Kansas State Board of Nursing
Special Board Meeting Notice

Date: February 4, 2019 @ 10:00 a.m.

Meeting Location: Conference Call
1-877-278-8686
Access Code: 342634

Landon State Office Building
900 SW Jackson, Room 1051
Topeka, KS  66612-1230

AGENDA:
House Bill 2066
AN ACT concerning advanced practice registered nurses; board of
nursing; relating to definition of practice; prescribing authority;
licensure requirements; rules and regulations; amending K.S.A. 65-
1130 and 65-4101 and K.S.A. 2017 Supp. 65-1113, as amended by
section 2 of chapter 42 of the 2018 Session Laws of Kansas and
repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:
Section 1. K.S.A. 2017 Supp. 65-1113, as amended by section 2 of
chapter 42 of the 2018 Session Laws of Kansas, is hereby amended to read
as follows: 65-1113. When used in this act and the act of which this
section is amendatory:
(a) "Board" means the board of nursing.
(b) "Diagnosis" in the context of nursing practice means—that the
identification of and discrimination between physical and psychosocial
signs and symptoms essential to effective execution implementation and
management of the nursing regimen and shall be construed as distinct from
patient's healthcare, determined by the nurse's level of
education.
(c) "Treatment" means the selection and performance of those
therapeutic measures essential to effective execution implementation and
management of the nursing regimen and any prescribed medical regimen
patient's healthcare, determined by the nurse's level of education.
(d) Practice of nursing. (1) The practice of professional nursing as
performed by a registered professional nurse for compensation or
gratuitously, except as permitted by K.S.A. 65-1124, and amendments
thereto, means the process in which substantial specialized knowledge
derived from the biological, physical, and behavioral sciences is applied
to: the: Care, diagnosis, treatment, counsel and health teaching of persons
who are experiencing changes in the normal health processes or who
require assistance in the maintenance of health or the prevention or
management of illness, injury or infirmity; administration, supervision or
teaching of the process as defined in this section; and the execution of the
medical treatment regimen as prescribed by a person licensed to practice
medicine and surgery—or, a person licensed to practice dentistry or a
person licensed to practice advanced practice registered nursing.
(2) The practice of nursing as a licensed practical nurse means the performance for compensation or gratuitously, except as permitted by K.S.A. 65-1124, and any amendments thereto, of tasks and responsibilities defined in paragraph (1), which tasks and responsibilities are based on acceptable educational preparation within the framework of supportive and restorative care under the direction of a registered professional nurse, a person licensed to practice medicine and surgery or a person licensed to practice dentistry.

(3) The practice of professional nursing as an advanced practice registered nurse as defined in subsection (g) within the APRN role means, in addition to the practice and responsibilities of professional nursing as defined in paragraph (1): 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.

(e) A "professional nurse" means a person who is licensed to practice professional nursing as defined in subsection (d)(1).

(f) A "practical nurse" means a person who is licensed to practice practical nursing as defined in subsection (d)(2).

(g) "Advanced practice registered nurse" or "APRN" means a professional nurse who holds a license from the board to function practice advanced practice registered nursing as defined in subsection (d)(3) as a professional nurse in an advanced role, and this advanced role shall may be further defined by rules and regulations consistent with the Kansas nurse practice act adopted by the board in accordance with K.S.A. 65-1130, and amendments thereto.

(h) "Continuing nursing education" means learning experiences intended to build upon the educational and experiential bases of the registered professional and licensed practical nurse for the enhancement of practice, education, administration, research or theory development to the end of improving the health of the public.

(i) "Collaboration" means the process in which two or more healthcare professionals work together to meet the healthcare needs of a patient, as warranted by the patient.

(j) "Consultation" means the process in which an advanced practice registered nurse who maintains primary management responsibility for a patient's care seeks advice or opinion of a physician or another member of
Sec. 2. K.S.A. 65-1130 is hereby amended to read as follows: 65-1130. (a) No professional nurse shall announce or represent to the public that such person is an advanced practice registered nurse unless such professional nurse has complied with requirements established by the board and holds a valid license as an advanced practice registered nurse in accordance with the provisions of this section.

(b) (1) The board shall establish standards and requirements for any professional nurse who desires to obtain licensure as an advanced practice registered nurse. Such standards and requirements shall include, but not be limited to, standards and requirements relating to the education of advanced practice registered nurses. The board may give such examinations and secure such assistance as it deems necessary to determine the qualifications of applicants.

(2) On and after July 1, 2020, for an applicant, an initial advanced practice registered nurse license shall have a current advanced practice registered nurse 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.

