

**BEHAVIORAL SCIENCES REGULATORY BOARD
BOARD MEETING AGENDA
March 10, 2021**

Due to COVID-19, the Board office is practicing social distancing. The office space does not allow for a meeting while practicing social distancing, therefore, the meeting will be conducted virtually on the Zoom platform.

You may view the meeting here:

<https://youtu.be/2iAzVhiibRs>

To join the meeting by conference call: 877-278-8686

The pin: 327072

If there are any technical issues during the meeting, you may call the Board office at, 785-296-3240.

The Behavioral Sciences Regulatory Board may take items out of order as necessary to accommodate the time restrictions of Board members and visitors. All times and items are subject to change

Wednesday, March 10, 2021

8:00 a.m. Call to order and Roll Call

I. Opening Remarks, Board Vice-Chair

II. Agenda Approval

III. Consideration of Substitute for HB 2066

IV. Adjourn

{As Amended by House Committee of the Whole}

Session of 2021

Substitute for HOUSE BILL No. 2066

By Committee on Commerce, Labor and Economic Development

2-3

1 AN ACT concerning occupational regulation; relating to occupational
2 licenses for certain applicants; temporary emergency licenses;
3 electronic credentials; amending K.S.A. 2020 Supp. 48-3406 and
4 repealing the existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2020 Supp. 48-3406 is hereby amended to read as
8 follows: 48-3406. (a) For the purposes of this section:

9 (1) *"Applicant" means an individual who is a military spouse,*
10 *military servicemember or an individual who has established or intends to*
11 *establish residency in this state. "Applicant" with respect to law*
12 *enforcement certification by the Kansas commission on peace officers'*
13 *standards and training means an applicant who has met the employment*
14 *requirement pursuant to K.S.A. 74-5605(a), and amendments thereto.*

15 (2) *"Complete application" means the licensing body has received all*
16 *forms, fees, documentation, a signed affidavit stating that the*
17 *application information, including necessary prior employment*
18 *history, is true and accurate} and any other information required or*
19 *requested by the licensing body for the purpose of evaluating the*
20 *application, consistent with this section and the rules and regulations*
21 *adopted by the licensing body pursuant to this section. If the licensing*
22 *body has received all such forms, fees, documentation and any other*
23 *information required or requested by the licensing body, an application*
24 *shall be deemed to be a complete application even if the licensing body*
25 *has not yet received a criminal background report from the Kansas bureau*
26 *of investigation.*

27 (3) *"Licensing body" means an official, agency, board or other entity*
28 *of the state which authorizes individuals to practice a profession in this*
29 *state and issues a license, registration, certificate, permit or other*
30 *authorization to an individual so authorized;*

31 ~~(2)(4) "Military servicemember" means a current member of the~~
32 ~~army, navy, marine corps, air force, air or army any branch of the United~~
33 ~~States armed services, United States military reserves or national guard of~~
34 ~~any state, coast guard or any branch of the military reserves of the United~~
35 ~~States; and or a former member with an honorable discharge.~~

36 (3)(5) *"Military spouse" means the spouse of an individual who is*

1 currently in active service in any branch of the armed forces of the United
2 States a military servicemember.

3 (6) "Private certification" means a voluntary program in which a
4 private organization grants nontransferable recognition to an individual
5 who meets personal qualifications and standards relevant to performing
6 the occupation as determined by the private organization.

7 **{(7) "Scope of practice" means the procedures, actions, processes
8 and work that a person may perform under a government issued
9 license, registration or certification.}**

10 (b) Notwithstanding any other provision of law, any licensing body
11 shall:

12 ~~(1) —, upon submission of a completed complete application, issue a~~
13 ~~license, registration or certification to a nonresident military spouse an~~
14 ~~applicant {as provided by this section}, so that the nonresident military~~
15 ~~spouse applicant may lawfully practice the person's occupation; and~~

16 ~~(2) — upon submission of a completed application within six months~~
17 ~~following release from military service, issue a license, registration or~~
18 ~~certification to a military servicemember with an honorable discharge so~~
19 ~~that the military servicemember may lawfully practice the military~~
20 ~~servicemember's occupation.~~

