

KANSAS STATE BOARD OF HEALING ARTS

Summary of Proposed Temporary Regulations: K.A.R. 100-28a-1a, 100-28a-6, 100-28a-9, 100-28a-9a, 100-28a-10, 100-28a-11, 100-28a-12, 100-28a-13, 100-28a-14, 100-28a-15, 100-28a-17

K.A.R. 100-28a-1a. (new)

This is a new definitions regulation for terms used in the PA Act and implementing regulations. Some of the newly defined terms will replace current terms that have been used for several years that are either undefined or needed clarification.

K.A.R. 100-28a-6. (amended)

The purpose of this regulation is to specify a PA's scope of practice. The amendments reflect the upcoming January 11, 2016 statutory change in title from "responsible" to "supervising" physician; update language regarding physician-PA communication methods; clarify when a PA has authority to practice for patients with emergency medical conditions; and make other minor language clarifications.

K.A.R. 100-28a-9. (amended)

The purpose of this regulation is to detail the form requirements used to delineate a physician-PA supervisory relationship that is filed with the agency prior to a PA being permitted to practice. The amendments add more substantive and detailed information regarding each practice location, the supervising physician-PA relationship, delegated services and types of supervision, if applicable, substitute supervisor information, and include prescription drug dispensing authority which was added to K.S.A. 65-28a08 in the 2015 legislative session.

K.A.R. 100-28a-9a. (new)

This new regulation provides for a date by which current PA licensees already practicing under the prior "responsible physician request" form and a "protocol" will be required to submit the new "active practice request form" that includes a "written agreement." It also contains requirements for submitting amendments and maintaining the forms.

K.A.R. 100-28a-10. (amended)

This regulation details the requirements for supervision of a PA. The amendments to the regulation alter the nature of the regulation from one that sets a standard for adequate supervision to merely being a set of requirements. The rationale for this change is that the adequacy of supervision is often subjective and correlates closely with the standard of care for treating patients. Several of the requirements in this regulation are mostly technical in nature. The amendments also add the new dispensing authority. Lastly, a new requirement is added that the supervising physician only delegate acts that are within the physician's own competence and customary practice.

K.A.R. 100-28a-11. (amended)

The purpose of this regulation is to specify the communication requirements between PAs and physicians. The amendments update the physician titles and add “any treatment that exceeds the physician assistant’s competence” as a new circumstance that requires a PA to communicate with their supervising physician. New subsection (b) is added to address the procedure to be followed if a PA has to provide treatment beyond the scope of their authorized practice to a patient with an emergency medical condition.

K.A.R. 100-28a-12. (amended)

The purpose of this regulation is to specify the requirements for a substitute supervising physician in the supervising physician’s absence. The amendments to the regulation update physician titles and remove unnecessary language.

K.A.R. 100-28a-13. (amended)

The purpose of this regulation is to specify PAs’ prescription drug authority. The amendments to the regulation add dispensing authority to implement the corresponding 2015 statutory amendment in K.S.A. 65-28a08. Other minor language clarifications and updates are made throughout to conform to pharmacy regulation language and/or actual practice.

K.A.R. 100-28a-14. (amended)

This regulation sets requirements for a PA to practice at a different practice location. The amendments to the regulation update physician titles, clarify terms and add a requirement that different practice locations be specified in the PA’s active practice request form and written agreement.

K.A.R. 100-28a-15. (amended)

The purpose of this regulation is to specify the timeframe for when a PA license is cancelled. Current regulatory language indicates that a PA’s license will “expire.” The amendments to the regulation implement 2015 legislative changes to K.S.A. 65-28a03(b), by replacing the word “expire” with “cancelled” to remove confusion about whether a licensee was still licensed and able to practice with an expired license.

K.A.R. 100-28a-17. (amended)

This regulation specifies the limits on how many PAs a physician may supervise. The purpose of the amendments to the regulation is to effectuate the repeal of K.S.A. 65-28a10, which contained a strict 2-PA per physician limit, and implement the amendments to K.S.A. 65-2808(d) which give the Board authority to adopt regulations limiting the number of PAs that a supervising physician may supervise. Consequently, these amendments replace the 2-PA limit with substantive factors for a physician to consider in determining the number of PAs he or she is able to supervise. The amendments do place a 3-PA limit on the total number of PAs a supervising physician may supervise that practice at a different practice location, unless prior Board approval is received.

