

UPDATED
SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2066

As Amended by House Committee on Health
and Human Services

Brief*

HB 2066, as amended, would amend the Kansas Nurse Practice Act by revising and creating definitions; establishing Advanced Practice Registered Nurse (APRN) requirements for certification, malpractice insurance coverage, Federal Drug Enforcement Administration registration, and prescribing authority; and providing rules and regulations authority. The bill would also create a program for transition to full practice as an APRN. Finally, the bill would amend the Health Care Provider Insurance Availability Act to include certain APRNs as defined healthcare providers and specify exemptions from this definition.

***Definitions—Kansas Nurse Practice Act and Health Care
Provider Insurance Availability Act***

The bill would revise the following definitions in the Kansas Nurse Practice Act:

- “Diagnosis” would mean in the context of nursing practice the identification of discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of nursing regimen. APRNs are educated and trained in using diagnoses and may develop primary and differential diagnoses within the APRN scope of practice;

*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>

- “Treatment” would mean the selection and performance of those therapeutic measures essential to effective implementation and management of the patient’s healthcare, determined by the nurse’s level of education; and
- “APRN” would mean a professional nurse who holds a license from the Board of Nursing (Board) to practice advanced practice nursing as a professional nurse in an advanced role, and this advanced role could be further defined by rules and regulations consistent with the Kansas Nurse Practice Act adopted by the Board.

The bill would create the following definitions in the Kansas Nurse Practice Act:

- The practice of professional nursing as an APRN, as defined in the bill, within the APRN role would mean in addition to the practice and responsibilities of professional nursing: conducting an advanced assessment; ordering and interpreting diagnostic procedures; establishing primary and differential diagnoses; prescribing, ordering, administering, and furnishing therapeutic measures as set forth by the Board; delegating and assigning therapeutic measures to assistive personnel; collaborating and consulting with physicians and other healthcare providers; providing referrals to healthcare providers, agencies, and community resources; and other acts that require education and training consistent with the professional standards and commensurate with the APRN’s education, certification, demonstrated competencies and experience;
- “Collaboration” would mean the process in which two or more healthcare professionals work together to meet the healthcare needs of a patient, as warranted by the patient; and

- “Consultation” would mean the process in which an APRN who maintains primary management responsibility for a patient’s care seeks advice or opinion of a physician or another member of the healthcare team.

The bill also would modify a defined “healthcare provider” and specify exceptions to the definition in the Health Care Provider Insurance Availability Act as follows:

- “Healthcare provider” would include an APRN licensed by the Board (required excess liability coverage *via* the Health Care Stabilization Fund); and
- “Healthcare provider” would not include an APRN holding an inactive license issued by the Board, practicing solely in employment for which the APRN is covered under the Federal Tort Claims Act or the Kansas Tort Claims Act, practicing solely as a charitable healthcare provider, or practicing solely while serving on active duty in the military of the United States.

APRN National Certification

The bill would require on and after July 1, 2020, for an applicant, an initial APRN license would have a current APRN certification in such applicant’s specific role granted by a national certifying organization recognized by the Board whose certification standards are approved by the Board as equal to or greater than the corresponding standards established by the Board.

Rules and Regulations

The bill would revise the Board's authority to adopt rules and regulations consistent with the Kansas Nurse Practice Act applicable to APRNs as follows:

- Titles describing the four APRN roles of certified register nurse anesthetist, clinical nurse specialist, certified nurse midwife, and certified nurse practitioner;
- Education and qualifications for APRN licensure established by the Board, including completion of an accredited graduate or post-graduate level APRN program in one of the APRN roles approved by the Board;
- Define the role of APRNs and establish limitations and restrictions on such role consistent with the Kansas Nurse Practice Act. In defining such role, the Board would be required to consider that advanced practice nursing is built on the practice of health promotion, health maintenance, illness prevention, diagnosis, treatment, and management of common health problems and acute and chronic conditions; and
- Require an APRN to wear identification that clearly identifies the nurse as such when providing direct patient care, unless wearing identification would create a safety or health risk to the nurse or patient.

Federal Drug Enforcement Administration Registration; Changes in Prescribing Authority and Protocol

The bill would authorize an APRN to procure and administer prescription drugs and controlled substances in schedules II through V pursuant to applicable federal and

state laws. Current law authorizes an APRN to prescribe drugs pursuant to a written protocol as authorized by a responsible physician, and the written protocol requirement would be deleted in the bill. The bill would require an APRN to include their name, address, and telephone number on a prescription order. The bill would authorize an APRN to register to prescribe controlled substances with the federal Drug Enforcement Administration, without providing the name of a responsible physician, and to notify the Board of the federal Drug Enforcement Administration registration, as prescribed in rules and regulations of the Board. The bill would require an APRN to comply with the federal Drug Enforcement Administration requirements related to controlled substances.

The bill would delete the definition of “responsible physician” in the Kansas Nurse Practice Act. The bill also would amend the definition of “mid-level practitioner” in the Uniform Controlled Substances Act by deleting the requirement for an APRN to be required to prescribe drugs pursuant to a written protocol with a responsible physician.

Malpractice Insurance

The bill would require an APRN to maintain malpractice insurance coverage in effect as a condition of rendering professional service as an APRN in Kansas and would be required to provide proof of insurance at the time of licensure and renewal of license. Medical malpractice insurance would not be required for an APRN who practices solely in employment for which the APRN is covered under the Federal Tort Claims Act or Kansas Tort Claims Act, practices solely as a charitable healthcare provider, or is serving on active duty in the military service of the United States (*Note:* These exceptions are also specified in the Health Care Provider Insurance Availability Act.)