21 ~~(c) A military servicemember with an honorable discharge or~~
22 ~~nonresident military spouse An applicant who holds a valid current~~
23 ~~license, registration or certification in another state, district or territory of~~
24 ~~the United States shall receive a license, registration or certification under~~
25 ~~subsection (b) of this section:~~

26 (1) *If the applicant qualifies under the applicable Kansas licensure,*
27 *registration or certification by endorsement, reinstatement or reciprocity*
28 *statutes, then pursuant to applicable licensure, registration or certification*
29 *by endorsement, reinstatement or reciprocity statutes of the licensing body*
30 *of this state for the profession license, registration or certification within*
31 *60 15 days from the date a complete application was submitted if the*
32 *applicant is a military servicemember or military spouse or within 45 days*
33 *from the date a complete application was submitted for all other*
34 *applicants; or*

35 (2) *if the applicant does not qualify under the applicable licensure,*
36 *registration or certification by endorsement, reinstatement or reciprocity*
37 *statutes of the licensing body of this state, or if the Kansas professional*
38 *practice act does not have licensure, registration or certification by*
39 *endorsement, reinstatement or reciprocity statutes, then the applicant shall*
40 *{may} receive a license, registration or certification as provided herein if,*
41 *at the time of application, the military servicemember or nonresident*
42 *military spouse applicant:*

43 (A) Holds a *valid* current license, registration or certification in

1 another state, district or territory of the United States with licensure,
2 registration or certification requirements that the licensing body
3 ~~determines are equivalent to~~ *authorize a similar scope of practice as* those
4 established by the licensing body of this state, *or holds a certification*
5 *issued by another state for practicing the occupation but this state*
6 *requires an occupational license, and the licensing body of this state*
7 *determines that the certification requirements certify a similar scope of*
8 *practice as the licensing requirements established by the licensing body of*
9 *this state;*

10 (B) *has worked for at least one year in the occupation for which the*
11 *license, certification or registration is sought;*

12 (C) *has not committed an act in any jurisdiction that would have*
13 *constituted grounds for the limitation, suspension or revocation of the*
14 *license, certificate or registration, or that the applicant has never been*
15 *censured or had other disciplinary action taken or had an application for*
16 *licensure, registration or certification denied or refused to practice an*
17 *occupation for which the ~~military servicemember or nonresident military~~*
18 *spouse applicant seeks licensure, registration or certification;*

19 ~~(C)~~(D) *has not been disciplined by a licensing, registering, certifying*
20 *or other credentialing entity in another jurisdiction and is not the subject of*
21 *an unresolved complaint, review procedure or disciplinary proceeding*
22 *conducted by a licensing, registering, certifying or other credentialing*
23 *entity in another jurisdiction nor has surrendered their membership on any*
24 *professional staff in any professional association or society or faculty for*
25 *another state or jurisdiction while under investigation or to avoid adverse*
26 *action for acts or conduct similar to acts or conduct ~~which~~ that would*
27 *constitute grounds for disciplinary action in a Kansas practice act;*

28 ~~(D)~~(E) *does not have a disqualifying criminal record as determined*
29 *by the licensing body of this state under Kansas law;*

30 (F) *provides proof of solvency, financial standing, bonding or*
31 *insurance if required by the licensing body of this state, but only to the*
32 *same extent as required of any applicant with similar credentials or*
33 *experience;*

34 (G) *pays any fees required by the licensing body of this state; and*

35 ~~(E)~~(H) *submits with the application a signed affidavit stating that the*
36 *application information, including necessary prior employment history, is*
37 *true and accurate.*

38 Upon receiving ~~such affidavit~~ *a complete application {and the*
39 **provisions of subsection (c)(2) apply and have been met by the**
40 **applicant}**, the licensing body shall issue the license, registration or
41 certification within ~~60~~ 15 days from the date a complete application was
42 submitted *by a military servicemember or military spouse, or within 45*
43 *days from the date a complete application was submitted by an applicant*

