

1 AN ACT relating to prescriptive authority and making an appropriation therefor.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 314.042 is amended to read as follows:

- 4 (1) An applicant for licensure to practice as an advanced practice registered nurse shall
5 file with the board a written application for licensure and submit evidence, verified
6 by oath, that the applicant:
- 7 (a) Has completed an education program that prepares the registered nurse for one
8 (1) of four (4) APRN roles that has been accredited by a national nursing
9 accrediting body recognized by the United States Department of Education;
 - 10 (b) Is certified by a nationally established organization or agency recognized by
11 the board to certify registered nurses for advanced practice registered nursing;
 - 12 (c) Is able to understandably speak and write the English language and to read the
13 English language with comprehension; and
 - 14 (d) Has passed the jurisprudence examination approved by the board as provided
15 in subsection (12) of this section.
- 16 (2) The board may issue a license to practice advanced practice registered nursing to an
17 applicant who holds a current active registered nurse license issued by the board or
18 holds the privilege to practice as a registered nurse in this state and meets the
19 qualifications of subsection (1) of this section. An advanced practice registered
20 nurse shall be:
- 21 (a) Designated by the board as a certified registered nurse anesthetist, certified
22 nurse midwife, certified nurse practitioner, or clinical nurse specialist; and
 - 23 (b) Certified in at least one (1) population focus.
- 24 (3) The applicant for licensure or renewal thereof to practice as an advanced practice
25 registered nurse shall pay a fee to the board as set forth in regulation by the board.
- 26 (4) An advanced practice registered nurse shall maintain a current active registered
27 nurse license issued by the board or hold the privilege to practice as a registered

1 nurse in this state and maintain current certification by the appropriate national
2 organization or agency recognized by the board.

3 (5) Any person who holds a license to practice as an advanced practice registered nurse
4 in this state shall have the right to use the title "advanced practice registered nurse"
5 and the abbreviation "APRN." No other person shall assume the title or use the
6 abbreviation or any other words, letters, signs, or figures to indicate that the person
7 using the same is an advanced practice registered nurse. No person shall practice as
8 an advanced practice registered nurse unless licensed under this section.

9 (6) Any person heretofore licensed as an advanced practice registered nurse under the
10 provisions of this chapter who has allowed the license to lapse may be reinstated on
11 payment of the current fee and by meeting the provisions of this chapter and
12 regulations promulgated by the board pursuant to the provisions of KRS Chapter
13 13A.

14 (7) The board may authorize a person to practice as an advanced practice registered
15 nurse temporarily and pursuant to applicable regulations promulgated by the board
16 pursuant to the provisions of KRS Chapter 13A if the person is awaiting licensure
17 by endorsement.

18 (8) (a) Except as authorized by subsection (9) of this section, before an advanced
19 practice registered nurse engages in the prescribing or dispensing of
20 nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced
21 practice registered nurse shall enter into a written "Collaborative Agreement
22 for the Advanced Practice Registered Nurse's Prescriptive Authority for
23 Nonscheduled Legend Drugs" (CAPA-NS) with a physician licensed in
24 Kentucky that defines the scope of the prescriptive authority for nonscheduled
25 legend drugs.

26 (b) The advanced practice registered nurse shall notify the Kentucky Board of
27 Nursing of the existence of the CAPA-NS and the name of the collaborating

1 physician and shall, upon request, furnish to the board or its staff a copy of the
2 completed CAPA-NS. The Kentucky Board of Nursing shall notify the
3 Kentucky Board of Medical Licensure that a CAPA-NS exists and furnish the
4 collaborating physician's name.

5 (c) The CAPA-NS shall be in writing and signed by both the advanced practice
6 registered nurse and the collaborating physician. A copy of the completed
7 collaborative agreement shall be available at each site where the advanced
8 practice registered nurse is providing patient care.

9 (d) The CAPA-NS shall describe the arrangement for collaboration and
10 communication between the advanced practice registered nurse and the
11 collaborating physician regarding the prescribing of nonscheduled legend
12 drugs by the advanced practice registered nurse.

