

CHAPTER 86

(HB 102)

AN ACT relating to nursing.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The Nurse Licensure Compact is hereby enacted and entered into with all other jurisdictions that legally join in the Compact, which is, in form, substantially as follows:

ARTICLE I

*Findings and Declaration of Purpose**a. The party states find that:*

1. *The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;*
2. *Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;*
3. *The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's healthcare delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;*
4. *New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;*
5. *The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.*

b. The general purposes of this Compact are to:

1. *Facilitate the states' responsibility to protect the public's health and safety;*
2. *Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;*
3. *Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;*
4. *Promote compliance with the laws governing the practice of nursing in each jurisdiction;*
5. *Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.*

ARTICLE II

Definitions

As used in this Compact:

- a. *"Adverse action" means a home or remote state action.*
- b. *"Alternative program" means a voluntary, non-disciplinary monitoring program approved by a nurse licensing board.*
- c. *"Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a non-profit organization composed of and controlled by state nurse licensing boards.*
- d. *"Current significant investigative information" means investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or investigative information that indicates that the nurse represents an immediate*

threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

- e. *"Home state" means the party state which is the nurse's primary state of residence.*
- f. *"Home state action" means any administrative, civil, equitable or criminal action permitted by the home state's laws which are imposed on a nurse by the home state's licensing board or other authority including actions against an individual's license such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice.*
- g. *"Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.*
- h. *"Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice.*
- i. *"Nurse" means a registered nurse or licensed practical/vocational nurse, as those terms are defined by each party's state practice laws.*
- j. *"Party state" means any state that has adopted this Compact.*
- k. *"Remote state" means a party state, other than the home state, where the patient is located at the time nursing care is provided, or, in the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.*
- l. *"Remote state action" means any administrative, civil, equitable or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state, and cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.*
- m. *"State" means a state, territory, or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.*
- n. *"State practice laws" means those individual party's state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline.*
- o. *"State practice laws" does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.*

ARTICLE III

General Provisions and Jurisdiction

- a. *A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical/vocational nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.*
- b. *Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.*
- c. *Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The*

practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.

- d. This Compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.*
- e. Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.*

ARTICLE IV

Applications for Licensure in a Party State

- a. Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any restrictions on the multistate licensure privilege, and whether any other adverse action by any state has been taken against the license.*
- b. A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.*
- c. A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses will not be issued by a party state until after a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.*
- d. When a nurse changes primary state of residence by:*
 - 1. Moving between two party states, and obtains a license from the new home state, the license from the former home state is no longer valid;*
 - 2. Moving from a non-party state to a party state, and obtains a license from the new home state, the individual state license issued by the non-party state is not affected and will remain in full force if so provided by the laws of the non-party state;*
 - 3. Moving from a party state to a non-party state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.*

ARTICLE V

Adverse Actions

In addition to the General Provisions described in Article III, the following provisions apply:

- a. The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.*
- b. The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate action(s), and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.*
- c. A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state.*

- d. *For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.*
- e. *The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.*
- f. *Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain non-public if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.*

ARTICLE VI

Additional Authorities Invested in Party State Nurse Licensing Boards

Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:

- a. *If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;*
- b. *Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located;*
- c. *Issue cease and desist orders to limit or revoke a nurse's authority to practice in their state;*
- d. *Promulgate uniform rules and regulations as provided for in Article VIIIc.*

ARTICLE VII

Coordinated Licensure Information System

- a. *All party states shall participate in a cooperative effort to create a coordinated database of all licensed registered nurses and licensed practical/vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.*
- b. *Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.*
- c. *Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.*
- d. *Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.*
- e. *Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system may not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.*
- f. *Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information, shall also be expunged from the coordinated licensure information system.*

- g. *The Compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this Compact.*

ARTICLE VIII

Compact Administration and Interchange of Information

- a. *The head of the nurse licensing board, or his/her designee, of each party state shall be the administrator of this Compact for his/her state.*
- b. *The Compact administrator of each party state shall furnish to the Compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this Compact.*
- c. *Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this Compact. These uniform rules shall be adopted by party states, under the authority invested under Article VI d.*

ARTICLE IX

Immunity

No party state or the officers or employees or agents of a party state's nurse licensing board who acts in accordance with the provisions of this Compact shall be liable on account of any act or omission in good faith while engaged in the performance of their duties under this Compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE X

Entry into Force, Withdrawal and Amendment

- a. *This Compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.*
- b. *No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the Compact of any report of adverse action occurring prior to the withdrawal.*
- c. *Nothing contained in this Compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this Compact.*
- d. *This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.*

ARTICLE XI

Construction and Severability

- a. *This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state party thereto, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.*
- b. *In the event party states find a need for settling disputes arising under this Compact:*
1. *The party states may submit the issues in dispute to an arbitration panel which will be composed of an individual appointed by the Compact administrator in the home state; an individual appointed by*

the Compact administrator in the remote state(s) involved; and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.

The decision of a majority of the arbitrators shall be final and binding.