1 *who is not a military servicemember or military spouse, to the military*
 2 *servicemember or nonresident military spouse applicant on a probationary*
 3 *basis, but may revoke the license, registration or certification at any time if*
 4 *the information provided in the application is found to be false. Any The*
 5 *probationary license issued under this subsection to a military*
 6 *servicemember or nonresident military spouse period shall not exceed six*
 7 *months. Upon completion of the probationary period, the license,*
 8 *certification or registration shall become a non-probationary license,*
 9 *certification or registration.*

10 (d) ~~Any person applicant~~ who has not been in the active practice of
 11 the occupation during the two years preceding the application for which
 12 the applicant seeks a license, registration or certification ~~under subsections~~
 13 ~~(b) and (e) {subsection (c)(2)}~~ may be required to complete such
 14 additional testing, training, ~~mentoring,~~ monitoring or *continuing* education
 15 as the Kansas licensing body may deem necessary to establish the
 16 applicant's present ability to practice ~~with reasonable skill and safety in a~~
 17 *manner that protects the health and safety of the public, as provided by*
 18 *subsection ~~(k)~~ {(j)}.*

19 (e) ~~A nonresident military spouse~~ Upon submission of a complete
 20 application, an applicant ~~shall~~ **{may}** receive an occupational license,
 21 registration or certification ~~under subsection (b)~~ based on the applicant's
 22 work experience in another state, if the applicant:

23 (1) *Worked in a state that does not use an occupational license,*
 24 *registration ~~or~~ {,} certification {or private certification} to regulate an*
 25 *occupation, but this state uses an occupational license, registration or*
 26 *certification to regulate the occupation;*

27 (2) *worked for at least three years in the occupation during the four*
 28 *years immediately preceding the application; and*

29 (3) *satisfies the requirements of subsection ~~(e)(2)(B)~~ {(c)(2)(C)}*
 30 *through (H).*

31 (f) *Upon submission of a complete application, an applicant ~~shall~~*
 32 **{may}** *receive an occupational license, registration or certification under*
 33 *subsection (b) based on the applicant's holding of a private certification*
 34 *and work experience in another state, if the applicant:*

35 (1) *Holds a private certification and worked in a state that does not*
 36 *use an occupational license or government certification to regulate an*
 37 *occupation, but this state uses an occupational license or government*
 38 *certification to regulate the occupation;*

39 (2) *worked for at least two years in the occupation;*

40 (3) *holds a current and valid private certification in the occupation;*

41 (4) *is held in good standing by the organization that issued the*
 42 *private certification; and*

43 (5) *satisfies the requirements of subsection ~~(e)(2)(B)~~ {(c)(2)(C)}*

1 *through (H).*

2 (g) *An applicant* licensed, registered or certified under this section
3 shall be entitled to the same rights and subject to the same obligations as
4 are provided by the licensing body for Kansas residents, except that
5 revocation or suspension of ~~a nonresident military spouse's~~ *an applicant's*
6 license, registration or certificate in the ~~nonresident military spouse's~~
7 *applicant's* state of residence or any jurisdiction in which the ~~nonresident~~
8 ~~military spouse applicant~~ held a license, registration or certificate shall
9 automatically cause the same revocation or suspension of such ~~nonresident~~
10 ~~military spouse's applicant's~~ license, registration or certificate in Kansas.
11 No hearing shall be granted to ~~a nonresident military spouse~~ *an applicant*
12 where such ~~nonresident military spouse's applicant's~~ license, registration
13 or certificate is subject to such automatic revocation or suspension, except
14 for the purpose of establishing the fact of revocation or suspension of the
15 ~~nonresident military spouse's applicant's~~ license, registration or certificate
16 by the ~~nonresident military spouse's applicant's~~ state of residence or
17 *jurisdiction in which the applicant held a license, registration or*
18 *certificate.*