(c) The board shall adopt rules and regulations consistent with the Kansas nurse practice act applicable to advanced practice registered nurses which that:

(1) Establish roles and identify titles and abbreviations of advanced practice registered nurses which that are consistent with nursing practice specialties recognized by the nursing profession including titles describing the four APRN roles of certified registered nurse anesthetist, clinical nurse specialist, certified nurse midwife and certified nurse practitioner.

(2) Establish education and qualifications necessary for licensure for each role of advanced practice registered nurse established by the board at a level adequate to assure the competent performance by advanced practice registered nurses of functions and procedures which advanced practice registered nurses are authorized to perform. Advanced practice registered nursing is based on knowledge and skills acquired in Education and qualifications for APRN licensure established by the board shall include completion of basic nursing education, licensure as a registered nurse and graduation from or completion of a master's or higher degree an accredited graduate or post-graduate level APRN program in one of the advanced practice registered nurse roles approved by the board of nursing.

(3) Define the role of advanced practice registered nurses and establish limitations and restrictions on such role consistent with the Kansas nurse practice act. The board shall adopt a definition of the role under this paragraph which that is consistent with the education and
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qualifications required to obtain a license as an advanced practice
registered nurse— which that protects the public from persons performing
functions and procedures as advanced practice registered nurses for which
they lack adequate education and qualifications and— which that authorizes
advanced practice registered nurses to perform acts generally recognized
by the profession of nursing as capable of being performed, in a manner
consistent with the public health and safety, by persons with postbasic
education in nursing. In defining such role the board shall consider:
(A) The education required for a licensure as an advanced practice
registered nurse;
(B) the type of nursing practice and preparation in specialized
advanced practice skills involved in each role of advanced practice
registered nurse established by the board;
(C) the scope and limitations of advanced practice nursing prescribed
by national advanced practice organizations. 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
(D) acts recognized by the nursing profession as appropriate to be
performed by persons with postbasic education in nursing.
(4) Require an advanced practice registered nurse to wear
identification that clearly identifies the nurse as such when providing
direct patient care, unless wearing identification creates a safety or health
risk to the nurse or patient.
(d) (1) An advanced practice registered nurse may prescribe drugs
pursuant to a written protocol as authorized by a responsible physician.
Each written protocol shall contain a precise and detailed medical plan of
care for each classification of disease or injury for which the advanced
practice registered nurse is authorized to prescribe and shall specify all
drugs which may be prescribed by the advanced practice registered nurse.
Any written, procure and administer prescription drugs and controlled
substances in schedules II through V pursuant to applicable federal and
state laws.
(2) A prescription order shall include the name, address and telephone
number of the responsible physician. The advanced practice registered
nurse. An advanced practice registered nurse may not dispense drugs, but
may request, receive and sign for professional samples and may distribute
professional samples to patients—pursuant to a written protocol as
authorized by a responsible physician.
(3) In order to prescribe controlled substances, the advanced practice
registered nurse shall:(4)
(A) Register with the federal drug enforcement administration; and
(2)
(B) notify the board of the name and address of the responsible physician or physicians. In no case shall the scope of authority of the advanced practice registered nurse exceed the normal and customary practice of the responsible physician federal drug enforcement administration registration as prescribed by the rules and regulations of the board. An advanced practice registered nurse shall comply with the federal drug enforcement administration requirements related to controlled substances.

(4) An advanced practice registered nurse certified in the role of registered nurse anesthetist while functioning as a registered nurse anesthetist under K.S.A. 65-1151 through 65-1164, and amendments thereto, shall be subject to the provisions of K.S.A. 65-1151 through 65-1164, and amendments thereto, with respect to drugs and anesthetic agents and shall not be subject to the provisions of this subsection. For the purposes of this subsection, "responsible physician" means a person licensed to practice medicine and surgery in Kansas who has accepted responsibility for the protocol and the actions of the advanced practice registered nurse when prescribing drugs.

(5) An advanced practice registered nurse shall maintain malpractice insurance coverage in effect as a condition of rendering professional service as an advanced practice registered nurse in this state and shall provide proof of insurance at the time of licensure and renewal of license. The requirements of this paragraph shall not apply to an advanced practice registered nurse who: Practices solely in employment for which the advanced practice registered nurse is covered under the federal tort claims act or Kansas tort claims act; practices solely as a charitable healthcare provider under K.S.A. 75-6102, and amendments thereto; or is serving on active duty in the military service of the United States.

(e) As used in this section, "drug" means those articles and substances defined as drugs in K.S.A. 65-1626 and 65-4101, and amendments thereto.

(f) A person registered to practice as an advanced registered nurse practitioner in the state of Kansas immediately prior to the effective date of this act shall be deemed to be licensed to practice as an advanced practice registered nurse under this act and such person shall not be required to file an original application for licensure under this act. Any application for registration filed which that has not been granted prior to the effective date of this act shall be processed as an application for licensure under this act.

