

2020

SENATE BILL No. 366

By Committee on Commerce

AN ACT concerning occupational regulation; relating to occupational licenses for certain applicants; amending K.S.A. 2019 Supp. 48-3406 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2019 Supp. 48-3406 is hereby amended to read as follows: 48-3406.

(a) For the purposes of this section:

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

(2) "Complete application" means the licensing body has received all forms, fees, documentation and any other information required or requested by the licensing body for the purpose of evaluating the application, consistent with this section and the rules and regulations adopted by the licensing body pursuant to this section. If the licensing body has received all such forms, fees, documentation and any other information required or requested by the licensing body, an application shall be deemed to be a complete application even if the licensing body has not yet received a criminal background report from the Kansas bureau of investigation.

(~~3~~) "Licensing body" means an official, agency, board or other entity of the state which authorizes individuals to practice a profession in this state and issues a license, registration,

certificate, permit or other authorization to an individual so authorized;

(24) "Military servicemember" means a current member of the army, navy, marine corps, air force, air or army national guard of any state, coast guard or any branch of the military reserves of the United States; ~~and~~ or a former member with an honorable discharge.

(35) "Military spouse" means the spouse of an individual who is currently in active service in any branch of the armed forces of the United States.

~~(4) "Applicant" means an individual who is a military spouse, military servicemember or an individual who has established or intends to establish residency in this state.~~

~~(56) "Private certification" is means a voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications and standards relevant to performing the occupation as determined by the private organization.~~

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

~~(1) , upon submission of a completed application, issue a license, registration or certification to a nonresident military spouse~~ an applicant, so that the ~~nonresident military spouse~~ applicant may lawfully practice the person's occupation; and

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

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

(b) of this section:

(1) If the applicant qualifies under the applicable Kansas licensure, registration or certification by endorsement, reinstatement or reciprocity statutes are more favorable to applicants, as determined by the licensing body, then pursuant to applicable licensure, registration or certification by endorsement, reinstatement or reciprocity statutes of the licensing body of this state for the ~~profession~~ professional license, registration or certification within ~~60~~ 10 business 15 days from the date a complete application was submitted if the applicant is a military servicemember or military spouse or within 45 days from the date a complete application was submitted for all other applicants; or

(2) if such provisions are less favorable to applicants, as determined by the licensing body the applicant does not qualify under the applicable licensure, registration or certification by endorsement, reinstatement or reciprocity statutes of the licensing body of this state, or if the Kansas professional practice act does not have licensure, registration or certification by endorsement, reinstatement or reciprocity statutes, then the applicant shall receive a license, registration or certification as provided herein if, at the time of application, the ~~military servicemember or nonresident military spouse~~ applicant:

(A) Holds a valid current license, registration or certification in another state, district or territory of the United States with licensure, registration or certification requirements that the licensing body determines are substantially equivalent to those established by the licensing body of this state, or holds a certification issued by another state for practicing the occupation but this state requires an occupational license, and the licensing body determines that the certification requirements are substantially equivalent to the licensing requirements established by the licensing body of this state;

(B) has not committed an act in any jurisdiction that would have constituted grounds for

the limitation, suspension or revocation of the license, certificate or registration, or that the applicant has never been censured or had other disciplinary action taken or had an application for licensure, registration or certification denied or refused to practice an occupation for which the ~~military servicemember or nonresident military spouse~~ applicant seeks licensure, registration or certification;

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

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

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

(F) pays any fees required by the licensing body of this state; and

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

Upon receiving ~~such affidavit~~ a complete application, the licensing body shall issue the license, registration or certification within ~~60~~ 10 business 15 days from the date a complete application was submitted by a military servicemember or military spouse, or within 45 days from

the date a complete application was submitted by an applicant who is not a military servicemember or military spouse, to the ~~military servicemember or nonresident military spouse~~ applicant on a probationary basis, but may revoke the license, registration or certification at any time if the information provided in the application is found to be false. ~~Any~~ The probationary license issued ~~under this subsection to a military servicemember or nonresident military spouse~~ period shall not exceed six months. Upon completion of the probationary period, the license, certification or registration shall become a non-probationary license, certification or registration.

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

(e) Upon submission of a completed application, an applicant shall receive an occupational license, registration or certification under subsection (b) based on the applicant's work experience in another state, if the applicant:

(1) Worked in a state that does not use an occupational license, registration or certification to regulate an occupation, but this state uses an occupational license, registration or certification to regulate the occupation;

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

(3) satisfies the requirements of subsection (c)(2)(B) through (G).

(f) Upon submission of a completed application, an applicant shall receive an occupational license, registration or certification under subsection (b) based on the applicant's holding of a private certification and work experience in another state, if the applicant:

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

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

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

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

(5) satisfies the requirements of subsection (c)(2)(B) through (G).

(g) A nonresident military spouse applicant licensed, registered or certified under this section shall be entitled to the same rights and subject to the same obligations as are provided by the licensing body for Kansas residents, except that revocation or suspension of a nonresident military spouse's applicant's license, registration or certificate in the nonresident military spouse's applicant's state of residence or any jurisdiction in which the nonresident military spouse applicant held a license, registration or certificate shall automatically cause the same revocation or suspension of such nonresident military spouse's applicant's license, registration or certificate in Kansas. No hearing shall be granted to a nonresident military spouse applicant where such nonresident military spouse's applicant's license, registration or certificate is subject to such automatic revocation or suspension except for the purpose of establishing the fact of revocation or suspension of the nonresident military spouse's applicant's license, registration or certificate by the nonresident military spouse's applicant's state of residence.