19 ~~(f)~~(h) In the event the licensing body determines that the license,
20 registration or certificate currently held by ~~the military servicemember or~~
21 ~~nonresident military spouse an applicant~~ under subsection ~~(e)(2)(A)~~ is **{(c)**
22 **(2) or the work experience or private credential held by an applicant**
23 **under subsections (e) or (f),}** *who is a* ~~nonresident military spouse or~~
24 ~~nonresident military servicemember~~ *does not* ~~equivalent to those~~ *authorize*
25 *a similar scope of practice as* ~~that~~ **{the license, registration or**
26 **certification}** issued by the licensing body of this state, the licensing body
27 ~~may~~ *shall* issue a temporary permit for a limited period of time to allow
28 ~~the military servicemember or nonresident military spouse applicant~~ to
29 lawfully practice the ~~military servicemember's or nonresident military~~
30 ~~spouse's applicant's~~ occupation while completing any specific
31 requirements that are required in this state for licensure, registration or
32 certification that ~~was~~ *were* not required in the state, district or territory of
33 the United States in which the ~~military servicemember or nonresident~~
34 ~~military spouse applicant~~ was licensed, registered, certified or otherwise
35 credentialed, *unless the licensing body finds, based on specific grounds,*
36 *that issuing a temporary permit would jeopardize the health and safety of*
37 *the public.*

38 (i) *In the event the licensing body determines that the license,*
39 *registration or certification currently held by an applicant under*
40 *subsection* ~~(e)(2)(A)~~ **{(c)(2) or the work experience or private credential**
41 **held by an applicant under subsections (e) or (f),}** *who is not a*
42 ~~nonresident military spouse or nonresident military servicemember,~~ *does*
43 *not authorize a similar scope of practice as* ~~that~~ **{the license, registration**

1 **or certification}** issued by the licensing body of this state, the licensing
2 body ~~shall~~ **{may}** issue a temporary permit for a limited period of time to
3 allow the applicant to lawfully practice the applicant's occupation while
4 completing any specific requirements that are required in this state for
5 licensure, registration or certification that was not required in the state,
6 district or territory of the United States in which the applicant was
7 licensed, registered, certified or otherwise credentialed, unless the
8 licensing body finds, based on specific grounds, that issuing a temporary
9 permit would jeopardize the health and safety of the public.

10 (j) ~~In the event that the licensing body determines that the private~~
11 ~~certification or work experience currently held by the applicant under~~
12 ~~subsection (e) or (f) is not sufficient to establish the applicant's present~~
13 ~~ability to practice in a manner that protects the health and safety of the~~
14 ~~public, the applicant may be required to complete such additional testing,~~
15 ~~training, monitoring or continuing education as the licensing body deems~~
16 ~~necessary. The applicant shall be issued a temporary permit for a limited~~
17 ~~period of time to allow the applicant to lawfully practice the occupation~~
18 ~~while completing any specific requirements unless the licensing body~~
19 ~~finds, based on specific grounds, that issuing a temporary permit would~~
20 ~~jeopardize the health and safety of the public.~~

21 ~~(k)—~~Any testing, continuing education or training requirements
22 administered under subsection (d), (h); **{or}** (i) ~~or (j)~~ shall be limited to
23 Kansas law that regulates the occupation and that are materially different
24 from or additional to the law of another state, or shall be limited to any
25 materially different or additional body of knowledge or skill required for
26 the occupational license, registration or certification in Kansas.

27 ~~(g)(f)~~**{(k)}** A licensing body may grant licensure, registration,
28 certification or a temporary permit to any person who meets the
29 requirements under this section but was separated from such military
30 service under less than honorable conditions or with a general discharge
31 under honorable conditions.

32 ~~(n)~~**{(l)}** Nothing in this section shall be construed to apply in conflict
33 with or in a manner inconsistent with federal law or a multistate compact,
34 or a rule or regulation or a reciprocal or other applicable statutory
35 provision that would allow an applicant to receive a license. Nothing in
36 this section shall be construed as prohibiting a licensing body from
37 denying any application for licensure, registration or certification, or
38 declining to grant a temporary or probationary license, if the licensing
39 body determines that granting the application may ~~endanger~~ **{jeopardize}**
40 the health and safety of the public.

41 ~~(n)~~**{(m)}** Nothing in this section shall be construed to be in conflict
42 with any applicable Kansas statute defining the scope of practice of an
43 occupation. The scope of practice as provided by Kansas law shall apply

1 to applicants under this section.