100-28a-1a. Definitions. As used in this article, each of the following terms shall have the meaning specified in this regulation:

(a) “Active practice request form” means the board-provided form that each physician assistant is required to submit to the board pursuant to K.S.A. 65-28a03, and amendments thereto, as a condition of engaging in active practice and that is signed by the physician assistant, supervising physician, and each substitute supervising physician. Each active practice request form contains a section called the written agreement.

(b) “Different practice location” means a practice location at which a supervising physician is physically present less than 20 percent of the time that the practice location provides medical services to patients. This term shall not include a medical care facility, as defined in K.S.A. 65-425 and amendments thereto.

(c) “Direct supervision” means a type of supervision in which the supervising physician or substitute supervising physician is physically present at the site of patient care and capable of immediately providing direction or taking over care of the patient.

(d) “Emergency medical condition” means the sudden and, at the time, unexpected onset of a person’s health condition that requires immediate medical attention, for which the failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part or would place the person’s health in serious jeopardy.

(e) “Indirect supervision” means a type of supervision in which the supervising physician or substitute supervising physician can be physically present at the site of patient care within 15 minutes to provide direct supervision.

(f) “Off-site supervision” means a type of supervision in which the supervising physician or substitute supervising physician is not physically present at the site of patient care but is immediately available by means of telephonic or electronic communication.

(g) “Practice location” means any location at which a physician assistant is authorized to practice, including a medical care facility as defined in K.S.A. 65-425 and amendments thereto.

(h) “Substitute supervising physician” means each physician designated by prior arrangement pursuant to K.S.A. 65-28a09, and amendments thereto, to provide supervision to the physician assistant if the supervising physician is temporarily unavailable.

(i) “Supervision” means oversight by a supervising physician or a substitute supervising physician of delegated medical services that may be performed by a physician assistant. The types of supervision shall include direct supervision, indirect supervision, and off-site supervision.

(j) “Written agreement” means the section of the active practice request form that specifies the agreed scope of authorized medical services and procedures and prescription-only drug authority for each physician assistant.

This regulation shall become effective on January 11, 2016. (Authorized by K.S.A. 2015 Supp. 65-28a02 and 65-28a08; implementing K.S.A. 2015 Supp. 65-28a03, 65-28a08, and 65-28a09; effective, T-_____, _____.)

100-28a-6. Scope of practice. A Any physician assistant may perform acts that constitute the practice of medicine and surgery ~~in the following instances~~ as follows:

(a) ~~If~~ When directly ordered, authorized, and coordinated by the ~~responsible or designated~~ supervising physician or substitute supervising physician through the ~~physician's immediate or that individual's~~ physician's physical presence;

(b) if when directly ordered, authorized, and coordinated by the ~~responsible or designated~~ supervising physician or substitute supervising physician through ~~radio, telephone, or other form of telecommunication~~ verbal or electronic communication;

(c) if when authorized ~~on~~ by the active practice request form ~~provided by, and presented~~ submitted to, the board by the physician assistant and the responsible supervising physician pursuant to K.S.A. 2000 Supp. 65-28a03 and amendments thereto as required by K.A.R. 100-28a-9; or

(d) if ~~an emergency exists~~ required to treat a patient with an emergency medical condition.

This regulation shall become effective on January 11, 2016. (Authorized by K.S.A. ~~2000-2015~~ Supp. 65-28a03; implementing K.S.A. ~~2000~~ 2015 Supp. 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-_____, _____.)

