

Neutral Testimony on HB2821
House Committee on Commerce, Labor, and Economic Development
Kansas State Board of Healing Arts
March 18, 2024

Chair Tarwater and Honorable Committee Members,

My name is Susan Gile, and I am the Executive Director of the Kansas State Board of Healing Arts (“Board”). The Board is the executive body tasked with licensing and regulating 16 healthcare professions in Kansas, including physicians, chiropractors, and physician assistants. The Board is composed of 15 members, 12 of whom are licensed healthcare professionals from various professions, including eight licensed physicians, three chiropractors, one podiatrist, and three public members. I appreciate the opportunity to provide neutral testimony regarding HB2821, which establishes a regulatory sandbox program through the office of the Attorney General.

As written, this bill would facilitate the creation of a regulatory sandbox program, allowing a person to “obtain legal protections and limited access to the market in the state to demonstrate an innovative offering without obtaining a license, certification registration or other authorization that might be required by state law; (New § 3 (A))”. Though the Board remains neutral on the passage of HB2821, we kindly request clarification/consideration of the below when evaluating this bill:

First – As presented, this bill’s objectives appear to overlap with the existing regulatory review framework. Under current law, *all* proposed rules and regulations are reviewed by the joint committee on administrative rules and regulations (“JCARR”) (K.S.A. 77-436 *et seq*). As part of this review (pursuant to K.S.A. 77-4421 *et seq*), agencies are required to provide 60 days notice and must hold a public hearing on the proposed regulation. Agencies are also required to review all existing rules & regulations and to submit a report to JCARR regarding the necessity of the rule/reg (K.S.A. 77-415 *et seq*)

The reports mandated by New § 3(f) could conceivably lead to increased staff workloads that detract from other agency operations. If passed, these provisions would require staff training on potential “innovative offerings” and the sandbox program licensure process. They may necessitate staff research into the history of the “innovative offering” (both in our state and others) and must be completed within a set timeframe. Depending on the number of sandbox applications, agency staff may be required to process multiple reports at one time, further impacting the agency’s ability to provide prompt and efficient service. We ask that the committee consider whether the aims of this legislation can be accomplished through existing frameworks.

Second, the definition of “innovative offering” needs to be clarified. This term is used 5 times within the bill, but there is no definition provided. What criteria determines whether an offering is innovative, and how is this defined? Before this bill is passed, we strongly encourage further discussion that better explains this term.

Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, KS 66612



phone: 785-296-7413
fax: 785-368-7102
Email: KSBHA_healingarts@ks.gov
www.ksbha.org

Susan Gile, Executive Director

Laura Kelly, Governor

Third, clarity is needed on the requirements for a sandbox program applicant. Would the requirements of New § 3(3) be in *addition* to the requirements for professional licensure? For patients, it is absolutely *paramount* that our healthcare providers prepared to provide any service authorized in their scope of practice. To fulfill our mission of **patient protection**, the Board ensures those who obtain licensure in the State meet and maintain specific qualifications. For example, the typical licensing application will at minimum request verification of the applicant's education and training – something not required by the bill as written, but absolutely necessary to ensure patient safety. If *only* an application to the sandbox program is required, we ask that the committee consider how this new application may be potentially misused by applicants seeking to circumvent the existing licensure process. If the requirements for the sandbox program are less stringent than those for normal licensure (e.g. no credential verification, lower fee amount), it may create parallel (but unequal) paths to licensure. This places consumers at a disadvantage, unable to accurately evaluate the credentials of their healthcare provider.

Lastly, we would like to call to your attention the proposed composition of the advisory committee. As written, the committee would be comprised of 6 members who represent business interests from “a variety of industries appointed by the director;”, 3 members who represent state agencies that license or regulate businesses, 1 member of the Senate, and 1 member of the House of Representatives. While we absolutely believe feedback from industry partners is important to effective regulation, we also ask the committee to consider whether the interests of the public will be adequately safeguarded by those with a direct financial interest in the decision.

Thank you again for this opportunity to provide these written comments. Should you have any questions, please feel free to contact me at 785-296-4385.

Susan Gile
Executive Director

BOARD MEMBERS: R. JERRY DEGRADO, DC, PRESIDENT, WICHITA • RICHARD BRADBURY, DPM, VICE PRESIDENT, SALINA • ABEBE ABEBE, MD, SHAWNEE
MARK BALDERSTON, DC, SHAWNEE • MOLLY BLACK, MD, SHAWNEE • ROBIN D. DURRETT, DO, GREAT BEND • TOM ESTEP, M.D., WICHITA
STEVEN J. GOULD, DC, CHENEY • CAMILLE HEEB, MD, TOPEKA • DAVID JORDAN, PUBLIC MEMBER, LAWRENCE • JENNIFER KOONTZ, MD, NEWTON
STEPHANIE SUBER, DO, LAWRENCE • RONALD M. VARNER, DO, AUGUSTA • SHERRI WATTENBARGER, PUBLIC MEMBER, LENEXA • KATHY WOLFE MOORE, PUBLIC MEMBER, KANSAS CITY