2 ~~(o)~~**{(n)}** Notwithstanding any other provision of law, during a state of
 3 emergency declared by the legislature, a licensing body may grant a
 4 temporary emergency license to practice any profession licensed, certified,
 5 registered or regulated by the licensing body to an applicant whose
 6 qualifications the licensing body determines to be sufficient to protect
 7 health and safety of the public and may prohibit any unlicensed person
 8 from practicing any profession licensed, certified, registered or regulated
 9 by the licensing body.

10 ~~(p)~~**{(o)}** Licensing bodies may provide electronic credentials to
 11 persons regulated by the licensing body. For purposes of this subsection,
 12 "electronic credential" means an electronic method by which a person
 13 may display or transmit to another person information that verifies a
 14 person's certification, licensure, registration or permit. A licensing body
 15 may prescribe the format or requirements of the electronic credential to be
 16 used by the licensing body. Any statutory or regulatory requirement to
 17 display, post or produce a credential issued by a licensing body may be
 18 satisfied by the proffer of an electronic credential authorized by the
 19 licensing body. A licensing body may use a third-party electronic
 20 credential system that is not maintained by the licensing body. Such
 21 electronic credential system shall include a verification system that is
 22 operated by the licensing body or its agent on behalf of the licensing body
 23 for the purpose of verifying the authenticity and validity of electronic
 24 credentials issued by the licensing body.

25 ~~(h)~~~~(q)~~**{(p)}** Each licensing body ~~may~~ shall adopt rules and regulations
 26 necessary to implement and carry out the provisions of this section.

27 ~~(i)~~~~(r)~~**{(q)}** This section shall not apply to the practice of law or the
 28 regulation of attorneys pursuant to K.S.A. 7-103, and amendments thereto.

29 ~~(s)~~**{(r)}** ~~The state board of healing arts shall not be exempt from the~~
 30 ~~provisions of this section, except that the board~~ **{and the state board of**
 31 **technical professions, with respect to an applicant who is seeking a**
 32 **license to practice professional engineering or engage in the practice of**
 33 **engineering, as defined in K.S.A. 74-7003, and amendments thereto,}**
 34 ~~may deny any~~ **{an}** application for licensure, registration or certification,
 35 or decline to grant a temporary or probationary license, if the board
 36 determines the applicant's qualifications are not substantially equivalent
 37 to those established by the board. **{Such boards shall not otherwise be**
 38 **exempt from the provisions of this act.}**

39 ~~(t)~~**{(s)}** This section shall apply to all licensing bodies not excluded
 40 under subsection ~~(s)~~ **{(q)}**, including, but not limited to:

- 41 (1) The abstracters' board of examiners;
- 42 (2) the board of accountancy;
- 43 (3) the board of adult care home administrators;

- 1 (4) *the secretary for aging and disability services, with respect to*
- 2 *K.S.A. 65-5901 et seq. and K.S.A. 65-6503 et seq., and amendments*
- 3 *thereto;*
- 4 (5) *the Kansas board of barbering;*
- 5 (6) *the behavioral sciences regulatory board;*
- 6 (7) *the Kansas state board of cosmetology;*
- 7 (8) *the Kansas dental board;*
- 8 (9) *the state board of education;*
- 9 (10) *the Kansas board of examiners in fitting and dispensing of*
- 10 *hearing instruments;*
- 11 (11) *the board of examiners in optometry;*
- 12 (12) *the state board of healing arts, as provided by subsection—(s)*
- 13 *{(r)};*
- 14 (13) *the secretary of health and environment, with respect to K.S.A.*
- 15 *82a-1201 et seq., and amendments thereto;*
- 16 (14) *the commissioner of insurance, with respect to K.S.A. 40-241*
- 17 *and 40-4901 et seq., and amendments thereto;*
- 18 (15) *the state board of mortuary arts;*
- 19 (16) *the board of nursing;*
- 20 (17) *the state board of pharmacy;*
- 21 (18) *the Kansas real estate commission;*
- 22 (19) *the real estate appraisal board;*
- 23 (20) *the state board of technical professions, as provided by*
- 24 **subsection (r); and**
- 25 (21) *the state board of veterinary examiners.*
- 26 ~~(t)~~**{(t)}** *All proceedings pursuant to this section shall be conducted in*
- 27 *accordance with the provisions of the Kansas administrative procedure act*
- 28 *and shall be reviewable in accordance with the Kansas judicial review act.*
- 29 ~~(u)~~**{(u)}** *Commencing on July 1, 2021, and each year thereafter, each*
- 30 *licensing body listed in subsection—(t)(1) {(s)(1)} through (21) shall*
- 31 *provide a report for the period of July 1 through June 30 to the director of*
- 32 *legislative research by August 31 of each year; providing information*
- 33 *requested by the director of legislative research to fulfill the requirements*
- 34 *of this subsection. The director of legislative research shall develop the*
- 35 *report format, prepare an analysis of the reports and submit and present*
- 36 *the analysis to the office of the governor, the committee on commerce,*
- 37 *labor and economic development of the house of representatives, the*
- 38 *committee on commerce of the senate, the committee on appropriations of*
- 39 *the house of representatives and the committee on ways and means of the*
- 40 *senate by January 15 of the succeeding year. The director's report may*
- 41 *provide any analysis the director deems useful and shall provide the*
- 42 *following items, detailed by applicant type, including military*
- 43 *servicemember, military spouse and non-military individual:*

