

Senate Commerce Committee  
January 27, 2021  
Written Opponent Testimony regarding Senate Bill 10

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Executive Administrator

Chairman Olson and Members of the Committee:

The Kansas State Board of Nursing licenses nurses and mental health technicians to practice within Kansas. Presently there are over 73,000 licensed nurses and mental health technicians in Kansas. The mission of the Board of Nursing is to assure the citizens of Kansas safe and competent practice by nurses and mental health technicians. SB 10 would impede the ability of the Board to fulfill their mission of public protection and opposes this bill for the following reasons:

- Our agency has 88 regulations that will need to be reviewed prior to July 1, 2022 and for each regulation the agency shall:
  - Articulate the public health, safety or welfare objectives served
  - Articulate the reasons the regulation is necessary
  - Analyze the effects of the regulation on opportunities for workers, consumer choices and costs, general unemployment, market competition, governmental costs and other costs
  - Compare the regulation to whether and how other states regulate the business or profession
  - If the regulation does not satisfy the standard set forth then the agency shall repeal, or recommend a modification to the regulation
- There will be the need for more Board meetings for the Board members to be involved in the review of the regulations in a short period of time. This is additional cost to the agency and time commitment for the Board members, most who have full-time jobs. Most Board meetings cost between \$500 - \$5,000 per meeting (based on whether in-person or via electronic method).
- The current process that must occur when a regulation needs to be modified or repealed is very cumbersome and time consuming. The changes to the process addressed in this bill will put a strain on several agencies to meet the timelines in this bill, which will lead to increased FTE to meet the timelines of this bill.
- Any person may petition our agency to repeal or modify any occupational regulation and we must within 90 days: repeal the regulation, modify the regulation or state in writing provided to the petitioner the basis of the agency's conclusion the occupational regulation conforms with the standard. This will require a legal evaluation of the regulation. This will affect the ability of our agency to protect the public if we have to utilize our disciplinary counsel attorneys to review the petition, analyze the occupational regulation and prepare a response within 90 days. If we have

our general counsel perform those functions that will greatly increase their time commitment with our agency and significantly increase the costs we pay for legal counsel.

- This bill authorizes any person to file an action in a court of general jurisdiction to challenge an occupational regulation. Upon a finding for the plaintiff, the court shall award reasonable attorney fees and costs to the plaintiff. The cost for this will be very difficult to project when submitting budgets. Therefore, due to the unknown costs it will be much more difficult for the agency to stay within the appropriated amount for their budget during a fiscal year.
- This bill creates a basis for civil litigation against our agency anytime a regulation affects the individual's path for an occupational license. It doesn't matter if they are qualified to practice the profession or if their professional conduct conforms to regulations that promote public safety. This endangers the ability of the Board of Nursing to regulate the profession to fulfill the mission of the Board of Nursing, which is public protection.

In conclusion, the Board of Nursing supports the concept of transparency with regulations and the need to have regulations that focus on public safety. However, SB 10 endangers the ability of the Board of Nursing to regulate nurses and licensed mental health technicians and negatively impacts the ability of the Board of Nursing to protect the public.

Thank you for your time in reviewing my testimony. I can be contacted on my cell (785-633-6101) or via email at [carol.moreland@ks.gov](mailto:carol.moreland@ks.gov) for questions or comments about my testimony.