Section 2. KRS 314.011 is amended to read as follows:

As used in *this chapter* [KRS 314.011 to 314.161 and KRS 314.991], unless the context thereof requires otherwise:

- (1) "Board" means Kentucky Board of Nursing;
- (2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;
- (3) "Nurse" means a person *who is* licensed *or holds the privilege to practice* under the provisions of this chapter as a registered nurse or as a licensed practical nurse;
- (4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:
 - (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
 - (b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;
- (5) "Registered nurse" means one who is licensed *or holds the privilege* under the provisions of this chapter to engage in registered nursing practice;
- (6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:
 - (a) The care, counsel, and health teaching of the ill, injured, or infirm;
 - (b) The maintenance of health or prevention of illness of others;
 - (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:
 1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;
 2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
 3. Intervening when emergency care is required as a result of drug therapy;
 4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
 5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
 6. Instructing an individual regarding medications;
 - (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and
 - (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;
- (7) "Advanced registered nurse practitioner" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;

- (8) "Advanced registered nursing practice" means the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;
- (9) "Licensed practical nurse" means one who is licensed *or holds the privilege* under the provisions of this chapter to engage in licensed practical nursing practice;
- (10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:
- (a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist;
 - (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;
 - (c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
 - (d) Teaching, supervising, and delegating except as limited by the board; and
 - (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
- (11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;
- (12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;
- (13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;
- (14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(4);
- (15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;
- (16) "Credential" means a current license, registration, certificate, or other similar authorization that is issued by the board;
- (17) "Dispense" means:
- (a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or
 - (b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;

- (18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;
- (19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician; and
- (20) "Clinical internship" means a supervised nursing practice experience which involves any component of direct patient care.

Section 3. KRS 314.021 is amended to read as follows:

- (1) It is the declared policy of the General Assembly of Kentucky that the practice of nursing should be regulated and controlled as provided herein and by regulations of the board in order to protect and safeguard the health and safety of the citizens of the Commonwealth of Kentucky.
- (2) All individuals licensed *or privileged* under provisions of this chapter shall be responsible and accountable for making decisions that are based upon the individuals' educational preparation and experience in nursing and shall practice nursing with reasonable skill and safety.

Section 4. KRS 314.031 is amended to read as follows:

- (1) It shall be unlawful for any person to call or hold herself or himself out as or use the title of nurse or to practice or offer to practice as a nurse unless licensed *or privileged* under the provisions of this chapter.
- (2) It shall be unlawful for any person to operate or to offer to operate or to represent or advertise the operation of a school of nursing unless the school of nursing has been approved under the provisions of this chapter.
- (3) It shall be unlawful for any person knowingly to employ a nurse unless the nurse is licensed *or privileged* under the provisions of this chapter.
- (4) It shall be unlawful for any nurse, employer of nurses, or any person having knowledge of facts to refrain from reporting to the board a nurse who:
 - (a) Has been convicted of *any felony or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty under the laws of any state or of the United States*~~[a misdemeanor or felony which involved acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing]~~; or
 - (b) Is suspected of fraud or deceit in procuring or attempting to procure a license, *credential, or privilege* to practice nursing; or
 - (c) Is suspected of negligently or willfully acting in a manner inconsistent with the practice of nursing; or
 - (d) Is suspected of being unfit or incompetent to practice nursing by reason of negligence or other causes including, but not limited to, being unable to practice nursing with reasonable skill or safety; or
 - (e) Is suspected of violating any provisions of this chapter; or
 - (f) Has a license, *privilege, or credential* to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license, *privilege, or credential* to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth; or
 - (g) Is practicing nursing without a current active license, *privilege*, or valid temporary work permit issued by the board; or
 - (h) Is suspected of abusing, misusing, or misappropriating any drugs placed in the custody of the nurse for administration, or for use of others; or
 - (i) Is suspected of falsifying or in a negligent manner making incorrect entries or failing to make essential entries on essential records.

Section 5. KRS 314.042 is amended to read as follows:

- (1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant has completed an organized postbasic program of study and clinical experience acceptable to the board; has fulfilled the requirements of KRS 214.615(1); is certified by a nationally-established organization or agency recognized by the board to certify registered nurses for advanced nursing practice; and is able to understandably speak and write the English language and to read the English language with comprehension.
- (2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board *or holds the privilege to practice as a registered nurse in this state* and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner, or clinical nurse specialist.
- (3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.
- (4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board *or holds the privilege to practice as a registered nurse in this state* and maintain current certification by the appropriate national organization or agency recognized by the board.
- (5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.
- (6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed the registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.
- (7) The board may authorize a person to practice as an advanced registered nurse practitioner temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "ARNP Applicant" or "ARNP App."
- (8) Before an advanced registered nurse practitioner engages in the prescribing or dispensing of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written collaborative practice agreement with a physician that defines the scope of the prescriptive authority.
- (9) Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to enter into a collaborative practice agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

Section 6. KRS 314.046 is amended to read as follows:

When a patient suffering from a terminal illness, whose death is anticipated and who is receiving the services of a hospice program licensed by the State of Kentucky under KRS Chapter 216B, dies at home or in a hospice inpatient program or unit, a registered nurse, licensed *or privileged* by the Kentucky Board of Nursing and employed by the attending hospice, and who treated the patient, may make the actual determination and pronouncement of death. The nurse shall release the body to the funeral director after having signed on the designated line the provisional report of death as furnished by the state registrar of vital statistics.