1 (1) *The number of applications received under the provisions of this*
2 *section;*

3 (2) *the number of applications granted under this section;*

4 (3) *the number of applications denied under this section;*

5 (4) *the average time between receipt of the application and*
6 *completion of the application;*

7 (5) *the average time between receipt of a complete application and*
8 *issuance of a license, certification or registration; and*

9 (6) *identification of applications submitted under this section where*
10 *the issuance of credentials or another determination by the licensing body*
11 *was not made within the time limitations pursuant to this section and the*
12 *reasons for the failure to meet such time limitations.*

13 *All information shall be provided by the licensing body to the director*
14 *of legislative research in a manner that maintains the confidentiality of all*
15 *applicants and in aggregate form that does not permit identification of*
16 *individual applicants.*

17 Sec. 2. K.S.A. 2020 Supp. 48-3406 is hereby repealed.

18 Sec. 3. This act shall take effect and be in force from and after its
19 publication in the statute book.

SESSION OF 2021

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2066**

As Amended by House Committee of the Whole

Brief*

Sub. for HB 2066, as amended, would shorten the period of time in which regulatory bodies are required to issue occupational credentials to military servicemembers or military spouses seeking to establish residency in Kansas and provide for expedited credentialing of non-military prospective residents.

The bill would expand and clarify existing conditions on expedited occupational credentialing and permit temporary credentialing during states of emergency and the use of electronic credentials.

Expedited Credentialing

The bill would require licensing bodies to issue the appropriate credential to a military servicemember or spouse within 15 days from the date of the submission of a "complete application," as defined by the bill, or within 45 days for all other applicants. Currently, credentials are to be issued to military servicemembers and spouses within 60 days.

Probationary Credentialing

Current law requires expedited out-of-state credentials to be issued for a six-month probationary period for military servicemembers and military spouses who do not qualify

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

under the applicable Kansas law by endorsement, reinstatement, or reciprocity statutes, but meet certain other requirements. The bill would modify this provision by giving discretion to licensing bodies to grant credentials to applicants and would also modify the qualifications for credentialing, such that any applicant would be required to:

- Hold a valid out-of-state current credential from another state, district, or territory of the United States that authorizes a similar scope of practice, as defined by the bill. Current law requires the credential to be equivalent to that established by the relevant Kansas licensing body;
- Have worked for at least one year in the relevant occupation;
- Not have a disqualifying criminal record; and
- Show proof of solvency, financial standing, bonding, or insurance as required by the licensing body.

The bill would define “scope of practice” as procedures, actions, processes, and work a person may perform under a government-issued credential.

The bill would provide for probationary credentialing on the basis of work experience. Licensing bodies would be granted discretion to issue a probationary credential to an applicant who:

- Worked in an occupation that was not a regulated profession in the other state for at least three of the four immediately preceding years; and
- Does not hold a valid out-of-state current credential from another state, district, or territory of the United States that authorizes a similar scope of practice,

but who otherwise meet the requirements for probationary credentialing.

