer, who shall be the chairman of the council. (Authorized by K.S.A. 2020 Supp. 12-5364 and K.S.A. 2020 Supp. 12-5375; implementing K.S.A. 2020 Supp. 12-5375; effective Oct. 15, 2021.)

Article 5.—TRAINING STANDARDS

132-5-1. Training standards; technology and operations of the next generation 911 (NG911) hosted solution. Pursuant to K.S.A. 2020 Supp. 12-5364 and amendments thereto, all public safety answering point (PSAP) personnel who operate any equipment or technology provided by the NG911 hosted solution (“solution”), which is the statewide system for handling emergency calls, shall complete approved training that includes the following:

(a) Obtaining proficiency on all appropriate tools, equipment, and technology provided by the solution that they may be expected to operate within the public safety communications center;

(b) creating, accessing, and updating incident data;

- (c) utilizing existing communications tools or available technologies, or both, to meet operational needs in both normal modes and backup modes;
- (d) operating solution computer systems;
- (e) operating solution records management systems;
- (f) operating solution telephone systems, including integrated administrative systems, TTY/TDD, and other equal-access technologies;
- (g) maintaining solution equipment functionality within established parameters; and
- (h) using evolving and emerging technologies as these technologies are added to the solution. (Authorized by and implementing K.S.A. 2020 Supp. 12-5364; effective Oct. 15, 2021.)

Article 6.—GEOGRAPHIC INFORMATION SYSTEM (GIS) DATA REQUIREMENTS

132-6-1. Geographic information system (GIS) standard. (a) Each public safety answering point (PSAP), as defined in K.S.A. 2020 Supp. 12-5363 and amendments thereto, shall maintain NG911 geographic information system (GIS) data to the current standard.

(b) Each PSAP shall identify one individual or vendor as a local data maintainer, who shall perform updates to the GIS data. Each PSAP shall identify the local data maintainer to the council through the council's web portal.

Each PSAP shall also identify a second individual as local data steward, who shall be responsible for ensuring that GIS data updates are submitted through the council's web portal. Each PSAP shall identify the local data steward to the council through the council's web portal.

(c) The local data steward and the local data maintainer shall attend a training class provided

by the council's GIS committee and shall create a user account on the council's web portal.

(d) Data updates shall include all new or changed roads, addresses, and emergency service boundaries for which the required information is available as well as any needed corrections to existing data. Each PSAP shall develop contacts with local government authorities in order to ensure that GIS data relating to geographical changes, name changes, construction additions, subtractions, and modifications and any other information required to ensure the accuracy of GIS data are made known for inclusion in GIS data as soon as possible.

(e) Each data maintainer shall submit data updates to the web portal in the NG911 template geodatabase format.

Each submission shall pass all validation tests to be considered successful.

(f) If there are no changes to the data in a calendar quarter, the local data steward shall submit or ensure that the local data maintainer submits a report of "no changes" through the council's web portal for that calendar quarter.

(g) Each PSAP shall submit data often enough to keep the 911 routing databases accurate and current. At a minimum, a successful data submission or report of "no changes" shall be made at least once each calendar quarter. Normal calendar quarters, ending March 31, June 30, September 30, and December 31, shall be followed.

Reports of "no changes" shall be accepted for no more than three consecutive quarters. After three consecutive quarters of reports of "no changes," successful data submission shall be required. (Authorized by and implementing K.S.A. 2020 Supp. 12-5364; effective Oct. 15, 2021.)

Agency 133

Office of Administrative Hearings

Editor's Note:

Effective July 1, 2009, all powers, duties, and functions of the Office of Administrative Hearings, formerly within the Kansas Department of Administration and under the Secretary of Administration, were transferred to the Office of Administrative Hearings and the Director of this office established by the Administrative Procedure Act. See K.S.A. 77-562.

Articles

133-1. GENERAL PROCEDURES CONCERNING PARTIES.

Article 1.—GENERAL PROCEDURES CONCERNING PARTIES

133-1-1. Definitions. (a) As used in this article, each of the terms defined by K.S.A. 77-502, and amendments thereto, shall have the meaning specified in that statute.

(b) Each of the following terms shall have the meaning specified in this subsection:

(1) "Director" means director of the office of administrative hearings.

(2) "KAPA" means the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto.

(3) "OAH" means the office of administrative hearings.

(4) "Presiding officer" means the administrative law judge assigned to preside over an administrative hearing. (Authorized by and implementing K.S.A. 2016 Supp. 75-37,121 and 77-562; effective Jan. 20, 2017.)

133-1-2. Assignment of administrative law judges. (a) Any state agency head or a designee may request that the director assign an administrative law judge to act as the presiding officer in an administrative hearing that is neither subject to KAPA nor listed in K.S.A. 77-551, and amendments thereto, and for which the agency head is responsible. The request may be made in writing, by telephone, or by electronic transmission.

(b)(1) Upon receiving a request for assignment of an administrative law judge, an administrative law judge of OAH shall be assigned by the director, unless the director determines either of the following:

(A) The existing caseloads of the administrative law judges would prevent OAH from providing a timely hearing.

(B) There is a conflict that would subject the administrative law judges to disqualification.