13 (e) The advanced practice registered nurse who is prescribing nonscheduled
14 legend drugs and the collaborating physician shall be qualified in the same or
15 a similar specialty.

16 (f) The CAPA-NS is not intended to be a substitute for the exercise of
17 professional judgment by the advanced practice registered nurse or by the
18 collaborating physician.

19 (g) The CAPA-NS shall be reviewed and signed by both the advanced practice
20 registered nurse and the collaborating physician and may be rescinded by
21 either party upon written notice to the other party and the Kentucky Board of
22 Nursing.

23 (9) (a) Before an advanced practice registered nurse may discontinue or be exempt
24 from a CAPA-NS required under subsection (8) of this section, the advanced
25 practice registered nurse shall have completed four (4) years of prescribing as
26 a certified nurse practitioner, clinical nurse specialist, certified nurse midwife,
27 or as a certified registered nurse anesthetist. For certified nurse practitioners

1 and clinical nurse specialists, the four (4) years of prescribing shall be in a
2 population focus as defined in KRS 314.011.

3 (b) After four (4) years of prescribing with a CAPA-NS in collaboration with a
4 physician:

- 5 1. An advanced practice registered nurse whose license is in good standing
6 at that time with the Kentucky Board of Nursing and who will be
7 prescribing nonscheduled legend drugs without a CAPA-NS shall notify
8 that board that the four (4) year requirement has been met and that he or
9 she will be prescribing nonscheduled legend drugs without a CAPA-NS;
- 10 2. The advanced practice registered nurse will no longer be required to
11 maintain a CAPA-NS and shall not be compelled to maintain a CAPA-
12 NS as a condition to prescribe after the four (4) years have expired, but
13 an advanced practice registered nurse may choose to maintain a CAPA-
14 NS indefinitely after the four (4) years have expired; and
- 15 3. If the advanced practice registered nurse's license is not in good
16 standing, the CAPA-NS requirement shall not be removed until the
17 license is restored to good standing.

18 (c) An advanced practice registered nurse wishing to practice in Kentucky
19 through licensure by endorsement is exempt from the CAPA-NS requirement
20 if the advanced practice registered nurse:

- 21 1. Has met the prescribing requirements in a state that grants independent
22 prescribing to advanced practice registered nurses; and
- 23 2. Has been prescribing for at least four (4) years.

24 (d) An advanced practice registered nurse wishing to practice in Kentucky
25 through licensure by endorsement who had a collaborative prescribing
26 agreement with a physician in another state for at least four (4) years is
27 exempt from the CAPA-NS requirement.

- 1 (10) (a) *Except as provided in subsections (13) and (14) of this section,* before an
2 advanced practice registered nurse engages in the prescribing of Schedules II
3 through V controlled substances as authorized by KRS 314.011(8), the
4 advanced practice registered nurse shall enter into a written "Collaborative
5 Agreement for the Advanced Practice Registered Nurse's Prescriptive
6 Authority for Controlled Substances" (CAPA-CS) with a physician licensed in
7 Kentucky that defines the scope of the prescriptive authority for controlled
8 substances.
- 9 (b) The advanced practice registered nurse shall notify the Kentucky Board of
10 Nursing of the existence of the CAPA-CS and the name of the collaborating
11 physician and shall, upon request, furnish to the board or its staff a copy of the
12 completed CAPA-CS. The Kentucky Board of Nursing shall notify the
13 Kentucky Board of Medical Licensure that a CAPA-CS exists and furnish the
14 collaborating physician's name.
- 15 (c) The CAPA-CS shall be in writing and signed by both the advanced practice
16 registered nurse and the collaborating physician. A copy of the completed
17 collaborative agreement shall be available at each site where the advanced
18 practice registered nurse is providing patient care.
- 19 (d) The CAPA-CS shall describe the arrangement for collaboration and
20 communication between the advanced practice registered nurse and the
21 collaborating physician regarding the prescribing of controlled substances by
22 the advanced practice registered nurse.
- 23 (e) The advanced practice registered nurse who is prescribing controlled
24 substances and the collaborating physician shall be qualified in the same or a
25 similar specialty.
- 26 (f) The CAPA-CS is not intended to be a substitute for the exercise of
27 professional judgment by the advanced practice registered nurse or by the

1 collaborating physician.