Section 7. KRS 314.085 is amended to read as follows:

- (1) If the board has reasonable cause to believe that any licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; *holder of the privilege to practice as a nurse; credential holder;* or holder of a temporary work permit is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it may require the person to submit to a mental health, chemical dependency, or physical evaluation by a licensed or certified practitioner designated by the board. Upon the failure of the person to submit to a mental health, chemical dependency or physical evaluation, unless due to circumstances

beyond the person's control, the board may initiate an action for immediate temporary suspension pursuant to KRS 314.089 or deny the application until the person submits to the required evaluation.

- (2) Every licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; **holder of the privilege to practice as a nurse; credential holder;** or holder of a temporary work permit shall be deemed to have given consent to submit to a mental health, chemical dependency, or physical evaluation when so directed in writing by the board. The direction to submit to an evaluation shall contain the basis of the board's reasonable cause to believe that the person is unable to practice with reasonable skill and safety, or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining practitioner's testimony or examination reports on the ground of privileged communication.
- (3) The licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; **holder of the privilege to practice as a nurse; credential holder;** or holder of a temporary work permit shall bear the cost of any mental health, chemical dependency, or physical evaluation ordered by the board.

Section 8. KRS 314.089 is amended to read as follows:

- (1) The board's president or the president's designee may determine that immediate temporary suspension of a license **or privilege** against which disciplinary action or an investigation is pending is necessary in order to protect the public. When it appears that this action may be necessary, the executive director or the executive director's designee shall issue an emergency order suspending the nurse's license **or privilege**. Upon appeal of an emergency order, an emergency hearing shall be conducted in accordance with KRS 13B.125.
- (2) No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that he has previously sat on a hearing panel considering temporary suspension of the same license **or privilege**.
- (3) The board shall expedite disciplinary actions in which a license **or privilege** has been temporarily suspended.
- (4) The order of immediate temporary suspension shall remain in effect until either reconsidered or superseded by final disciplinary action by the board.

Section 9. KRS 314.091 is amended to read as follows:

- (1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter **or the privilege to practice as a nurse recognized by the board in accordance with this chapter**, or to otherwise discipline a licensee, credential holder, **privilege holder**, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:
 - (a) Is guilty of fraud or deceit in procuring or attempting to procure a license, **credential, or privilege** to practice nursing;
 - (b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence. For the purposes of this section, "conviction" means but is not limited to pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime;
 - (c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;
 - (d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;
 - (e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;
 - (f) Abuses use of controlled substances, prescription medications, or alcohol;
 - (g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;

- (h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;
 - (i) Has a license, *privilege*, or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license *or privilege* to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth, including action by another jurisdiction for failure to repay a student loan;
 - (j) Has violated any of the provisions of this chapter;
 - (k) Has violated any lawful order or directive previously entered by the board;
 - (l) Has violated any administrative regulation promulgated by the board; or
 - (m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.
- (2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license, *privilege*, or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.
 - (3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.
 - (4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.
 - (5) A final order of the board shall be by majority vote thereof.
 - (6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.
 - (7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license, *privilege*, or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

Section 10. KRS 314.099 is amended to read as follows:

Jurisdiction, both as to person and subject matter, under *this chapter* ~~[KRS 314.011 to 314.161]~~ vests with the board upon application for licensure *or practice on the privilege* and shall continue during periods of licensure and lapse of licensure. The jurisdiction of the board shall be continuous over the individual applicant or licensee *or holder of the privilege* and shall not be divested by voluntary surrender of a license *or privilege*, withdrawal of an application, or expiration of a temporary work permit.

Section 11. KRS 314.101 is amended to read as follows:

- (1) This chapter does not prohibit *the following*:
 - (a) *The practice of any currently licensed nurse of another state practicing in this state during an emergency occurring in this state or any other state declared by the President of the United States or the Governor of Kentucky. The duration and conditions of the practice shall be determined by the board* ~~[furnishing of nursing assistance in an emergency]~~;
 - (b) The practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing;
 - (c) The practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties; or

- (d) The practice of any currently licensed nurse of another state *who is in this state on a nonroutine basis to:*
1. *Provide care to a patient being transported into, out of, or through this state;*
 2. *Provide nursing consulting services; or*
 3. *Present a continuing nursing education program*~~[whose responsibilities include transporting patients into, out of, or through this state].~~
- (2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.
- (3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.
- (4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for, and paid the fee for licensure by endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.
- (5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.

SECTION 12. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

References in the Kentucky Revised Statutes to persons "licensed" under this chapter as nurses, registered nurses, licensed registered nurses, or licensed practical nurses shall be interpreted to include persons credentialed or privileged under this chapter to practice those occupations.

Section 13. This Act takes effect on June 1, 2007.

Approved March 28, 2006.