(2) In making each assignment, the relative experience, caseloads, and expertise of the OAH administrative law judges, as well as potential conflicts, time frames, and other relevant resources and factors, may be considered by the director.

(c) After the assignment of an administrative law judge, the requesting state agency shall forward to the director written documentation of the basis for the administrative hearing, which may include any of the following materials:

(1) A request for an administrative hearing;

(2) a petition for a hearing from a party to the state agency proceedings;

(3) the order that is the subject of the request for a hearing; or

(4) any other documentation of the event or action that forms the basis for the administrative hearing under applicable law. (Authorized by and implementing K.S.A. 2016 Supp. 75-37,121 and 77-562; effective Jan. 20, 2017.)

133-1-3. Conduct of proceedings. (a)(1) Each administrative hearing to which an administrative law judge is assigned under K.S.A. 75-37,121(b), and amendments thereto, shall be conducted in accordance with KAPA, unless other applicable statutes or regulations provide otherwise.

(2) Each administrative hearing to which an administrative law judge is assigned under K.S.A. 75-37,121(d), and amendments thereto, shall be conducted in accordance with any applicable statutes, regulations, ordinances, or other law.

(b) All parties to the state agency proceedings may be required by the administrative law judge or the director to submit motions, objections, briefs, and other pleadings in a format established

by the director and with the number of copies prescribed by the director.

(c) When an administrative law judge is assigned to an administrative hearing under K.S.A. 75-37,121(d), and amendments thereto, the order issued by the administrative law judge shall contain the elements required under any applicable statutes, regulations, ordinances, or other law. (Authorized by and implementing K.S.A. 2016 Supp. 75-37,121 and 77-562; effective Jan. 20, 2017.)

133-1-4. Electronic filing. (a) As used in this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) “Filing” means any pleading, motion, objection, proffer of evidence, discovery request or response, brief, or any other formal communication by a party regarding the docketed administrative proceeding for which the filing is relevant and the filer is a party.

(2) “OAH e-filing system” and “system” mean a public, web-based internet portal established by OAH to which the parties to a proceeding are given secure and password-protected access for the purpose of sending or receiving electronically submitted filings regarding their proceeding.

(b) In any proceeding for which the director has appointed a presiding officer, any party to the proceeding may submit any filing to the presiding officer by using mail or telephone facsimile. Additionally or alternatively, any party may submit any filing for its proceeding using the OAH e-filing system, subject to the following:

(1) The system may be used only by parties who meet the following requirements:

(A) Have submitted to OAH a written and signed consent to the terms of use for the system that are specified by the director; and

(B) have completed the system’s online registration for the specific proceeding to which they are a party.

(2) The only modes by which signed consent to the terms of use for the system may be submitted to OAH are personal service, mail, telephone facsimile, or scanning and electronically mailing the signed consent document to the electronic mail address specified for only this purpose by the director.

(3) Once a party’s signed consent is received by OAH, the party shall be sent by OAH, in a manner specified by the agreed terms of use, directions and information for completing that party’s online registration for the system.

(4) Any party may satisfy its duty to serve a copy of its filings to any other party using the OAH e-filing system, but only if both the serving party and the recipient party have completed their prerequisite signed consent and online registration for the immediate proceeding to which they are party.

(5) Only OAH personnel and the parties to a given proceeding shall have access to submit online or to view online any filings for their proceedings. Whether filed electronically or through other means, records of a proceeding shall be available to nonparties only as provided by the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.

(c) No person may submit a filing or use the OAH e-filing system for a proceeding to which the person is not a party unless the presiding officer has recognized the person as an authorized representative of the party on whose behalf the person is filing or using the system.

(d) All orders and notices issued by the presiding officer shall be served in conformity with K.S.A. 77-531, and amendments thereto.

(e) A party’s inability to utilize the OAH e-filing system shall not constitute a basis for an extension of time in which to file any matter with the presiding officer or with opposing parties. This inability shall not affect any applicable filing deadlines imposed by law or by order of the presiding officer.

(f) For purposes of determining whether an error was committed by the OAH e-filing system before the effective date of a default or initial order, any party to the proceedings in question may request that OAH perform an audit of the system and deliver the audit findings to the presiding officer if all of the following conditions are met:

(1) The requesting party alleges that it was unable to make a timely filing due to an error of the system.

(2) The timeliness or existence of the filing transaction in question is material to the disposition of the party’s case.

(3) The party submits its audit request before a proposed default order for its case has become effective or before an initial order in the case has been issued.

(g) For purposes of determining whether an error was committed by the OAH e-filing system during an appeal pursuant to K.S.A. 77-527 and amendments thereto, any party to the appeal may

request that OAH perform an audit of the system and deliver the audit findings to the agency head if all of the following conditions are met:

(1) The requesting party alleges that it was unable to make a timely filing during the course of the appeal due to an error of the system.

(2) The timeliness or existence of the filing transaction in question is material to the disposition of the party's appeal.

(3) The party submits its audit request before a final order on its appeal has been issued.

(h) Concise documentation of the results of any system audit performed in accordance with this regulation shall be incorporated into the record of any case in which a system error was alleged. (Authorized by K.S.A. 2016 Supp. 75-37,121 and 77-562; implementing K.S.A. 2016 Supp. 77-519 and 77-531; effective Jan. 20, 2017.)