2 (g) ~~[Before engaging in the prescribing of controlled substances, the advanced~~
3 ~~practice registered nurse shall:~~

4 1. ~~Have been licensed to practice as an advanced practice registered nurse~~
5 ~~for one (1) year with the Kentucky Board of Nursing; or~~

6 2. ~~Be nationally certified as an advanced practice registered nurse and be~~
7 ~~registered, certified, or licensed in good standing as an advanced~~
8 ~~practice registered nurse in another state for one (1) year prior to~~
9 ~~applying for licensure by endorsement in Kentucky.~~

10 (h) ~~]~~Prior to prescribing controlled substances, the advanced practice registered
11 nurse shall obtain a Controlled Substance Registration Certificate through the
12 United States~~[U.S.]~~ Drug Enforcement Administration~~[Agency]~~.

13 ~~(h)~~~~(i)~~ The CAPA-CS shall be reviewed and signed by both the advanced
14 practice registered nurse and the collaborating physician and may be rescinded
15 by either party upon written notice to the other party and the Kentucky Board
16 of Nursing.

17 ~~(i)~~~~(j)~~ The CAPA-CS shall state the limits on controlled substances which may
18 be prescribed by the advanced practice registered nurse, as agreed to by the
19 advanced practice registered nurse and the collaborating physician. *The*
20 *CAPA-CS may include any limitations on drugs and amounts that may be*
21 *prescribed, as well as any requirements for the advanced practice registered*
22 *nurses to communicate with the collaborating physician before prescribing*
23 *a controlled substance. These agreements may be individualized to*
24 *accommodate variations in practice.* The limits so imposed may be more
25 stringent than either the schedule limits on controlled substances established
26 in KRS 314.011(8) or the limits imposed in regulations promulgated by the
27 Kentucky Board of Nursing thereunder.

1 ~~(j)(k)~~ Within thirty (30) days of obtaining a Controlled Substance Registration
2 Certificate from the United States Drug Enforcement Administration, and
3 prior to prescribing controlled substances, the advanced practice registered
4 nurse shall register with the electronic system for monitoring controlled
5 substances established by KRS 218A.202 and shall provide a copy of the
6 registration certificate to the board.

7 (11) Nothing in this chapter shall be construed as requiring an advanced practice
8 registered nurse designated by the board as a certified registered nurse anesthetist to
9 enter into a collaborative agreement with a physician, pursuant to this chapter or any
10 other provision of law, in order to deliver anesthesia care.

11 (12) The jurisprudence examination shall be prescribed by the board and be conducted
12 on the licensing requirements under this chapter and board regulations and
13 requirements applicable to advanced practice registered nursing in this
14 Commonwealth. The board shall promulgate administrative regulations in
15 accordance with KRS Chapter 13A, establishing the provisions to meet this
16 requirement.

17 **(13) (a) Except as provided in subsection (14) of this section, before an advanced**
18 **practice registered nurse who wishes to continue to prescribe controlled**
19 **substances may discontinue or be exempt from a CAPA-CS required under**
20 **subsection (10) of this section, the advanced practice registered nurse shall**
21 **have completed four (4) years of prescribing authority for controlled**
22 **substances, while maintaining a CAPA-CS, United States Drug**
23 **Enforcement Administration registration, and a master account with the**
24 **electronic system for monitoring controlled substances established by KRS**
25 **218A.202.**

26 **(b) On or after the effective date of this Act:**

27 **1. An advanced practice registered nurse who has had four (4) years of**

1 prescribing authority with a CAPA-CS and who wishes to prescribe
2 controlled substances without a CAPA-CS shall submit, via the APRN
3 update portal, a request for review from the Kentucky Board of
4 Nursing that the advanced practice registered nurse's license is in
5 good standing;

6 2. The advanced practice registered nurse shall not prescribe controlled
7 substances without a CAPA-CS until the board has completed its
8 review and has notified the advanced practice registered nurse in
9 writing that the advanced practice registered nurse is exempt from the
10 CAPA-CS requirement; and

11 3. The review request shall include the payment of a fee set by the board
12 through the promulgation of an administrative regulation.