100-28a-9. Physician Active practice request form; content. The responsible physician active practice request form to be presented to the board pursuant to K.S.A. 2000 Supp. 65-28a03, and amendments thereto, submitted by each physician assistant shall contain the following information:

- (a) ~~The date and signatures of the responsible physician and the physician assistant;~~
- (b) ~~the license numbers of the responsible physician and the physician assistant;~~
- (c) ~~a description of the physician's practice and the way in which the physician assistant is to be utilized;~~
- (d) ~~a statement that the responsible physician will always be available for communication with the physician assistant within 30 minutes of the performance of patient service by the physician assistant;~~
- (e) ~~a completed drug prescription protocol on a form provided by the board specifying categories of drugs, medicines, and pharmaceuticals that the physician assistant will be allowed to prescribe, and the drugs within any category that the physician assistant will not be allowed to supply, prescribe, receive, or distribute;~~
- (f) ~~the name and address of each practice location, including hospitals, where the physician assistant will routinely perform acts that constitute the practice of medicine and surgery;~~
- (g) ~~signatures of all designated physicians who routinely provide direction and supervision to the physician assistant in the temporary absence of the responsible physician, and a description of the procedures to be followed to notify a designated physician in the responsible physician's absence;~~

~~(h) an acknowledgment that failure to adequately direct and supervise the physician assistant in accordance with K.S.A. 2000 Supp. 65-28a01 through K.S.A. 65-28a09, and amendments thereto, or regulations adopted under these statutes by the board, shall constitute grounds for revocation, suspension, limitation, or censure of the responsible physician's license to practice medicine and surgery in the state of Kansas;~~

~~(i) a statement that a current copy of the form will be maintained at each practice location of the responsible physician and the physician assistant and that any changes to the form will be provided to the board within 10 days; and~~

~~(j) an acknowledgment that the responsible physician has established and implemented a method for initial and periodic evaluation of the professional competency of the physician assistant and that evaluations will be performed at least annually. The name and license number of the physician assistant;~~

(b) the name and license number of the supervising physician;

(c) the name and license number of each substitute supervising physician;

(d) information about each practice location, including hospitals and other facilities,

which shall include the following:

(1) The street address and telephone number;

(2) a description of the type of medical services provided to patients;

(3) specification of whether the location is a different practice location and, if so, whether

the physician assistant has spent at least 80 hours since being licensed under the direct supervision of a physician licensed in this state; and

(4) the name of each substitute supervising physician who shall provide supervision to the physician assistant at the practice location if the supervising physician is temporarily unavailable;

(e) the written agreement, which shall contain the following information:

(1) A description of the medical services and procedures that the physician assistant may perform at each practice location;

(2) a list of any medical services and procedures that the physician assistant is prohibited from performing;

(3) any types of supervision required for specified medical services and procedures;

(4) the prescription-only drugs, including controlled substances and professional samples, that the physician assistant is authorized to prescribe, administer, dispense, or distribute;

(5) any specific exceptions to the physician assistant's authority to prescribe, administer, dispense, or distribute prescription-only drugs, including controlled substances and professional samples;

(6) a description of the procedure for communication between the supervising physician and the physician assistant if the physician assistant is at a different practice location; and

(7) a description of the procedure for notifying a substitute supervising physician if the supervising physician is unavailable;

(f) an acknowledgment that the supervising physician or a substitute supervising physician shall be available for communication with the physician assistant at all times during which the physician assistant could reasonably be expected to provide professional services;

(g) an acknowledgment that a current copy of the active practice request form shall be maintained at each practice location and that any amendments to the active practice request form shall be provided to the board within 10 days of being made;

(h) confirmation that the supervising physician has established and implemented a method for the initial, periodic, and annual evaluation of the professional competency of the physician assistant required by K.A.R. 100-28a-10;

(i) confirmation that the medical services and procedures that the physician assistant is authorized to perform are within the clinical competence and customary practice of the supervising physician and all substitute supervising physicians; and

(j) the dated signatures of the physician assistant, supervising physician, and all substitute supervising physicians.

This regulation shall become effective on January 11, 2016. (Authorized by and implementing K.S.A. ~~2000~~ 2015 Supp. 65-28a03 and 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-_____, _____.)

100-28a-9a. Active practice request form; requirements. (a) Each physician assistant who requests to engage in active practice on or after January 11, 2016 shall submit to the board an active practice request form that contains the information required by K.A.R. 100-28a-9.

(b) Each physician assistant actively practicing before January 11, 2016 shall submit to the board on or before July 1, 2016 an active practice request form that contains the information required by K.A.R. 100-28a-9.

(c) Each physician assistant shall submit to the board, on a board-provided form, any subsequent amendments to the information on that individual's active practice request form within 10 days of the amendment being made.