(h) In the event the licensing body determines that the license, registration or certificate

currently held by the ~~military servicemember or nonresident military spouse~~ an applicant under subsection (c)(2)(A) who is a nonresident military spouse or nonresident military servicemember is not substantially equivalent to those issued by the licensing body of this state, the licensing body may shall issue a temporary permit for a limited period of time to allow the ~~military servicemember or nonresident military spouse~~ applicant to lawfully practice the ~~military servicemember's or nonresident military spouse's~~ applicant's occupation while completing any specific requirements that are required in this state for licensure, registration or certification that was not required in the state, district or territory of the United States in which the ~~military servicemember or nonresident military spouse~~ applicant was licensed, registered, certified or otherwise credentialed, unless the licensing body determines, based on specific grounds, that issuing a temporary permit would jeopardize the safety of the public. Any determination by the licensing body that the license, registration or certificate currently held by the applicant is not substantially equivalent shall be based on specific grounds. All determinations by the licensing body under this subsection or subsection (i) shall set forth the facts considered and the reasoning applied with respect to every specified ground of the determination and shall be provided to the applicant in writing within 10 business days of the date of the application.

(i) In the event the licensing body determines that the license, registration or certificate currently held by an applicant under subsection (c)(2)(A) who is not a nonresident military spouse or nonresident military servicemember is not substantially equivalent to those issued by the licensing body of this state, the licensing body may issue a temporary permit for a limited period of time to allow the applicant to lawfully practice the applicant's occupation while completing any specific requirements that are required in this state for licensure, registration or certification that was not required in the state, district or territory of the United States in which the applicant was

licensed registered, certified or otherwise credentialed.

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

(j) Any testing, continuing education or training requirements administered under subsection (d), (h), (i) or (i) shall be limited to Kansas law that regulates the occupation and that is materially different from or additional to the law of another state, or shall be limited to any materially different or additional body of knowledge or skill required for the occupational license, registration or certification in Kansas.

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

(m) Nothing in this section shall be construed as prohibiting a licensing body from applying a rule or regulation or a reciprocal or other applicable statutory provision that is more favorable to an applicant than the provisions of this section. Licensing bodies shall apply such provisions or the provisions of this section most favorable to applicants as determined by the

licensing body. Nothing in this section shall be construed to apply in conflict with or in a manner inconsistent with federal law or a multistate compact. Nothing in this section shall be construed to apply in conflict with or in a manner inconsistent with federal law or a multistate compact, or a rule or regulation or a reciprocal or other applicable statutory provision that would allow an applicant to receive a license. Nothing in this section shall be construed as prohibiting a licensing body from denying any application for licensure, certification or registration, or declining to grant a temporary or probationary license, if it determines that granting the application may endanger the public health, safety or welfare.

~~(h)(#n)~~ Each licensing body ~~may~~ shall adopt rules and regulations necessary to implement and carry out the provisions of this section.

~~(i)(#o)~~ This section shall not apply to the practice of law or the regulation of attorneys pursuant to K.S.A. 7-103, and amendments thereto.

~~(e)p)~~ This section shall apply to all licensing bodies not excluded under subsection (#o), including, but not limited to:

(1) The abstracters' board of examiners;

(2) the board of accountancy;

(3) the board of adult care home administrators;

(4) the secretary for aging and disability services, with respect to K.S.A. 65-5901 et seq.

and K.S.A. 65-6503 et seq., and amendments thereto;

(5) the Kansas board of barbering;

(6) the behavioral sciences regulatory board;

(7) the Kansas state board of cosmetology;

(8) the Kansas dental board;

(9) the state board of education;

(10) the Kansas board of examiners in fitting and dispensing of hearing instruments;

(11) the board of examiners in optometry;

(12) the state board of healing arts;

(13) the secretary of health and environment, with respect to K.S.A. 82a-1201 et seq., and amendments thereto;

(14) the commissioner of insurance, with respect to K.S.A. 40-241 and 40-4901 et seq., and amendments thereto;

(15) the state board of mortuary arts;

(16) the board of nursing;

(17) the state board of pharmacy;

(18) the Kansas real estate commission;

(19) the real estate appraisal board;

(20) the state board of technical professions; and

(21) the state board of veterinary examiners.

(p) All proceedings pursuant to this section, and amendments thereto, shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

(q) Commencing July 1, 2020, each licensing body listed in subsection (p)(1) through (21) shall provide a report for the period of July 1 through June 30 to the director of legislative research by August 31 of each year, providing information requested by the director of legislative research to fulfill the requirements of this subsection. The director of legislative research shall develop the report format and prepare an analysis of the reports and submit and present its analysis

to the office of the governor, committee on commerce, labor and economic development of the house, committee on commerce of the senate, committee on appropriations of the house and the committee on ways and means of the senate by January 15 of the succeeding year. The report may provide any analysis the Kansas legislative research department deems useful and shall provide the following items:

(1) The number of applications received under the provisions of this section by applicant type, including military servicemember, military spouse and non-military;

(2) the number of applications granted under this section by applicant type, including military servicemember, military spouse and non-military;

(3) the number of applications denied under this section by applicant type, including military servicemember, military spouse and non-military;

(4) the average time between receipt of the application and the completion of the application by applicant type, including military servicemember, military spouse and non-military;

(5) the average time between receipt of a complete application to issuance of a license, certification or registration by applicant type, including military servicemember, military spouse and non-military; and

(6) identification by category of applicant, including military servicemember, military spouse and non-military, of applications submitted under this section where the issuance of credentials or another determination by the licensing body was not made within the time limitations pursuant to this section and the reasons for the failure to meet such time limitations.

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

Sec. 2. K.S.A. 2019 Supp. 48-3406 is hereby repealed.

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