13 (c) Upon receipt of a request pursuant to this subsection, the Kentucky Board
14 of Nursing shall perform a review to determine whether the license of the
15 advanced practice registered nurse is in good standing based upon an
16 evaluation of the criteria specified in this subsection and in the
17 administrative regulation promulgated by the board pursuant to this
18 subsection, including but not limited to:

19 1. Verification that a current United States Drug Enforcement
20 Administration registration certificate for the advanced practice
21 registered nurse is on file with the board;

22 2. Verification that a current CAPA-CS notification for the advanced
23 practice registered nurse is on file with the board;

24 3. Verification that the advanced practice registered nurse has an active
25 master account with the electronic system for monitoring controlled
26 substances pursuant to KRS 218A.202;

27 4. Verification through a criminal background check of the absence of

1 any unreported misdemeanor or felony convictions in Kentucky; and
2 5. Verification through a check of the coordinated licensure information
3 system specified in KRS 314.475 of the absence of any unreported
4 disciplinary actions in another state.

5 (d) Based on the findings of these actions, the Kentucky Board of Nursing shall
6 determine whether or not the advanced practice registered nurse's license is
7 in good standing for the purpose of removing the requirement for the
8 advanced practice registered nurse to have a CAPA-CS in order to prescribe
9 controlled substances.

10 (e) If the advanced practice registered nurse's license is found to be in good
11 standing, the advanced practice registered nurse shall be notified by the
12 board in writing that a CAPA-CS is no longer required. The advanced
13 practice registered nurse shall not be required to maintain a CAPA-CS as a
14 condition to prescribe controlled substances unless the board later imposes
15 such a requirement as part of an action instituted under KRS 314.091(1).
16 An advanced practice registered nurse may choose to maintain a CAPA-CS
17 indefinitely after the determination of good standing has been made. An
18 advanced practice registered nurse who chooses to practice without a
19 CAPA-CS shall be held to the same standard of care as all other providers
20 with prescriptive authority.

21 (f) If the advanced practice registered nurse's license is found not to be in good
22 standing, the CAPA-CS requirement shall not be removed until the license
23 is restored to good standing, as directed by the board.

24 (g) The Kentucky Board of Nursing may conduct random audits of the
25 prescribing practices of advanced practice registered nurses, including
26 those who are no longer required to have a CAPA-CS in order to prescribe,
27 through a review of data obtained from the electronic system for monitoring

1 controlled substances pursuant to KRS 218A.202 and may take disciplinary
2 action under KRS 314.091(1) if a violation has occurred.

3 (14) (a) An advanced practice registered nurse wishing to practice in Kentucky
4 through licensure by endorsement is exempt from the CAPA-CS
5 requirement if the advanced practice registered nurse:

6 1. Has met the prescribing requirements for controlled substances in a
7 state that grants such prescribing authority to advanced practice
8 registered nurses;

9 2. Has had authority to prescribe controlled substances for at least four
10 (4) years; and

11 3. Has a license in good standing as described in subsection (13) of this
12 section and in the administrative regulation promulgated by the board
13 pursuant to subsection (13) of this section.

14 (b) An advanced practice registered nurse wishing to practice in Kentucky
15 through licensure by endorsement who has had the authority to prescribe
16 controlled substances for less than four (4) years and wishes to continue to
17 prescribe controlled substances shall enter into a CAPA-CS with a
18 physician licensed in Kentucky until the cumulative four (4) year
19 requirement is met, after which the advanced practice registered nurse who
20 wishes to prescribe controlled substances without a CAPA-CS shall follow
21 the process identified in subsection (13) of this section and in the
22 administrative regulation promulgated by the board pursuant to subsection
23 (13) of this section.