The bill would also provide for probationary credentialing on the basis of “private certification” as defined by the bill.

Licensing bodies would be granted discretion to issue a probationary credential to an applicant who:

- Holds a current and valid private certification;
- Worked in an occupation that was not a regulated profession in the other state for at least two years;
- Is in good standing by the organization that issued the private certification; and
- Otherwise meets the requirements for probationary credentialing.

The bill would grant the right to deny probationary credentials based on private certification or work experience if the licensing body finds on specific grounds that issuing a credential would jeopardize the health and safety of the public.

Temporary Permits

The bill would provide for licensing bodies to issue temporary occupational permits to applicants whose out-of-state credential, private certification, or work experience is determined by the licensing body to not authorize a similar scope of practice, provided that doing so would not jeopardize the health and safety of the public.

Temporary occupational permits would allow applicants to lawfully practice their occupation while completing any specific requirements to practice in Kansas that were not required in the other state.

Provided that an applicant meets all other qualifications:

- If the applicant is a military servicemember or spouse, a licensing body would be required to issue such permits, or
- If the applicant is not a military servicemember or spouse, a licensing body would have discretion to issue such permits.

State of Emergency Credentialing

The bill would permit licensing bodies to grant temporary licenses to practice during a state of emergency declared by the Legislature, if the licensing body determines the applicant's qualifications are sufficient to protect the health and safety of the public.

Electronic Credentialing

The bill would grant licensing bodies the ability to issue credentials that are valid for verification purposes when displayed electronically. Licensing bodies would be able to determine the format and requirements for the use of such credentials, including the use of third-party systems.

General Provisions

The bill would allow licensing bodies to allow an applicant who has not worked in their occupation for the preceding two years to complete additional testing, training, monitoring, or continuing education necessary to establish the applicant's ability to practice in a manner that protects the health and safety of the public. However, the bill would limit additional requirements to matters required by Kansas law that are materially different from the laws of the other state.

The bill would not be construed to conflict with federal law, multi-state compact, rule, regulation, reciprocal, or other statutory provision, or to prohibit a licensing body from denying a credential based upon the possible endangerment of the public health and safety. The bill would require all proceedings to be conducted in accordance with the Kansas Administrative Procedure Act and would be reviewable under the Kansas Judicial Review Act.

The bill would specify the provisions of the bill shall not be construed to be in conflict with any applicable Kansas scope of practice limitation and Kansas scopes of practice would apply to applicants receiving credentials under the provisions of the bill.

The bill would apply to all licensing bodies except those relevant to the practice of law or the regulation of attorneys. The bill specifically names the following bodies that would be subject to the provisions of the bill:

- Abstracters' Board of Examiners;
- Board of Accountancy;
- Board of Adult Care Home Administrators;
- Secretary for Aging and Disability Services (with respect to KSA 65-5901, *et seq.* and KSA 65-6503, *et seq.*);
- Kansas Board of Barbering;
- Behavioral Sciences Regulatory Board;
- Kansas State Board of Cosmetology;
- Kansas Dental Board;
- State Board of Education;

- Kansas Board of Examiners in Fitting and Dispensing of Hearing Instruments;
- Board of Examiners in Optometry;
- State Board of Healing Arts, the Secretary of Health and Environment (with respect to KSA 82a-1201, *et seq.*);
- Commissioner of Insurance (with respect to KSA 40-241 and 40-4901, *et seq.*);
- State Board of Mortuary Arts;
- Board of Nursing;
- State Board of Pharmacy;
- Kansas Real Estate Commission;
- Real Estate Appraisal Board;
- State Board of Technical Professions; and
- State Board of Veterinary Examiners.

The State Board of Healing Arts would be permitted to deny a credential or temporary license to an applicant if it is determined the individual's qualifications are not substantially equivalent to those established by the Board. This exemption would also apply to the State Board of Technical Professions, provided that an applicant is seeking a credential to practice engineering.