Transition to Full Practice

The bill would require the Board to adopt rules and regulations establishing a program of transition to full practice as an APRN as follows:

- Any APRN who has less than 4,000 hours of licensed active practice as an APRN under a collaborative relationship with a physician would be required to undergo such transition program and any hours completed under a written protocol with a responsible physician prior to amendments made to this section by this act would not count towards the 4,000-hour requirement;
- A transition period APRN would not prescribe, procure, or administer prescription drugs, except as provided in the program. As part of the transition to full practice as an APRN, an APRN would complete 4,000 hours within a period of 3 years while maintaining a collaborative relationship with a physician or a full practice APRN for the prescription, procurement, and administration of prescription drugs by the transition period APRN;
- A transition period APRN would be allowed to engage in the practice of nursing as an APRN and would be allowed to prescribe, procure, and administer prescription drugs as part of the collaborative relationship;
- The Board would be required to specify the manner and form in which a transition period APRN would be allowed to identify and represent such credentials, professionally and to the public; and
- A transition period APRN would be required to complete any documentation required by the Board to demonstrate completion of the transition program prior to becoming a full practice APRN.

Upon successful completion of the transition program, the Board would be required to authorize the APRN to engage in the practice of APRN without the limitations imposed by the transition provisions and otherwise authorized by law.

The Board would be required to adopt rules and regulations as necessary to implement and administer the transition program.

The bill would define “full practice” with regard to the transition plan to mean the full extent of practice authorized under the Kansas Nurse Practice Act, and rules and regulations, without a written protocol with a responsible physician or a collaborative relationship with a physician. The bill also would define “physician” for the purpose of the transition plan to mean a person licensed by the State Board of Healing Arts to practice medicine and surgery.

Abortion Prohibition

The bill would prohibit an APRN from prescribing any drug that is intended to cause an abortion.

Effective Date

The bill would take effect on and after July 1, 2020, and its publication in the statute book.

Background

The bill was introduced by the House Committee on Health and Human Services at the request of Representative Ellis on behalf of a lobbyist representing the Kansas Advance Practice Nurses Association. In the House Committee hearing, proponent testimony was provided by five licensed APRNs, and representatives of AARP Kansas, Americans for Prosperity, Cerner, Kansas Advance Practice Nurses

Association, Kansas Chamber of Commerce, Kansas Midwives Alliance, Nurse Practitioners Association, and Oasis Family Medicine Associates. The proponents generally stated the bill would allow APRNs to treat patients without having a collaborative agreement with a physician and would expand access to healthcare. Written-only proponent testimony was provided by more than 15 private citizen APRNs, 2 private citizen physicians, 8 private citizens, and representatives of AARP Kansas, the American College of Nurse-Midwives, the Kansas Alliance of Advanced Nurse Practitioners, Newman College School of Business, Revere Healthcare Solutions Inc., The Heritage Foundation, Washburn University Department of Nursing, and the Western Kansas Rural Economic Development Alliance.

Opponent testimony was provided by a private citizen physician and representatives of the Kansas Academy of Family Physicians, the Kansas Medical Society, and Board. Opponents expressed concern the change in the diagnosis in statute would allow registered nurses and licensed practical nurses to perform acts they are not trained to perform and would eliminate restrictions on scope of practice. Written-only opponent testimony was provided by representatives of the Kansas Association of Osteopathic Medicine and the Kansas Chapter of the American Academy of Pediatrics.

Neutral testimony was provided by a representative from Kansans for Life requesting an amendment to the bill specifying an APRN may not prescribe any drug which is intended to cause an abortion.

The House Committee on Health and Human Services amended the bill to make changes as follows:

- Revise the definition of “diagnosis” by inserting language specific to diagnoses within the APRN scope of practice;
- Revise the definition of “healthcare provider” in the Health Care Provider Insurance Availability Act,

(addressing the Health Care Stabilization Fund) to include an APRN licensed by the Board;

- Revise the definition of what a healthcare provider does not include in the Health Care Provider Insurance Availability Act by inserting an APRN holding an inactive license issued by the Board, practicing solely in employment for which the APRN is covered under the Federal Tort Claims Act or the Kansas Tort Claims Act, practicing solely as a charitable healthcare provider, or practicing solely while serving on active duty in the military of the United States;
- Insert a program of transition to full practice as an APRN; and
- Prohibit an APRN from prescribing any drug that is intended to cause an abortion.

The House Committee recommended the bill favorably for passage, as amended, on February 25, 2019, but the bill was withdrawn from the House Calendar and referred to the House Committee on Appropriations on February 27, 2019. The bill was then withdrawn from the House Committee on Appropriations and rereferred to the House Committee on Health and Human Services on March 6, 2019. The House Committee again recommended the bill favorably for passage, as amended, on March 13, 2019.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Board indicates staff would need to update licensure software for validating national certification, compliance with federal drug enforcement requirements, and malpractice insurance. The Board further indicates communication would need to occur with all licensed APRNs and their employers about the change in requirements, rules and regulations would need updated, and research into national certifying organizations requirements would need to be completed. The Board

estimates fiscal effect on expenditures would be \$31,752 for updating software and communication. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.