(d) Each physician assistant shall maintain a current copy of the active practice request form at each practice location.

This regulation shall become effective on January 11, 2016. (Authorized by and implementing K.S.A. 2015 Supp. 65-28a03 and 65-28a08; effective, T-_____, _____.)

100-28a-10. Supervision and direction; adequacy Supervising physician. (a) ~~Direction and supervision of the physician assistant shall be considered to be adequate if the responsible physician meets~~ Each supervising physician shall meet all of the following requirements:

- (1) ~~Engages~~ Engage in the practice of medicine and surgery in Kansas;
- (2) ~~verifies~~ verify that the physician assistant has a current license issued by the board;
- (3) at least annually, ~~reviews, evaluates, and determines~~ review, evaluate, and determine whether the physician assistant has performed patient services constituting the practice of medicine and surgery with professional competence and with reasonable skill and safety;
- (4) at least annually, ~~reviews any drug prescription protocol~~ review the active practice request form required by K.A.R. 100-28a-9 and determines determine if any ~~modifications, restrictions, or terminations~~ amendments are ~~required~~ necessary. Each ~~modification, restriction, or termination~~ amendment shall be conveyed to the physician assistant ~~and set forth,~~ specified in all copies of the ~~drug prescription protocol required by K.A.R. 100-28a-9~~ active practice request form, and provided to the board within 10 days of being made;
- (5) ~~reports~~ report to the board any knowledge of disciplinary hearings, formal hearings, public or private censure, or other disciplinary action taken against the physician assistant by any state's licensure or registration authority or any professional association.

The ~~responsible~~ supervising physician shall report this information to the board within 10 days of receiving notice of the information;

- (6) ~~reports~~ report to the board the termination of responsibility by the ~~responsible~~ supervising physician or any litigation alleging conduct by the physician assistant that would constitute grounds for disciplinary action under the physician assistant licensure act.

The ~~responsible~~ supervising physician shall report this information to the board within 10 days of receiving notice of the information;

~~(7) reviews and authenticates each patient record of treatment provided by a physician assistant in an emergency situation if the treatment exceeded the authority granted to the physician assistant by the responsible physician in the responsible physician request form. The responsible physician shall perform the review and authentication of the patient record within 48 hours of the treatment;~~

~~(8) provides~~ arrange for a ~~designated~~ substitute supervising physician to provide supervision ~~and direction~~ on each occasion when the ~~responsible~~ supervising physician is temporarily absent, is unable to be immediately contacted by telecommunication, or is otherwise unavailable at a any time the physician assistant could reasonably be expected to provide professional services; and

~~(9) (8) delegates~~ delegate to the physician assistant only those acts that constitute the practice of medicine and surgery ~~that~~ and meet the following conditions:

(A) The responsible supervising physician believes or has reason to believe that the acts can be competently performed by the physician assistant, based upon the physician assistant's background, training, capabilities, skill, and experience; and

(B) the acts are within the supervising physician's clinical competence and customary practice.

(b) The ~~responsible~~ supervising physician shall develop and implement a written method for evaluating whether the physician assistant has performed patient services constituting the

practice of medicine and surgery with professional competence and with reasonable skill and safety, ~~in accordance with the provisions of the responsible physician request form.~~

(1) During the first ~~90~~ 30 days of the ~~responsible~~ supervising physician-physician assistant supervisory relationship, the ~~responsible~~ supervising physician shall review and authenticate all medical records ~~and charts~~ of each patient evaluated or treated by the physician assistant within ~~14~~ seven days of the date the physician assistant evaluated or treated the patient. The ~~responsible~~ supervising physician shall authenticate each record ~~and chart~~ by original signature or initials and shall record the date of the review. Electronically generated signatures shall be acceptable if reasonable measures have been taken to prevent unauthorized use of the electronically generated signature.

(2) After the first ~~90~~ 30 days of the ~~responsible~~ supervising physician-physician assistant supervisory relationship, the ~~responsible~~ supervising physician shall document the periodic review and evaluation of the physician assistant's performance required by paragraph (a)(3), which may include the review of patient records ~~and charts~~. The ~~written review and evaluation shall be signed by the responsible supervising physician and the physician assistant. This documentation shall be kept on file~~ shall sign the written review and evaluation and maintain a copy at each practice location ~~and, which~~ shall be made available to the board upon request.