Starting on July 1, 2021, each licensing body listed in the bill would annually report information to the Director of Legislative Research (Director) by August 31, which would allow for the analysis of applications by applicant type (*i.e.*, military servicemember, military spouse, or non-military) and the number of applications received, granted, denied, the average length of time between receipt of the application and

the completion of the application, the average length of time between receipt of a complete application to the issuance of a credential (temporary or permanent), and identification by category of applicant in which the licensing body failed to meet the time limits specified in the bill and the reasons for the failure. Licensing bodies would be required to provide the information in a manner that would maintain applicants' confidentiality.

By January 15 of the succeeding year, the Director would report an analysis of the compilation to the Governor; the House Committee on Appropriations; the House Committee on Commerce, Labor and Economic Development; the Senate Committee on Commerce; and the Senate Committee on Ways and Means.

The bill would also make technical changes.

Background

The bill was introduced by Representatives Croft, Owens, Proctor, Tarwater, Thomas, and Wasinger.

[*Note:* The bill is a modified version of 2020 HB 2506, which passed the House during the 2020 Session. Supplemental notes on 2020 HB 2506 include additional background on its history.]

House Committee on Commerce, Labor and Economic Development

In the House Committee hearing, **proponent** testimony was submitted by Representative Croft and representatives of Americans for Prosperity-Kansas, Greater Kansas City Chamber of Commerce, Institute for Justice, Kansas Chamber of Commerce, Opportunity Solutions Project, Teladoc Health, United Women's Empowerment, and Wichita Regional Chamber of Commerce; and two private citizens.

Proponents of the bill indicated the expansion of expedited licensing would spur economic development by making it easier for people to move to Kansas to work.

Neutral testimony was provided by representatives of the Kansas Academy of Family Physicians, the Kansas Department of Commerce, the Kansas Medical Society, the Kansas Real Estate Commission, the Kansas Society of Professional Engineers, and the State Board of Healing Arts. These conferees noted concerns about a lack of clarity in certain provisions of the bill and potential unintended consequences if the bill is amended.

Opponent testimony was provided by a representative of the State Board of Technical Professions, who stated the bill would not adequately ensure the public safety of Kansans.

The House Committee recommended the bill as a substitute bill, which was modified from its form as introduced by adopting technical changes, clarifying definitions, removing a provision providing for credentialing for out-of-state telemedicine practice, clarifying that the licensees under the bill would be limited to Kansas scopes of practice, and strengthening the ability that licensing bodies would have to deny credentials to protect public health and safety. A motion to amend the bill to include the State Board of Technical Professions in the exception given to the State Board of Healing Arts failed.

House Committee of the Whole

The House Committee of the Whole adopted an amendment to the bill that would:

- Define “scope of practice,” as described above;
- Requiring applications to include a signed affidavit stating application information is true and accurate;

- Permit licensing bodies to exercise discretion in granting probationary credentials;
- Permit licensing bodies to exercise discretion in granting temporary credentials to non-military servicemembers or spouses;
- Extend the exemption given to the State Board of Healing Arts to deny applications to the State Board of Technical Professions, provided the applicant seeks an engineering credential; and
- Make technical changes to the bill.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Board of Accountancy, the Kansas State Board of Cosmetology, and the Department of Health and Environment each indicated the bill would not have a fiscal effect on their respective agencies. The Kansas Insurance Department, the Kansas Board of Barbering, the State Board of Mortuary Arts, the Real Estate Appraisal Board, and the State Board of Technical Professions each indicate the bill would affect their budgets, but the fiscal effects cannot be estimated.

The following agencies indicate the bill would increase expenditures by the following estimated amounts:

- The Behavioral Sciences Regulatory Board would require a total of \$81,400 for 2.0 FTE positions and \$5,000 for operating costs from the Behavioral Sciences Regulatory Board Fee Fund in FY 2022;
- The State Department of Education would require \$65,000 from the State General Fund for 1.0 FTE position;

- The State Board of Healing Arts would require \$14,120 in FY 2021 and \$48,485 in FY 2022 from the Healing Arts Fee Fund for 1.0 FTE position;
- The Board of Nursing would require less than \$2,000 from special revenue funds; and
- The State Board of Pharmacy would require \$35,750 for an additional 0.5 FTE position and \$7,500 in other costs.

Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Occupational licensing; occupational regulation; state residency