

CHAPTER 51**(SB 110)**

AN ACT relating to health care.

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

➔Section 1. 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, if in accordance with KRS Chapter 335B. 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;
 - (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 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;
 - (m) Has been listed on *either the adult caregiver misconduct registry or the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property, or has a substantiated finding or judicial finding of the abuse or neglect of a child;*
 - (n) Has violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law;
 - (o) Used or possessed a Schedule I controlled substance;
 - (p) Has used or been impaired as a consequence of the use of alcohol or drugs while practicing as a nurse;
 - (q) Has violated KRS 304.39-215;
 - (r) Has engaged in conduct that is subject to the penalties under KRS 304.99-060(4) or (5); or

- (s) As provided in KRS 311.824(2), has been convicted of a violation of KRS 311.823(2).
- (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.
- (8) The board may, by administrative regulation, provide for the recovery of the costs of an administrative hearing.

➔Section 2. 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 in good standing in another state from being recognized as having a temporary work permit in this state. Any currently licensed nurse in good standing in another state who is practicing nursing in Kentucky shall be subject to the jurisdiction of the board under KRS 314.099;
 - (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;
 - (d) The practice of any currently licensed nurse of another state ~~who that~~ is not a member of the Nurse Licensure Compact set forth in KRS 314.475 **and who is in this state on a nonroutine basis not to exceed seven (7) days**; or
 - (e) The practice of volunteer health practitioners under KRS 39A.350 to 39A.366.
- (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 3. KRS 314.121 is amended to read as follows:

- (1) The Governor shall appoint a Board of Nursing consisting of seventeen (17) members:
 - (a) Ten (10) members shall be registered nurses licensed to practice in the Commonwealth, with the Governor ensuring that the appointees represent different specialties from a broad cross-section of the nursing profession after soliciting and receiving nominations from recognized specialty state component societies;
 - (b) Three (3) members shall be practical nurses licensed to practice in the Commonwealth;
 - (c) One (1) member shall be a nurse service administrator who is a registered nurse licensed to practice in the Commonwealth;
 - (d) One (1) member shall be engaged in practical nurse education who is a registered nurse licensed to practice in the Commonwealth; and
 - (e) Two (2) members shall be citizens at large, who are not associated with or financially interested in the practice or business regulated.
- (2) Each appointment shall be subject to confirmation by the Senate and shall be for a term of four (4) years expiring on June 30 of the fourth year. No board member shall serve for more than three (3) consecutive terms. Any board member who is serving at least a third consecutive term on April 7, 2022, shall be ineligible for reappointment until the passage of one (1) full four (4) year appointment cycle. The cycle for appointments and expiration of terms shall be as follows:
 - (a) The first year of the four (4) year cycle, the terms for three (3) registered nurses and one (1) licensed practical nurse shall expire;
 - (b) The second year of the four (4) year cycle, the terms for three (3) registered nurses and one (1) citizen at large shall expire;
 - (c) The third year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) licensed practical nurse, and the one (1) member engaged in practical nurse education who is a registered nurse shall expire; and
 - (d) Before January 1, 2024, in the fourth year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) licensed practical nurse, and one (1) citizen at large shall expire. Beginning on January 1, 2024, in the fourth year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) certified registered nurse anesthetist, one (1) licensed practical nurse, and one (1) citizen at large shall expire.
- (3)
 - (a) By March 1, the Kentucky Nurses Association shall submit to the Governor a list of members qualified for appointment as R.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments necessary by July 1. By March 1 of the year in which the certified registered nurse anesthetist term expires, the Kentucky Nurses Association shall submit to the Governor two (2) names of qualified individuals for the appointment, and from this list the Governor shall make the appointment by July 1.
 - (b) By March 1, Kentucky Licensed Practical Nurses Organization Incorporated shall submit to the Governor a list of names qualified for appointment as L.P.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments as necessary by July 1.
 - (c) By March 1 of the year in which the nurse service administrator's term shall expire, the Kentucky Organization of Nurse Leaders, an affiliate of the Kentucky Hospital Association, shall submit to the Governor two (2) names of qualified individuals for appointment as the nurse service administrator from which list the Governor shall make an appointment as necessary by July 1.
 - (d) By March 1, LeadingAge Kentucky shall submit to the Governor two (2) names of qualified individuals for appointments as its R.N. representative to the board, from which the Governor shall make an appointment by July 1.
 - (e) By March 1 of the year in which the Kentucky Association of Health Care Facilities representative's term shall expire, the Kentucky Association of Health Care Facilities shall submit to the Governor two