(g) An advanced practice registered nurse certified in the role of certified nurse-midwife and engaging in the independent practice of midwifery under the independent practice of midwifery act with respect to prescribing drugs shall be subject to the provisions of the independent practice of midwifery act and shall not be subject to the provisions of this section.
Sec. 3. K.S.A. 65-4101 is hereby amended to read as follows: 65-4101. As used in this act: (a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by: 

(1) A practitioner or pursuant to the lawful direction of a practitioner; or 

(2) the patient or research subject at the direction and in the presence of the practitioner. 

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common carrier, public warehouseman or employee of the carrier or warehouseman. 

(c) "Application service provider" means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server. 

(d) "Board" means the state board of pharmacy. 

(e) "Bureau" means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency. 

(f) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto. 

(g) (1) "Controlled substance analog" means a substance that is intended for human consumption, and at least one of the following: 

(A) The chemical structure of the substance is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; 

(B) the substance has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or 

(C) with respect to a particular individual, such individual represents or intends the substance to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto. 

(2) "Controlled substance analog" does not include: 

(A) A controlled substance; 

(B) a substance for which there is an approved new drug application; or
(C) a substance with respect to which an exemption is in effect for
investigational use by a particular person under section 505 of the federal
food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with
respect to the substance is permitted by the exemption.

(h) "Counterfeit substance" means a controlled substance which that,
or the container or labeling of which, without authorization bears the
trademark, trade name or other identifying mark, imprint, number or
device or any likeness thereof of a manufacturer, distributor or dispenser
other than the person who in fact manufactured, distributed or dispensed
the substance.

(i) "Cultivate" means the planting or promotion of growth of five or
more plants which that contain or can produce controlled substances.

(j) "DEA" means the U.S. department of justice, drug enforcement
administration.

(k) "Deliver" or "delivery" means the actual, constructive or
attempted transfer from one person to another of a controlled substance,
whether or not there is an agency relationship.

(l) "Dispense" means to deliver a controlled substance to an ultimate
user or research subject by or pursuant to the lawful order of a practitioner,
including the packaging, labeling or compounding necessary to prepare the
substance for that delivery, or pursuant to the prescription of a mid-level
practitioner.

(m) "Dispenser" means a practitioner or pharmacist who dispenses, or
a physician assistant who has authority to dispense prescription-only drugs
in accordance with K.S.A. 65-28a08(b), and amendments thereto.

(n) "Distribute" means to deliver other than by administering or
dispensing a controlled substance.

(o) "Distributor" means a person who distributes.

(p) "Drug" means: (1) Substances recognized as drugs in the official
United States pharmacopeia, official homeopathic pharmacopeia of the
United States or official national formulary or any supplement to any of
them; (2) substances intended for use in the diagnosis, cure, mitigation,
treatment or prevention of disease in human or animals; (3) substances
(other than food) intended to affect the structure or any function of the
body of human or animals; and (4) substances intended for use as a
component of any article specified in paragraph (1), (2) or (3). It does not
include devices or their components, parts or accessories.

(q) "Immediate precursor" means a substance which that the board
has found to be and by rule and regulation designates as being the
principal compound commonly used or produced primarily for use and
which that is an immediate chemical intermediary used or likely to be used
in the manufacture of a controlled substance, the control of which is
necessary to prevent, curtail or limit manufacture.
(r) "Electronic prescription" means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(s) "Electronic prescription application" means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber's computers and servers where access and records are controlled by the prescriber.

(t) "Electronic signature" means a confidential personalized digital key, code, number or other method for secure electronic data transmissions which that identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

(u) "Electronic transmission" means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber's electronic prescription application to a pharmacy's computer, where the data file is imported into the pharmacy prescription application.

(v) "Electronically prepared prescription" means a prescription that is generated using an electronic prescription application.

(w) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes, but is not limited to, transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

(x) "Intermediary" means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(y) "Isomer" means all enantiomers and diastereomers.