(c) Except as otherwise required by K.A.R. 100-28a-13, a ~~responsible~~ supervising physician shall not be required to cosign orders or prescriptions written in a patient's medical record ~~or chart~~ by a physician assistant to whom the ~~responsible~~ supervising physician has delegated the performance of services constituting the practice of medicine and surgery.

This regulation shall become effective on January 11, 2016. (Authorized by K.S.A. ~~2010-2015~~ Supp. 65-28a03 and 65-28a08; implementing K.S.A. 2015 Supp. 65-28a02, 65-28a08, and ~~K.S.A.~~ 65-28a09; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended May 15, 2009; amended March 30, 2012; amended, T-_____, _____.)

100-28a-11. Duty to communicate; emergency medical conditions. ~~The~~ (a) Except as specified in subsection (b), each physician assistant shall communicate with the responsible supervising physician or designated substitute supervising physician concerning a patient's condition if the physician assistant believes that the patient's condition may require either of the following:

(1) Any treatment that the physician assistant has not been authorized to perform; or

(2) any treatment that exceeds the physician assistant's competence.

(b) If a patient has an emergency medical condition requiring immediate treatment that the physician assistant has not been authorized to perform, the physician assistant shall communicate with the supervising physician or substitute supervising physician concerning the patient's emergency medical condition as soon as is clinically feasible. The physician assistant shall document that individual's communication with the supervising physician or substitute supervising physician in the patient's medical record.

This regulation shall become effective on January 11, 2016. (Authorized by K.S.A. ~~2000-2015~~ Supp. 65-28a03; implementing K.S.A. ~~2000 2015~~ Supp. 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-_____, _____.)

100-28a-12. ~~Designated~~ Substitute supervising physician. If a ~~designated~~ substitute supervising physician ~~directs and~~ supervises a physician assistant, the ~~designated~~ substitute supervising physician shall ~~be deemed to have~~ meet the same ~~duties and responsibilities~~ requirements as those of the ~~responsible~~ supervising physician.

This regulation shall become effective on January 11, 2016. (Authorized by K.S.A. 2000 ~~Supp.~~ 2015 Supp. 65-28a02 and 65-28a03; implementing K.S.A. 2000 ~~Supp.~~ 2015 Supp. 65-28a02 and 65-28a09; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-_____, _____.)

100-28a-13. Prescription-only drugs. (a) ~~A~~ Any physician assistant may ~~prescribe a prescription-only drug or administer or supply~~ administer, prescribe, distribute, or dispense a prescription-only drug pursuant to K.S.A. 65-28a08, and amendments thereto, as authorized by the ~~drug prescription protocol~~ written agreement required by K.A.R. 100-28a-9 and as authorized by this regulation.

(b) As used in this regulation, "emergency situation" shall have the meaning ~~ascribed to~~ specified in K.A.R. 68-20-19~~(a)(5)~~.

(c) ~~A~~ Any physician assistant may directly administer a prescription-only drug as follows:

(1) If directly ordered or authorized by the ~~responsible~~ supervising physician or ~~designated~~ substitute supervising physician;

(2) if authorized by a written ~~drug prescription protocol~~ agreement between the ~~responsible~~ supervising physician and the physician assistant; or

(3) if an emergency situation exists.

(d)(1) ~~A~~ Any physician assistant may prescribe a schedule II controlled substance in the same manner as that in which the physician assistant may perform acts that constitute the practice of medicine and surgery as specified in K.A.R. 100-28a-6. Except as specified in paragraph (d)(2), each prescription for a schedule II controlled substance shall be in writing.

(2) ~~A~~ Any physician assistant may, by oral or telephonic communication, ~~prescribe~~ authorize a schedule II controlled substance in an emergency situation. Within seven days after authorizing an emergency prescription order, the physician assistant

shall cause a written prescription, completed in accordance with appropriate federal and state laws, to be delivered to the dispenser of the drug.

