

CHAPTER 99**(SB 21)**

AN ACT relating to health care.

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

➔Section 1. 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; 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; **or**
 - (j) ***Is suspected of abusing controlled substances, prescription medications, illegal substances, or alcohol.***

➔Section 2. 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 hold 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 Agreement for the Advanced Registered Nurse Practitioner's Prescriptive Authority for Nonscheduled Legend Drugs" (CAPA-NS) with a physician that defines the scope of the prescriptive authority for nonscheduled legend drugs.
- (9) Before an advanced registered nurse practitioner engages in the prescribing of Schedules II through V controlled substances as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written "Collaborative Agreement for the Advanced Registered Nurse Practitioner's Prescriptive Authority for Controlled Substances" (CAPA-CS) with a physician that defines the scope of the prescriptive authority for controlled substances.
 - (a) The advanced registered nurse practitioner shall notify the Kentucky Board of Nursing of the existence of the CAPA-CS and the name of the collaborating physician and shall, upon request, furnish to the board or its staff a copy of the completed CAPA-CS. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-CS exists and furnish the collaborating physician's name.
 - (b) The CAPA-CS shall be in writing and signed by both the advanced registered nurse practitioner and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced registered nurse practitioner is providing patient care.
 - (c) The CAPA-CS shall describe the arrangement for collaboration and communication between the advanced registered nurse practitioner and the collaborating physician regarding the prescribing of controlled substances by the advanced registered nurse practitioner.
 - (d) The advanced registered nurse practitioner who is prescribing controlled substances and the collaborating physician shall be qualified in the same or a similar specialty.
 - (e) The CAPA-CS is not intended to be a substitute for the exercise of professional judgment by the advanced registered nurse practitioner or by the collaborating physician.
 - (f) Before engaging in the prescribing of controlled substances, the advanced registered nurse practitioner shall:
 1. Have been registered to practice as an advanced registered nurse practitioner for one (1) year with the Kentucky Board of Nursing; or

2. Be nationally certified as an advanced registered nurse practitioner and be registered, certified, or licensed in good standing as an advanced registered nurse practitioner in another state for one (1) year prior to applying for licensure by endorsement in Kentucky.
 - (g) Prior to prescribing controlled substances, the advanced registered nurse practitioner shall obtain a Controlled Substance Registration Certificate through the U.S. Drug Enforcement Agency.
 - (h) The CAPA-CS shall be reviewed and signed by both the advanced registered nurse practitioner and the collaborating physician and may be rescinded by either party upon written notice via registered mail to the other party, the Kentucky Board of Nursing, and the Kentucky Board of Medical Licensure.
 - (i) The CAPA-CS shall state the limits on controlled substances which may be prescribed by the advanced registered nurse practitioner, as agreed to by the advanced registered nurse practitioner and the collaborating physician. The limits so imposed may be more stringent than either the schedule limits on controlled substances established in KRS 314.011(8) or the limits imposed in regulations promulgated by the Kentucky Board of Nursing thereunder.
- (10) 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 3. KRS 314.075 is amended to read as follows:

- (1) If a licensee issues payment for a license to the board by a ~~at-bank~~ check, ***draft, order, or electronic funds transfer*** that is dishonored by the bank or financial institution upon which it is drawn, and the licensee fails to reimburse the board for the amount of the check, ***draft, order, or electronic funds transfer*** and any applicable fee within thirty (30) days of written notice from the board, the board may initiate action for the immediate temporary suspension of the license under KRS 314.089 until the licensee pays the required fee and meets all requirements for reinstatement of the license. The board shall mail written notice ~~that~~ the ***check, draft, order, or electronic funds transfer has been*** dishonored~~[-check]~~ to the licensee's address on record with the board.
- (2) A licensee whose license is suspended under subsection (1) of this section may request an emergency hearing under the provisions of KRS 13B.125.
- (3) Nothing in this section shall supersede the provisions of KRS 314.091.

➔Section 4. 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, ***entering a guilty plea pursuant to a pretrial diversion order***, 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(1)(a), 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, *illegal substances*, 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 5. KRS 314.109 is amended to read as follows:

Any person under the jurisdiction of the board shall, within **ninety (90)**~~thirty (30)~~ days of entry of the final judgment, notify the board in writing of any misdemeanor or felony criminal conviction, except traffic-related misdemeanors other than operating a motor vehicle under the influence of drugs or alcohol, in this or any other jurisdiction. The person shall submit a certified copy of the order and a letter of explanation.~~[Upon learning of any failure to notify the board under this section, the board may initiate an action for immediate temporary suspension under KRS 314.089 until the person submits the required notification.]~~

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

- (1) *Ocular devices approved by the federal Food and Drug Administration as a drug, including but not limited to contact lenses, that contain and deliver pharmaceutical agents pursuant to a prescription from a physician or osteopath licensed under KRS Chapter 311 or a licensed optometrist as authorized in KRS 320.240 shall be fitted by an ophthalmologist licensed under KRS Chapter 311 or an optometrist licensed under KRS Chapter 320.*

- (2) *Ocular devices containing or delivering pharmaceutical agents may be dispensed by a licensed optometrist as authorized in KRS 320.240 or an ophthalmologist licensed under KRS Chapter 311.*
- (3) *Nothing in this section shall be construed to:*
 - (a) *Expand the prescriptive authority of an optometrist licensed under KRS Chapter 320; or*
 - (b) *Prohibit, limit, or restrict a pharmacist licensed under KRS Chapter 315 from dispensing a prescription for an ocular device that contains a pharmaceutical agent.*

Signed by Governor April 14, 2008.