- (2) names of qualified individuals for appointment as its R.N. representative to the board, from which list the Governor shall make an appointment as necessary by July 1.
- (f) By March 1 of the year in which the practical nurse educator's term expires, Kentucky Licensed Practical Nurses Organization Incorporated shall submit to the Governor two (2) names of qualified individuals for the appointment, from which list the Governor shall make the appointment by July 1.
- (g) The Governor shall appoint two (2) members who shall be citizens at large, who are not associated with or financially interested in the practice or business regulated. The Governor shall make the appointments by July 1 of the year in which the citizen members' terms expire.
- (4) Among the seventeen (17) members of the board, at all times, at least two (2) members shall be appointed from each of the six (6) congressional districts of the Commonwealth.
- (5) Among the nurse board members appointed under subsection (1)(a), (b), (c), and (d) of this section, ***no less than three (3) and*** no more than six (6) nurse board members shall be nurse educators~~[- Of these six (6) nurse educators, one (1) nurse educator member shall be appointed from each of the six (6) congressional districts of the Commonwealth].~~ All other nurse members of the board shall be practicing nurses.
- (6) A vacancy on the board shall be filled by the Governor as provided for under subsection (1) of this section.
- (7) The Governor may remove any member from the board for neglect of duty, incompetence, or unprofessional or dishonorable conduct.
- (8) Each R.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of nursing, and a registered nurse in this state. All shall have had at least five (5) years of experience in nursing, three (3) of which shall immediately precede such appointment. Five (5) members shall be engaged in nursing practice; three (3) shall be engaged in nursing education; one (1) shall be engaged in advanced practice registered nursing; one (1) shall be a certified registered nurse anesthetist; and one (1) shall be in nursing administration.
- (9) Each L.P.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of practical nursing or its equivalent, licensed as a licensed practical nurse in this state, have at least five (5) years of experience in nursing, three (3) of which shall immediately precede this appointment, and be currently engaged in nursing practice.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The Kentucky Board of Nursing shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the following for the credentialing of medication aides:

- (1) ***Educational requirements;***
- (2) ***Standards for training programs including delegation of the administration of oral or topical medications and preloaded insulin injection;***
- (3) ***Credentialing requirements including delegation of the administration of oral or topical medications and preloaded insulin injection; and***
- (4) ***Fees for initial, renewal, and reinstatement of credentials, and any other necessary fees.***

➔Section 5. KRS 194A.705 is amended to read as follows:

- (1) The assisted living community shall provide each resident with access to the following services according to the lease agreement:
 - (a) Assistance with activities of daily living and instrumental activities of daily living;
 - (b) Three (3) meals and snacks made available each day, with flexibility in a secured dementia care unit to meet the needs of residents with cognitive impairments who may eat outside of scheduled dining hours;
 - (c) Scheduled daily social activities that address the general preferences of residents;
 - (d) Assistance with self-administration of medication; and
 - (e) Housing.
- (2) (a) The assisted living community may provide residents with access to basic health and health-related services.

- (b) If an assisted living community chooses to provide basic health and health-related services, the assisted living community shall supervise the residents.
- (c) ***Notwithstanding KRS 194A.700(4)(e), in a long-term care facility that provides basic health and health related-services or dementia care services, a certified medication aide or an unlicensed staff person who has successfully completed a medication aide training and skills competency evaluation program approved by the Kentucky Board of Nursing may administer oral or topical medication, or preloaded injectable insulin to a resident under the authority of an available licensed practical nurse, registered nurse, or advanced practice registered nurse.***
- (3) (a) Residents of an assisted living community may arrange for additional services under direct contract or arrangement with an outside agent, professional, provider, or other individual designated by the resident if permitted by the policies of the assisted living community.
- (b) Permitted services for which a resident may arrange or contract include but are not limited to health services, hospice services provided by a hospice program licensed under KRS Chapter 216B, and other end-of-life services.
- (4) Upon entering into a lease agreement, an assisted living community shall inform the resident in writing about policies relating to the provision of services by the assisted living community and the contracting or arranging for additional services.
- (5) A resident issued a move-out notice shall receive the notice in writing and the assisted living community shall assist each resident upon a move-out notice to find appropriate living arrangements. Each assisted living community shall share information provided from the cabinet regarding options for alternative living arrangements at the time a move-out notice is given to the resident.
- (6) An assisted living community shall complete and provide to the resident:
 - (a) Upon move-in, a copy of a functional needs assessment pertaining to the resident's ability to perform activities of daily living and instrumental activities of daily living and any other topics the assisted living community determines to be necessary; and
 - (b) After move-in, a copy of an updated functional needs assessment pertaining to the resident's ability to perform activities of daily living and instrumental activities of daily living, the service plan designed to meet identified needs, and any other topics the assisted living community determines to be necessary.

➔Section 6. KRS 194A.710 is amended to read as follows:

- (1) An assisted living community shall not operate unless it is licensed under this chapter. A licensee shall be legally responsible for the management, control, and operations of the facility.
- (2) The following categories are established for assisted living community licensure:
 - (a) An assisted living community license for any ***facility that provides*** assisted living ***services, excluding basic health and health-related services***~~[community without a secured dementia care unit]; [and]~~
 - (b) An assisted living community with ***basic health care license for any facility that:***
 - 1. ***Provides assisted living services, including basic health and health-related services directly to its residents; and***
 - 2. ***Does not have a secured dementia care unit; and***
 - (c) ***An assisted living community with*** dementia care license for ***any facility***~~[an assisted living community]~~ that provides assisted living services and dementia care services in a secured dementia care unit.
- (3) ~~An [On or after July 14, 2022, no]~~ assisted living community shall ***not*** operate a secured dementia care unit without first obtaining an assisted living community with dementia care license from the cabinet. A license issued pursuant to this section shall not be assignable or transferable.
- (4) ***The Office of Inspector General shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish:***
 - (a) ***Licensing classifications within the categories as described in subsection (2) of this section; and***
 - (b) ***Standards to help ensure the health, safety, and well-being of residents.***

Signed by Governor March 22, 2023.