(e) ~~A~~ Any physician assistant may orally, telephonically, electronically, or in writing prescribe a controlled substance listed in schedule III, IV, or V, or a prescription-only drug not listed in any schedule as a controlled substance in the same manner as that in which the ~~physician's~~ physician assistant may perform acts that constitute the practice of medicine and surgery as specified in K.A.R. 100-28a-6.

(f) Each written prescription order by a physician assistant shall meet the following requirements:

(1) Contain the name, address, and telephone number of the ~~responsible~~ supervising physician;

(2) contain the name, address, and telephone number of the physician assistant;

(3) be signed by the physician assistant with the letters "P.A." following the signature; and

(4) contain any DEA registration number issued to the physician assistant if a controlled substance is prescribed; ~~and~~

~~(5) indicate whether the prescription order is being transmitted by direct order of the responsible or designated physician, pursuant to a written protocol, or because of an emergency situation.~~

(g) ~~A~~ Any physician assistant may ~~supply~~ distribute a prescription-only drug to a patient only if all of the following conditions are met:

(1) ~~if~~ The drug is ~~supplied~~ distributed under the same conditions as those in which a physician assistant may directly administer a prescription-only drug, as described in subsection (b) ~~above~~;

(2) ~~if~~ The drug has been provided to the physician assistant or the physician assistant's ~~responsible~~ supervising physician or employer at no cost;

(3) ~~if~~ The drug is commercially labeled and is ~~supplied~~ distributed to the patient in the original prepackaged unit-dose container; ~~and~~.

(4) ~~if~~ The drug is ~~supplied~~ distributed to the patient at no cost.

(h) Any physician assistant may dispense a prescription-only drug to a patient under the limited circumstances specified in K.S.A. 65-28a08, and amendments thereto, in the same manner as that in which the physician assistant may perform acts that constitute the practice of medicine and surgery specified in K.A.R. 100-28a-6.

(i) A physician assistant shall not administer, supply, or prescribe, distribute, or dispense a prescription-only drug for any quantity or strength in excess of the normal and customary practice of the responsible supervising physician.

This regulation shall become effective on January 11, 2016. (Authorized by K.S.A. 2000-2015 Supp. 65-28a03 and 65-28a08; implementing K.S.A. 2000 2015 Supp. 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-_____, _____.)

100-28a-14. Different practice location. ~~(a) "Different practice location" means an office or location that is maintained or utilized by a responsible physician to regularly meet patients or to receive calls and that is not the primary practice location of the responsible physician.~~

~~(b)~~ A Any physician assistant may perform acts that constitute the practice of medicine and surgery at a different practice location ~~only~~ if all of the following ~~conditions~~ requirements are met:

~~(1)~~ (a) Before providing any services at the different practice location, the physician assistant ~~has~~ shall have spent ~~a minimum of~~ at least 80 hours since being licensed under the ~~immediate or physical~~ direct supervision and ~~direction~~ of a physician licensed in this state.

~~(2)~~ (b) A physician licensed in this state ~~periodically sees and treats patients at the different practice location~~ shall provide medical care to patients in person at the different practice location at least once every 30 days.

(c) The different practice location shall be listed on the active practice request form required by K.A.R. 100-28a-9.

~~(3)~~ (d) Written notice ~~is conspicuously posted~~ that the different practice location is staffed primarily by a physician assistant shall be posted in a location where the notice is likely to be seen by patients.

This regulation shall become effective on January 11, 2016. (Authorized by K.S.A. ~~2004-2015~~ Supp. 65-28a03 and 65-28a08; implementing K.S.A. 2015 Supp. 65-28a08; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended July 22, 2005; amended, T-_____, _____.)

100-28a-15. Licensure; ~~expiration~~ cancellation. (a) Except as specified in subsection (b), each physician assistant license issued by the board shall ~~expire~~ be cancelled on December 31 of each year.

(b) ~~A~~ Each license issued or reinstated from October 1 through December 31 shall ~~expire~~ be cancelled on December 31 of the following year.

This regulation shall become effective on January 11, 2016. (Authorized by and implementing K.S.A. ~~2000~~ 2015 Supp. 65-28a03; effective, T-100-2-13-01, Feb. 13, 2001; effective June 1, 2001; amended, T-_____, _____.)

