

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2021 REGULAR SESSION
Unofficial Document

Amend printed copy of **SB 166/GA**

On page 9, after line 22, insert the following:

"➔Section 9. KRS 314.042 is amended to read as follows:

- (1) An applicant for licensure to practice as an advanced practice registered nurse shall file with the board a written application for licensure and submit evidence, verified by oath, that the applicant:
 - (a) Has completed an education program that prepares the registered nurse for one (1) of four (4) APRN roles that has been accredited by a national nursing accrediting body recognized by the United States Department of Education;
 - (b) Is certified by a nationally established organization or agency recognized by the board to certify registered nurses for advanced practice registered nursing;
 - (c) Is able to understandably speak and write the English language and to read the English language with comprehension; and
 - (d) Has passed the jurisprudence examination approved by the board as provided in subsection (12) of this section.
- (2) The board may issue a license to practice advanced practice 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 practice registered nurse shall be:

Amendment No. HFA

Rep. Rep. Jerry T. Miller

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: XXXX

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- (a) Designated by the board as a certified registered nurse anesthetist, certified nurse midwife, certified nurse practitioner, or clinical nurse specialist; and
- (b) Certified in at least one (1) population focus.
- (3) The applicant for licensure or renewal thereof to practice as an advanced practice registered nurse shall pay a fee to the board as set forth in regulation by the board.
- (4) An advanced practice registered nurse 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 license to practice as an advanced practice registered nurse in this state shall have the right to use the title "advanced practice registered nurse" and the abbreviation "APRN." 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 practice registered nurse. No person shall practice as an advanced practice registered nurse unless licensed under this section.
- (6) Any person heretofore licensed as an advanced practice registered nurse under the provisions of this chapter who has allowed the license to lapse may be reinstated on payment of the 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 practice registered nurse 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 "APRN Applicant" or "APRN App."

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- (8) (a) Except as authorized by KRS 314.196 and subsection (9) of this section, before an advanced practice registered nurse engages in the prescribing or dispensing of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced practice registered nurse shall enter into a written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs" (CAPA-NS) with a physician licensed in Kentucky that defines the scope of the prescriptive authority for nonscheduled legend drugs.
- (b) The advanced practice registered nurse shall notify the Kentucky Board of Nursing of the existence of the CAPA-NS and the name of the collaborating physician and shall, upon request, furnish to the board or its staff a copy of the completed CAPA-NS. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-NS exists and furnish the collaborating physician's name.
- (c) The CAPA-NS shall be in writing and signed by both the advanced practice registered nurse and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced practice registered nurse is providing patient care.
- (d) The CAPA-NS shall describe the arrangement for collaboration and communication between the advanced practice registered nurse and the collaborating physician regarding the prescribing of nonscheduled legend drugs by the advanced practice registered nurse.
- (e) The advanced practice registered nurse who is prescribing nonscheduled legend drugs and the collaborating physician shall be qualified in the same or a similar specialty.
- (f) The CAPA-NS is not intended to be a substitute for the exercise of professional judgment by the advanced practice registered nurse or by the collaborating physician.
- (g) The CAPA-NS shall be reviewed and signed by both the advanced practice registered

nurse 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.

- (9) (a) Before an advanced practice registered nurse may discontinue or be exempt from a CAPA-NS required under subsection (8) of this section, the advanced practice registered nurse shall have completed four (4) years of prescribing as a certified nurse practitioner, clinical nurse specialist, certified nurse midwife, or as a certified registered nurse anesthetist. For certified nurse practitioners and clinical nurse specialists, the four (4) years of prescribing shall be in a population focus as defined in KRS 314.011.
- (b) After four (4) years of prescribing with a CAPA-NS in collaboration with a physician:
1. An advanced practice registered nurse whose license is in good standing at that time with the Kentucky Board of Nursing and who will be prescribing nonscheduled legend drugs without a CAPA-NS shall notify that board that the four (4) year requirement has been met and that he or she will be prescribing nonscheduled legend drugs without a CAPA-NS;
 2. The advanced practice registered nurse will no longer be required to maintain a CAPA-NS and shall not be compelled to maintain a CAPA-NS as a condition to prescribe after the four (4) years have expired, but an advanced practice registered nurse may choose to maintain a CAPA-NS indefinitely after the four (4) years have expired; and
 3. If the advanced practice registered nurse's license is not in good standing, the CAPA-NS requirement shall not be removed until the license is restored to good standing.
- (c) An advanced practice registered nurse wishing to practice in Kentucky through

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licensure by endorsement is exempt from the CAPA-NS requirement if the advanced practice registered nurse:

1. Has met the prescribing requirements in a state that grants independent prescribing to advanced practice registered nurses; and
 2. Has been prescribing for at least four (4) years.
- (d) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement who had a collaborative prescribing agreement with a physician in another state for at least four (4) years is exempt from the CAPA-NS requirement.
- (e) 1. An advanced practice registered nurse whose license is in good standing at that time with the Kentucky Board of Nursing and who will be prescribing nonscheduled legend drugs without a CAPA-NS shall notify that board that the four (4) year requirement has been met and that he or she will be prescribing nonscheduled legend drugs without a CAPA-NS.
2. An advanced practice registered nurse who has maintained a CAPA-NS for four (4) years or more will no longer be required to maintain a CAPA-NS and shall not be compelled to maintain a CAPA-NS as a condition to prescribe after the four (4) years have expired, but an advanced practice registered nurse may choose to maintain a CAPA-NS indefinitely after the four (4) years have expired.
 3. An advanced practice registered nurse who has maintained a CAPA-NS for less than four (4) years shall be required to continue to maintain a CAPA-NS until the four (4) year period is completed, after which the CAPA-NS will no longer be required.
- (10) (a) Before an advanced practice registered nurse engages in the prescribing of Schedules

II through V controlled substances as authorized by KRS 314.011(8), the advanced practice registered nurse shall enter into a written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances" (CAPA-CS) with a physician licensed in Kentucky that defines the scope of the prescriptive authority for controlled substances.

- (b) The advanced practice registered nurse 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.
- (c) The CAPA-CS shall be in writing and signed by both the advanced practice registered nurse and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced practice registered nurse is providing patient care.
- (d) The CAPA-CS shall describe the arrangement for collaboration and communication between the advanced practice registered nurse and the collaborating physician **including an annual review of the CAPA-CS to make any changes deemed necessary by both signers of the agreement** regarding the prescribing of controlled substances by the advanced practice registered nurse.
- (e) The advanced practice registered nurse who is prescribing controlled substances and the collaborating physician shall be qualified in the same or a similar specialty.
- (f) The CAPA-CS is not intended to be a substitute for the exercise of professional judgment by the advanced practice registered nurse or by the collaborating physician.
- (g) Before engaging in the prescribing of controlled substances, the advanced practice registered nurse shall:

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1. Have been licensed to practice as an advanced practice registered nurse for one (1) year with the Kentucky Board of Nursing; or
 2. Be nationally certified as an advanced practice registered nurse and be registered, certified, or licensed in good standing as an advanced practice registered nurse in another state for one (1) year prior to applying for licensure by endorsement in Kentucky.
- (h) Prior to prescribing controlled substances, the advanced practice registered nurse shall obtain a Controlled Substance Registration Certificate through the U.S. Drug Enforcement Agency.
- (i) The CAPA-CS shall be reviewed and signed by both the advanced practice registered nurse and the collaborating physician and may be rescinded by either party upon written notice to the other party and the Kentucky Board of Nursing.
- (j) The CAPA-CS shall state the limits on controlled substances which may be prescribed by the advanced practice registered nurse, as agreed to by the advanced practice registered nurse and the collaborating physician. **The CAPA-CS may include any limitations on drugs and amounts that may be prescribed, as well as any requirements for the APRN to communicate with the physician before prescribing a controlled substance. These agreements should be individualized to accommodate variations in practices.** 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.
- (11) Nothing in this chapter shall be construed as requiring an advanced practice registered nurse designated by the board as a certified registered nurse anesthetist to enter into a collaborative agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

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

(13) (a) Before an advanced practice registered nurse may discontinue or be exempt from a CAPA-CS required under subsection (10) of this section, the advanced practice registered nurse shall have completed four (4) years of prescribing authority for controlled substances, while maintaining a CAPA-CS, DEA registration, and Kentucky All Schedule Prescription Electronic Reporting (KASPER) master account as a certified nurse practitioner, clinical nurse specialist, certified nurse midwife, or as a certified registered nurse anesthetist. For certified nurse practitioners and clinical nurse specialists, the four (4) years of prescribing shall be in a population focus as defined in KRS 314.011.

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

- 1. An advanced practice registered nurse who has had four (4) years of prescribing authority with a CAPA-CS and who wishes to prescribe controlled substances without a CAPA-CS shall submit a form requesting a review from the Kentucky Board of Nursing that the advanced practice registered nurse's license is in good standing;**
- 2. The advanced practice registered nurse shall not prescribe controlled substances without a CAPA-CS until the board has completed its review and has notified the advanced practice registered nurse that the advanced practice registered nurse is exempt from the CAPA-CS requirement;**
- 3. The review request shall be made in the birth month of the advanced practice**

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registered nurse and shall include the payment of a fee set by the board through the promulgation of an administrative regulation;

4. In circumstances established by the board through the promulgation of an administrative regulation, an advanced practice registered nurse who has had four (4) years of prescribing authority with a CAPA-CS may request permission from the board to submit the request for review at an earlier time than the advanced practice registered nurse's birth month; and
5. On or after January 1, 2025, the review request may be made upon completion of the four (4) year requirement of prescribing authority with a CAPA-CS, without regard to birth month.