24 (15) An advanced practice registered nurse shall not prescribe controlled substances
25 without a CAPA-CS until the board has completed its review and has notified the
26 advanced practice registered nurse in writing that the advanced practice
27 registered nurse is exempt from the CAPA-CS requirement.

1 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
2 READ AS FOLLOWS:

3 (1) There is hereby established the Controlled Substance Prescribing Review Panel
4 to provide investigations and referrals for action to the Kentucky Board of
5 Dentistry, the Kentucky Board of Medical Licensure, and the Kentucky Board of
6 Nursing.

7 (2) The panel shall be located within the Office of the Inspector General in the
8 Cabinet for Health and Family Services.

9 (3) The panel shall consist of:

10 (a) The inspector general, who shall act as chair;

11 (b) The executive director of the Kentucky Board of Dentistry;

12 (c) The executive director of the Kentucky Board of Medical Licensure;

13 (d) The executive director of the Kentucky Board of Nursing; and

14 (e) Three (3) licensed prescribers of controlled substances, of which one (1)
15 licensed prescriber shall be licensed by each the boards listed in subsection
16 (1) of this section. Each board shall provide to the Governor the names of
17 three (3) recommended licensees whose licenses are in good standing and
18 who currently prescribe controlled substances. The Governor shall appoint
19 one (1) of these recommended licensees as a representative of each board.

20 (4) Support staff, facilities, and resources for the meetings and work of the panel
21 shall be provided by the inspector general, including three (3) full-time
22 investigators, with one (1) full-time investigator assigned to each of the three (3)
23 boards serving on the panel for the sole purpose of conducting investigations of
24 controlled substance prescribing by licensees governed by the board through
25 which they are licensed, the funding for which shall come from the 2022 opioid
26 settlement fund.

27 (5) The panel shall:

- 1 (a) Review the quarterly reports issued by the Office of the Inspector General
2 pursuant to KRS 218A.202(17) that identify patterns of potential improper,
3 inappropriate, or illegal prescribing or dispensing of a controlled substance
4 and additional data from the electronic surveillance prescription drug
5 monitoring program established by the state;
- 6 (b) Initiate an investigation of any prescriber whose prescribing patterns are
7 identified as potentially improper, inappropriate, or illegal;
- 8 (c) Upon the completion of each investigation, forward the name of the
9 prescriber, a detailed description of the improper, inappropriate, or illegal
10 prescribing pattern, and the results of the investigation including any data,
11 expert review, or testimony collected to the board of jurisdiction so the
12 board shall take up the case for disciplinary action against the prescriber;
13 and
- 14 (d) Require a response from the board in writing within thirty (30) business
15 days from the receipt of the prescriber's name and investigative findings
16 and then every thirty (30) business days thereafter to the conclusion of the
17 case by the board. These responses shall include a description of the review
18 taken by the board and the disciplinary action taken or the reason for action
19 not being taken.
- 20 (6) The panel shall meet at regular intervals and no less than quarterly, and at the
21 call of the inspector general.
- 22 (7) Members of the panel shall be reimbursed for actual expenses incurred in
23 connection with the discharge of their official duties.
- 24 (8) The panel shall provide an annual report to the Governor and to the Legislative
25 Research Commission by December 1, 2022, and by December 1 of each year
26 thereafter which shall contain the following information for the previous year
27 regarding prescribing and dispensing of controlled substances:

- 1 (a) Number of prescribers referred to each licensure board;
- 2 (b) Aggregate number, types of violations, and types of disciplinary actions
- 3 taken by each licensure board;
- 4 (c) A list from each licensure board that includes the name of the prescriber,
- 5 the violation or violations, and the disciplinary actions taken;
- 6 (d) Reasons for not taking disciplinary action by each licensure board;
- 7 (e) Number of individual prescribers with multiple disciplinary actions taken by
- 8 their licensure board which included an action in the current year; and
- 9 (f) Timeliness of reports back to the panel by each licensure board for each
- 10 referred prescriber.
- 11 (9) The panel shall sunset on July 15, 2026, unless authorized by the General
- 12 Assembly to continue its work for a specified period of time.