100-28a-17. ~~Limitation on~~ Number of physician assistants supervised; limitation for different practice location. (a) ~~A responsible physician shall not provide direction and supervision to more than two physician assistants without the board's prior approval.~~

~~(b) Each responsible physician wishing to provide direction and supervision to more than two physician assistants shall provide a written and signed request to the board with the following information:~~

~~(1) The name of each physician assistant to whom the responsible physician proposes to provide direction and supervision; and~~

~~(2) the reason for the request.~~

~~(c) The reasons for requesting approval to provide direction and supervision to more than two physician assistants shall include at least one of the following:~~

~~(1) The usual number of hours worked each week by one or more of the physician assistants is less than full time.~~

~~(2) The usual number of days worked each week by one or more of the physician assistants is less than full time.~~

~~(3) One or more of the physician assistants will temporarily leave the responsible physician's direction and supervision. Except as otherwise specified in subsection (b), each supervising physician shall determine the number of physician assistants under the supervising physician's supervision. The supervising physician shall use professional judgment regarding that individual's ability to adequately supervise each physician assistant based upon the following factors:~~

(1) The supervising physician's ability to meet the requirements for supervision specified in K.A.R. 100-28a-10 for each physician assistant;

(2) the supervising physician's ability to provide the types of supervision that may be specified in the written agreement with each physician assistant;

(3) the specialty and setting of each practice location at which each physician assistant will provide services;

(4) the complexity of the patient population that each physician assistant will be treating;
and

(5) the clinical experience and competency of each physician assistant.

(b)(1) A supervising physician shall not supervise more than a total of three physician assistants who provide services at a different practice location under K.A.R. 100-28a-14, regardless of the number of different practice locations, without the prior approval of the board. A supervising physician shall not under any circumstances supervise more than five physician assistants who provide services at a different practice location.

(2) The approval to supervise more than a total of three physician assistants who will provide services at a different practice location may be granted by the board if the supervising physician submits a signed request on a board-provided form that meets the following requirements:

(A) Verifies that the combined number of work hours of all the physician assistants who will provide services at a different practice location will not exceed 200 hours per week; and

(B) demonstrates that the supervising physician is able to adequately supervise each physician assistant under the supervising physician's supervision based on the factors specified in subsection (a).

This regulation shall become effective on January 11, 2016. (Authorized by K.S.A. 2015 Supp. 65-28a03, as amended by L. 2004, Ch. 117, Sec. 17; implementing K.S.A. 65-28a10, as amended by L. 2004, Ch. 117, Sec. 7 2015 Supp. 65-28a08; effective July 22, 2005; amended, T-
_____, _____.)

**KANSAS STATE BOARD OF HEALING ARTS
ECONOMIC IMPACT STATEMENT**

**K.A.R. 100-28a-1a, 100-28a-6, 100-28a-9, 100-28a-9a, 100-28a-10, 100-28a-11, 100-28a-12,
100-28a-13, 100-28a-14, 100-28a-15, 100-28a-17**

Pursuant to the requirements of K.S.A. 77-416(b), the Kansas State Board of Healing Arts submits the following Economic Impact Statement relating to two new proposed temporary regulations and nine proposed temporary amended regulations that implement various provisions of the Physician Assistant Licensure Act (“PA Act”) which were amended during the 2014 and 2015 legislative sessions.

I. Summary of Proposed Temporary Regulations:

K.A.R. 100-28a-1a. (new)

This is a new definitions regulation for terms used in the PA Act and implementing regulations. Some of the newly defined terms will replace current terms that have been used for several years that are either undefined or needed clarification.

K.A.R. 100-28a-6. (amended)

The purpose of this regulation is to specify a PA’s scope of practice. The amendments reflect the upcoming January 11, 2016 statutory change in title from “responsible” to “supervising” physician; update language regarding physician-PA communication methods; clarify when a PA has authority to practice for patients with emergency medical conditions; and make other minor language clarifications.

K.A.R. 100-28a-9. (amended)

The purpose of this regulation is to detail the form requirements used to delineate a physician-PA supervisory relationship that is filed with the agency prior to a PA being permitted to practice. The amendments add more substantive and detailed information regarding each practice location, the supervising physician-PA relationship, delegated services and types of supervision, if applicable, substitute supervisor information, and include prescription drug dispensing authority which was added to K.S.A. 65-28a08 in the 2015 legislative session.

