

ISSUE ALERTS



BILL AUTHORIZING INDEPENDENT PRACTICE FOR APRNS TO TAKE EFFECT JULY 1

May 26, 2022

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On April 15, 2022, Governor Laura Kelly signed Senate Substitute for House Bill 2279, which allows advanced practice registered nurses (“APRNs”) to practice independently in Kansas. House Bill 2279 modifies K.S.A. 65-1130 to eliminate all references to physician supervision or collaboration requirements and removes the concept of a “responsible physician” from the statute entirely. As a result, effective July 1, 2022, qualified APRNs will no longer need to collaborate with a supervising physician to provide care to patients and will be allowed to prescribe medications to patients without entering into a written prescription protocol with a physician.

The new law does, however, impose some new restrictions and obligations on APRNs. The law specifically prohibits APRNs from prescribing any drug that is intended to cause an abortion. The law also imposes new APRN licensing requirements, including maintaining malpractice insurance, holding national certification, and complying with Drug Enforcement Administration requirements for prescribing controlled substances. These requirements will apply to APRNs renewing their license after July 1, 2023.

Gov. Kelly clearly intended for the new bill to enable independent practice by APRNs, thereby expanding access to care across the state. Gov. Kelly stated that the new bill would “improve the availability of high-quality health care by empowering APRNs to reduce local and regional care gaps.” The Governor’s full press release regarding the bill is available [here](#).

While there are currently still rules and regulations on the books governing APRNs that are inconsistent with Senate Sub. for HB 2279, the Kansas Board of Nursing has said that they will update the rules and regulations affected by this new law by July 1, 2022. The two key Board of Nursing regulations concerning APRN supervision requirements that are currently on the books are K.A.R. 60-11-101 and K.A.R. 60-11-104a. K.A.R. 60-11-104a defines specific requirements for written protocols regarding “prescribing, administering, or supplying a prescription-only drug” that must be entered into between an APRN and a “responsible physician.” That regulation is authorized by and intended to implement K.S.A. 65-1130. Given the changes to K.S.A. 65-1130 implemented through Senate Sub. for HB 2279, including the deletion of the physician-supervision and prescription-protocol requirements, the

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Board of Nursing will need to substantially revise or eliminate K.A.R. 60-11-104a.

The second Board of Nursing regulation concerning APRN supervision requirements noted above, K.A.R. 60-11-101, includes a requirement that APRNs make treatment decisions based on an “authorization for collaborative practice with one or more physicians.” This regulation is also authorized by and implements K.S.A. 65-1130 (in addition to the statute providing a general definition of APRNs at K.S.A. 65-1113). Once the statutory changes in Senate Sub. for HB 2279 take effect, neither K.S.A. 65-1113 nor K.S.A. 65-1130 will contain any APRN collaboration or protocol requirements or make any reference to responsible or supervising physicians. Accordingly, the Board of Nursing will likely revise K.A.R. 60-11-101 by July 1.

The Board of Nursing's update on this new law is available [here](#). Kansas providers should monitor the Board of Nursing's releases for new regulations and rules to ensure they are ready for Senate Sub. for HB 2279 to take effect on July 1, 2022.

There are a number of other important questions that Kansas's adoption of independent practice for APRNs raises for Kansas providers, particularly for rural health clinics and critical access hospitals. Medicare conditions of participation and certification generally incorporate state law in matters pertaining to the scope of practice of APRNs and other licensees, but in some cases, may include specific stand-alone chart-review or physician-oversight or physician-notice requirements. In addition, Medicare may, in some cases, require a minimum level of physician staffing or a designated medical director, even if state law permits APRNs to practice independently, and may require APRNs to hold certain levels of education or board certifications. Clearly, changes to Kansas statutes and regulations will not supersede or alter Medicare rules or other federal requirements, but Kansas facilities must carefully review how these Kansas law changes will affect their efforts to comply with federal rules.

Finally, Kansas providers should keep in mind that, although APRNs will be authorized to practice independently once the new law goes into effect, APRNs still must not engage in any activities that constitute the practice of medicine. APRNs will not need physician supervision and collaboration in order to perform advanced nursing services, but all medical services must still be conducted or overseen by a licensed Kansas physician. Kansas providers should carefully monitor each APRN's practice to ensure that all services performed are within the scope of the APRN's license and that the APRN does not perform any services that must be performed or supervised by a physician under Kansas law or under the applicable standard of care.

FOR MORE INFORMATION

If you have questions or want more information regarding the new APRN laws in Kansas, contact your legal counsel. If you do not have regular counsel for such matters, Foulston Siefkin LLP would welcome the opportunity to work with you to meet your specific business needs. Foulston's healthcare lawyers maintain a high level of knowledge regarding federal and state regulations affecting the healthcare industry. At the same time, our healthcare practice group's relationship with Foulston's other practice groups, including the taxation, general business, labor and employment, and commercial litigation groups, enhances our ability to consider the legal ramifications of any situation or strategy. For more information, contact **Alex W. Schulte** at 913.253.2155 or aschulte@foulston.com, or **Nancy E. Musick** at 913.253.2140 or nmusick@foulston.com. For more information on the firm, please visit our website at www.foulston.com.

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