(z) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly by or extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own lawful use or the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner or the practitioner's agent pursuant to a lawful
order of a practitioner as an incident to the practitioner's administering or
dispensing of a controlled substance in the course of the practitioner's
professional practice; or
(2) by a practitioner or by the practitioner's authorized agent under
such practitioner's supervision for the purpose of or as an incident to
research, teaching or chemical analysis or by a pharmacist or medical care
facility as an incident to dispensing of a controlled substance.
(aa) "Marijuana" means all parts of all varieties of the plant Cannabis
whether growing or not, the seeds thereof, the resin extracted from any
part of the plant and every compound, manufacture, salt, derivative,
mixture or preparation of the plant, its seeds or resin. It does not include:
(1) The mature stalks of the plant, fiber produced from the stalks, oil or
cake made from the seeds of the plant, any other compound, manufacture,
salt, derivative, mixture or preparation of the mature stalks, except the
resin extracted therefrom, fiber, oil or cake or the sterilized seed of the
plant which that is incapable of germination; (2) any substance listed in
schedules II through V of the uniform controlled substances act; or (3)
cannabinol (other trade name: 2-[(3-methyl-6-(1-methylethenyl)-2-
cyclohexen-1-yl]-5-pentyl-1,3-benzenediol).
(bb) "Medical care facility" shall have the meaning ascribed to that
term in K.S.A. 65-425, and amendments thereto.
(cc) "Mid-level practitioner" means a certified nurse-midwife
engaging in the independent practice of midwifery under the independent
practice of midwifery act, an advanced practice registered nurse issued a
license pursuant to K.S.A. 65-1131, and amendments thereto, who has
authority to prescribe drugs pursuant to a written protocol with a
responsible physician under K.S.A. 65-1130, and amendments thereto, or a
physician assistant licensed under the physician assistant licensure act who
has authority to prescribe drugs pursuant to a written agreement with a
supervising physician under K.S.A. 65-28a08, and amendments thereto.
(dd) "Narcotic drug" means any of the following whether produced
directly or indirectly by extraction from substances of vegetable origin or
independently by means of chemical synthesis or by a combination of
extraction and chemical synthesis:
(1) Opium and opiate and any salt, compound, derivative or
preparation of opium or opiate;
(2) any salt, compound, isomer, derivative or preparation thereof
which that is chemically equivalent or identical with any of the substances
referred to in paragraph (1) but not including the isoquinoline alkaloids of
opium;
(3) opium poppy and poppy straw; or
(4) coca leaves and any salt, compound, derivative or preparation of
coca leaves, and any salt, compound, isomer, derivative or preparation
(ee) "Opiate" means any substance having an addiction-forming or addition-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(ff) "Opium poppy" means the plant of the species Papaver somniferum l. except its seeds.

(gg) "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(hh) "Pharmacist" means any natural person licensed under K.S.A. 65-1625 et seq., and amendments thereto, to practice pharmacy.

(ii) "Pharmacist intern" means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving such person's internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited, and who had successfully passed equivalency examinations approved by the board.

(jj) "Pharmacy prescription application" means software that is used to process prescription information, is installed on a pharmacy's computers and servers, and is controlled by the pharmacy.

(kk) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ll) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.

(mm) "Prescriber" means a practitioner or a mid-level practitioner.

(nn) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(oo) "Readily retrievable" means that records kept by automatic data processing applications or other electronic or mechanized recordkeeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.
(pp) "Ultimate user" means a person who lawfully possesses a controlled substance for such person's own use or for the use of a member of such person's household or for administering to an animal owned by such person or by a member of such person's household.

Sec. 4. K.S.A. 65-1130 and 65-4101 and K.S.A. 2017 Supp. 65-1113, as amended by section 2 of chapter 42 of the 2018 Session Laws of Kansas are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after July 1, 2020, and its publication in the statute book.
January 29, 2019

The Honorable Brenda Landwehr, Chairperson
House Committee on Health and Human Services
Statehouse, Room 352-S
Topeka, Kansas 66612

Dear Representative Landwehr:

SUBJECT: Fiscal Note for HB 2066 by House Committee on Health and Human Services

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2066 is respectfully submitted to your committee.

HB 2066 would amend the Nurse Practice Act. The bill would no longer require Advanced Practice Registered Nurses (APRNs) to establish a collaborative agreement with a responsible physician or have physician oversight of APRN practices. The bill would require proof of national certification for APRN licensure at the time of licensure and licensure renewal and the Board of Nursing would be required to recognize national certifying organizations whose certifications standards are equal to or greater than the corresponding standards established by the Board. The Board would need to include rules and regulations for the federal drug enforcement administration registration and monitor the APRN’s compliance with this requirement. APRNs would be able to prescribe medications independently and would need to maintain malpractice insurance coverage at the time of licensure and renewal of licensure. The Board would need to monitor the proof of malpractice insurance.

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According to the Board of Nursing, enactment of HB 2066 would have a fiscal effect on expenditures of the Board. The Board’s staff would need to update licensure software for validating national certification, compliance with federal drug enforcement requirements and malpractice insurance. 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 estimated fiscal effect on expenditures would be $31,752 for updating software and communication. Any fiscal effect associated with HB 2066 is not reflected in The FY 2020 Governor’s Budget Report.

Sincerely,

Larry L. Campbell
Director of the Budget

cc: Jill Simons, Board of Nursing