K.A.R. 100-28a-9a. (new)

This new regulation provides for a date by which current PA licensees already practicing under the prior “responsible physician request” form and a “protocol” will be required to submit the new “active practice request form” that includes a “written agreement.” It also contains requirements for submitting amendments and maintaining the forms.

K.A.R. 100-28a-10. (amended)

This regulation details the requirements for supervision of a PA. The amendments to the regulation alter the nature of the regulation from one that sets a standard for adequate supervision to merely being a set of requirements. The rationale for this change is that the adequacy of supervision is often subjective and correlates closely with the standard of care for treating patients. Several of the requirements in this regulation are mostly technical in nature. The amendments also add the new dispensing authority. Lastly, a new requirement is added that the

supervising physician only delegate acts that are within the physician's own competence and customary practice.

K.A.R. 100-28a-11. (amended)

The purpose of this regulation is to specify the communication requirements between PAs and physicians. The amendments update the physician titles and add "any treatment that exceeds the physician assistant's competence" as a new circumstance that requires a PA to communicate with their supervising physician. New subsection (b) is added to address the procedure to be followed if a PA has to provide treatment beyond the scope of their authorized practice to a patient with an emergency medical condition.

K.A.R. 100-28a-12. (amended)

The purpose of this regulation is to specify the requirements for a substitute supervising physician in the supervising physician's absence. The amendments to the regulation update physician titles and remove unnecessary language.

K.A.R. 100-28a-13. (amended)

The purpose of this regulation is to specify PAs' prescription drug authority. The amendments to the regulation add dispensing authority to implement the corresponding 2015 statutory amendment in K.S.A. 65-28a08. Other minor language clarifications and updates are made throughout to conform to pharmacy regulation language and/or actual practice.

K.A.R. 100-28a-14. (amended)

This regulation sets requirements for a PA to practice at a different practice location. The amendments to the regulation update physician titles, clarify terms and add a requirement that different practice locations be specified in the PA's active practice request form and written agreement.

K.A.R. 100-28a-15. (amended)

The purpose of this regulation is to specify the timeframe for when a PA license is cancelled. Current regulatory language indicates that a PA's license will "expire." The amendments to the regulation implement 2015 legislative changes to K.S.A. 65-28a03(b), by replacing the word "expire" with "cancelled" to remove confusion about whether a licensee was still licensed and able to practice with an expired license.

K.A.R. 100-28a-17. (amended)

This regulation specifies the limits on how many PAs a physician may supervise. The purpose of the amendments to the regulation is to effectuate the repeal of K.S.A. 65-28a10, which contained a strict 2-PA per physician limit, and implement the amendments to K.S.A. 65-2808(d) which give the Board authority to adopt regulations limiting the number of PAs that a supervising physician may supervise. Consequently, these amendments replace the 2-PA limit with substantive factors for a physician to consider in determining the number of PAs he or she is able to supervise. The amendments do place a 3-PA limit on the total number of PAs a supervising physician may supervise that practice at a different practice location, unless prior Board approval is received.

II. Federal Mandate:

These regulations are not mandated by any federal law.

III. Anticipated Economic Impact upon the Kansas Board of Healing Arts:

Costs to the State Board of Healing Arts would include legal, licensing and information technology staff time to change electronic and paper forms to conform to new and amended requirements. Additionally, staff time will be required to provide licensees with assistance in complying with new form requirements. It is also anticipated that staff time will be required to educate licensee and stakeholders on the regulations' changes.

IV. Anticipated Economic Impact upon Other Governmental Agencies and upon Private Business or Individuals:

Costs to PAs, physicians, and healthcare facilities would include time spent on updating, completing and submitting the new required forms, as well time required to become knowledgeable about the new regulations' provisions.

It is anticipated that the amended regulations will provide a positive economic impact on private individuals in that more PAs may have expanded practice opportunities in Kansas due to greater latitude afforded in their physician supervisory relationships and scope of practice which, in turn, should improve the general public's access to healthcare provided by these individuals.

V. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason for Rejection:

No other less costly or less intrusive methods were identified or considered for the purpose of these regulations.