(c) The Kentucky Board of Nursing shall perform a review to:

1. Verify that a current DEA registration for the advanced practice registered nurse is on file with the board;
2. Verify that a current CAPA-CS notification for the advanced practice registered nurse is on file with the board;
3. Verify that the advanced practice registered nurse has an active KASPER master account;
4. Conduct a criminal background check to ascertain whether the advanced practice registered nurse has any unreported violations; and
5. Review a national nursing disciplinary databank for any violations by the advanced practice registered nurse in this or other jurisdictions.

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

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substances.

- (e) If the advanced practice registered nurse's license is found to be in good standing, that advanced practice registered nurse shall be notified by the board that the advanced practice registered nurse is no longer required to maintain a CAPA-CS and shall not be compelled to maintain a CAPA-CS as a condition to prescribe controlled substances, but an advanced practice registered nurse may choose to maintain a CAPA-CS indefinitely after the four (4) years have expired.
- (f) If the advanced practice registered nurse's license is found not to be in good standing, the CAPA-CS requirement shall not be removed until the license is restored to good standing, as directed by the board.
- (g) The Kentucky Board of Nursing may conduct random audits of the prescribing practices of advanced practice registered nurses, including those who no longer require a CAPA-CS in order to prescribe, through a review of KASPER data and may take disciplinary action if violations of the law have occurred.
- (14) (a) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement is exempt from the CAPA-CS requirement if the advanced practice registered nurse:
1. Has met the prescribing requirements for controlled substances in a state that grants prescribing authority to advanced practice registered nurses;
 2. Has had authority to prescribe controlled substances for at least four (4) years; and
 3. Has a license in good standing as defined in subsection (15) of this section.
- (b) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement who has had the authority to prescribe controlled substances for less than four (4) years and wishes to continue to prescribe

- controlled substances, shall enter into a CAPA-CS with a physician licensed in Kentucky until the cumulative four (4) year requirement is met, after which the advanced practice registered nurse who wishes to prescribe controlled substances without a CAPA-CS shall submit a form requesting a review from the Kentucky Board of Nursing that the advanced practice registered nurse's license is in good standing.
- (c) The advanced practice registered nurse shall not prescribe controlled substances without a CAPA-CS until the board has completed its review and has notified the advanced practice registered nurse that the advanced practice registered nurse is exempt from the CAPA-CS requirement.
- (d) The review request shall be made in the birth month of the advanced practice registered nurse and shall include the payment of a fee set by the board through the promulgation of an administrative regulation.
- (e) In circumstances established by the board through the promulgation of an administrative regulation, an advanced practice registered nurse who has had four (4) years of prescribing authority with a CAPA-CS may request permission from the board to submit the request for review at an earlier time than the advanced practice registered nurse's birth month.
- (f) On or after January 1, 2025, the request accompanied by a fee may be submitted upon completion of the four (4) year requirement to have a CAPA-CS, without regard to birth month.
- (15) As used in this section, a license "in good standing" means an active, unencumbered license to practice advanced practice registered nursing in the state.

→SECTION 10. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

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- (1) There is hereby established within the Office of the Inspector General the Controlled Substance Prescribing Boards Advisory Council. The council shall consist of eight (8) members, including a representative appointed by each of the following:
- (a) The Kentucky Board of Medical Licensure;
 - (b) The Kentucky Board of Nursing;
 - (c) The Kentucky Board of Pharmacy;
 - (d) The Kentucky Board of Dentistry;
 - (e) The Kentucky Office of Drug Control Policy;
 - (f) The State Board of Podiatry;
 - (g) The Kentucky Board of Optometric Examiners; and
 - (h) The inspector general of the Cabinet for Health and Family Services.
- (2) The chair of the council shall be the inspector general of the Cabinet for Health and Family Services.
- (3) The council shall meet at least quarterly to discuss matters relating to the prescribing of controlled substances. The council shall:
- (a) Discuss the most effective means to identify and eliminate prescription drug abuse;
 - (b) Discuss methods to help the professional boards coordinate those efforts;
 - (c) Recommend improvements in data collection and reporting by the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system;
 - (d) Discuss best practices and recommendations for enforcing, reviewing, and disciplining prescribing practices by the professional boards; and
 - (e) Provide advice, guidance, and recommendations to professional boards for establishing administrative regulations on prescribing practices and a requirement for a standard continuing education program on opioid stewardship for all prescribers of controlled substances once every three (3) years to allow for

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consistency in recommendations for prescribing and de-escalating controlled substances.

(4) The council shall submit an annual report by December 31 of each year to the Governor and to the Legislative Research Commission. The annual report shall:

(a) Report the council's meeting dates and topics for the preceding year;

(b) Provide relevant statistical information;

(c) Describe the efforts made by the council to share information related to issues with prescribing controlled substances; and

(d) Provide any policy recommendations, including recommendations for statutory changes or administrative regulation changes.

(5) Members shall not receive any additional compensation for their service on the council but shall be reimbursed for all necessary expenses.";

Renumber subsequent Section;

On page 9, line 26, after the first "and" insert "Sections 1 to 8 of";

On page 9, line 16, after "Act" delete "takes" and insert in lieu thereof, "take".