

SESSION OF 2022

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2279**

As Recommended by Senate Committee on
Public Health and Welfare

Brief*

Senate Sub. for HB 2279 would amend provisions in the Kansas Nurse Practice Act (Act) governing the licensure of advanced practice registered nurses (APRNs) to, among other things, allow an APRN to prescribe drugs without a written protocol as authorized by a responsible physician, require an APRN to maintain malpractice insurance, and require national certification for initial licensure as an APRN. The bill also would modify the definition of "mid-level practitioner" in both the Pharmacy Act of the State of Kansas (Kansas Pharmacy Act) and the Uniform Controlled Substances Act to conform with amendments to the written protocol requirements within the Act.

The bill also would make technical amendments.

National Certification

The bill would require an applicant for initial licensure as an APRN, on and after July 1, 2023, to have a current APRN certification in such applicant's specific role and population focus granted by a national certifying organization recognized by the Board of Nursing (Board) and whose certification standards are approved by the Board as equal to or greater than the corresponding standards established by the Board. The bill would require an APRN whose initial licensure was granted prior to July 1, 2023, to submit evidence of such certification to the Board upon renewal.

*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>

Prescriptive Authority

The bill would remove language in the Act that currently permits an APRN to prescribe drugs pursuant to a written protocol as authorized by a responsible physician. The bill would instead allow an APRN to prescribe durable medical equipment and prescribe, procure, and administer any drug consistent with such licensee's specific role and population focus. The bill would specify any drug that is a controlled substance be prescribed, procured, or administered in accordance with the Uniform Controlled Substances Act. The bill would also prohibit an APRN from prescribing any drug that is intended to cause an abortion.

The bill would require an APRN, in order to prescribe controlled substances, to comply with federal Drug Enforcement Administration requirements related to controlled substances.

Malpractice Insurance

The bill would require an APRN to maintain malpractice insurance coverage as a condition of rendering professional clinical services as an APRN in Kansas and provide proof of insurance at the time of licensure and renewal of license.

The bill would specify the requirements related to malpractice insurance coverage would not apply to an APRN who:

- Practices solely in employment for which the APRN is covered under the Federal Tort Claims Act or the Kansas Tort Claims Act;
- Practices solely as a charitable health care provider under the Kansas Tort Claims Act; or
- Is serving on active duty in the U.S. Armed Forces.

Rules and Regulations

The bill would require the Board to adopt rules and regulations consistent with the Act applicable to APRNs.

Definitions

The bill would amend the definition of “mid-level practitioner,” as it appears in the Kansas Pharmacy Act and the Uniform Controlled Substances Act, to mean, among other things, a licensed APRN who has authority to prescribe drugs under the above-described provisions of the bill.

Other Provisions

The bill would require the Board to consider the scope and limitations of advanced practice nursing in accordance with state laws when defining the role of APRNs.

The bill would clarify the provisions of the Act that the bill amends do not supersede the requirements outlined in law related to the operation and licensure of an abortion facility.

Background

HB 2279, as introduced, would have enacted the Physical Therapy Licensure Compact and amended the Physical Therapy Practice Act. On February 21, 2022, the Senate Committee on Public Health and Welfare (Senate Committee) inserted the provisions of SB 454, as amended by the Senate Committee, and recommended a substitute bill.

[*Note:* The contents of HB 2279, as amended by the Senate Committee, were inserted into SB 170 during the conference committee process. The bill was passed by the Legislature and signed into law by the Governor on May 17, 2021.]

SB 454 (Advanced Practice Registered Nurses)

SB 454 was introduced by the Senate Committee on Public Health and Welfare.

Senate Committee on Public Health and Welfare

The Senate Committee had not held a hearing on SB 454 at the time its contents were inserted into HB 2279. During discussion and final action on SB 454, information from conferees was distributed to the Committee. A representative of the National Council of State Boards of Nursing provided **proponent** testimony. The proponent stated the bill would remove unnecessary regulation and help increase access to primary care among certain populations.

Written-only proponent testimony was provided by the Kansas Chamber, Kansas Justice Institute, Board of Nursing, Kansas State Nurses Association, and Mercatus Center at George Mason University.

A representative of the Kansas Academy of Family Physicians, Kansas Academy of Physician Assistants, Kansas Chapter of the American Academy of Pediatrics, and Kansas Medical Society provided **opponent** testimony. The opponent stated the bill would allow APRNs to practice medicine without the same training and regulation required of physicians and without limitations that would protect the public.

Written-only opponent testimony was provided by a representative of the Kansas Association of Osteopathic Medicine.

No other testimony was provided.

The Senate Committee amended SB 454 to:

- Require the Board to consider the scope and limitations of advanced practice nursing in accordance with state laws when defining the role of APRNs;
- Prohibit an APRN from prescribing any drug that is intended to cause an abortion;
- Clarify the provisions of the Act, which the bill would amend, do not supersede the requirements outlined in law related to the operation and licensure of an abortion facility; and
- Make a technical clarification.

The Senate Committee inserted the contents of SB 454, as amended, into HB 2279 and recommended a substitute bill be passed.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on SB 454, as introduced, the Board states additional fields would have to be added to the Board's licensure software to enable the Board to validate national certification and malpractice insurance. The Board also would need to communicate with all licensed APRNs and their employers about the change in requirements. The Board states staff would need to research the requirements of national certifying organizations for APRNs, prepare the information, and present the information to the Board for approval of certification standards. The Board estimates enactment of the bill would increase operating expenditures by \$40,600 from the Board Nursing Fee Fund for one-time costs. Any fiscal effect associated with the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Kansas Nurse Practice Act; advanced practice registered nurse; Board of Nursing; malpractice insurance; prescriptive authority; abortion; Uniform Controlled Substances Act; Pharmacy Act of the State of Kansas