

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2022 REGULAR SESSION
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Amend printed copy of **HB 354/HCS 1**

On page 1, line 3, to page 13, line 12, delete Sections 1 and 2 in their entirety and insert the following in lieu thereof:

"➔Section 1. 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

Amendment No. HFA 2

Rep. Rep. Kimberly Poore Moser

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: XXXX

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subsection (1) of this section. An advanced practice registered nurse shall be:

- (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 licensure by endorsement.
 - (8) (a) Except as authorized by 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 to the other party and the Kentucky Board of Nursing.

- (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

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.
- (10) (a) **Except as provided in subsections (13) and (14) of this section,** 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 **standardized** written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances" (CAPA-CS) with a physician licensed in Kentucky **who is in good standing with the Kentucky Board of Medical Licensure,** that defines the scope of the prescriptive authority for controlled substances.
- (b) **The standardized written CAPA-CS shall be developed by the Kentucky Board of Medical Licensure.**
- (c) 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 Board of Nursing shall make available a standardized CAPA-CS agreement form based on the requirements developed under paragraph (b) of this subsection.**

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The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-CS exists and furnish **a copy of the completed CAPA-CS to the Kentucky Board of Medical Licensure**~~[the collaborating physician's name].~~

~~(d)~~~~(e)~~ 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.

~~(e)~~~~(d)~~ The CAPA-CS shall describe the arrangement for collaboration and communication between the advanced practice registered nurse and the collaborating physician regarding the prescribing of controlled substances by the advanced practice registered nurse **and shall include but not be limited to:**

- 1. Standards for medical chart reviews by the collaborating physician;**
- 2. A requirement for an in-person evaluation of the patient by the collaborating physician at least annually;**
- 3. Standards for the review of reports from the electronic monitoring system established under KRS 218A.202 for each patient receiving controlled substances under the collaborative agreement; and**
- 4. A schedule for at least quarterly meetings between the collaborating physician and the advanced practice registered nurse to review and discuss:**
 - a. The status of the CAPA-CS;**
 - b. A list of any controlled substances that shall not be covered by the collaborative agreement;**
 - c. Any restrictions on quantities of controlled substances to be prescribed pursuant to the CAPA-CS; and**

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d. Specific instances when an advanced practice registered nurse shall communicate with the physician prior to prescribing a controlled substance.

~~(f)~~~~(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.

~~(g)~~~~(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.

~~(h)~~~~(g)~~ Before engaging in the prescribing of controlled substances, the advanced practice registered nurse shall:

1. Have been licensed to practice as an advanced practice registered nurse for **two (2) years**~~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 **two (2) years**~~one (1) year~~ prior to applying for licensure by endorsement in Kentucky.

~~(i)~~~~(h)~~ Prior to prescribing controlled substances, the advanced practice registered nurse shall obtain a Controlled Substance Registration Certificate through the **United States**~~U.S.~~ Drug Enforcement **Administration**~~Agency~~.

~~(j)~~~~(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.

~~(k)~~~~(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 agreement**

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may be individualized to accommodate variations in practice. 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.

~~(l)(k)~~ Within thirty (30) days of obtaining a Controlled Substance Registration Certificate from the United States Drug Enforcement Administration, and prior to prescribing controlled substances, the advanced practice registered nurse shall register with the electronic system for monitoring controlled substances established by KRS 218A.202 and shall provide a copy of the registration certificate to the board.

(m) Each advanced practice registered nurse prescribing under a CAPA-CS shall at least annually report the following information to a central data system created and maintained by the Kentucky Board of Nursing:

- 1. Financial arrangements for each CAPA-CS agreement, even if there is no cost involved;**
- 2. The number of collaborators and collaborative agreements; and**
- 3. Each address where services are being provided by the advanced practice registered nurse.**

(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.

(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) Except as provided in subsection (14) of this section, before an advanced practice registered nurse who wishes to continue to prescribe controlled substances may discontinue or be exempt from a CAPA-CS required under subsection (10) of this section, the advanced practice registered nurse shall have completed eight (8) years of prescribing authority for controlled substances, while maintaining a CAPA-CS, United States Drug Enforcement Administration registration, and a master account with the electronic system for monitoring controlled substances established by KRS 218A.202.

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

- 1. An advanced practice registered nurse who has had eight (8) years of prescribing authority with a CAPA-CS and who wishes to prescribe controlled substances without a CAPA-CS shall submit, via the APRN update portal, a request for 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 in writing that the advanced practice registered nurse is exempt from the CAPA-CS requirement; and**
- 3. The review request shall include the payment of a fee set by the board through the promulgation of an administrative regulation.**

(c) Upon receipt of a request pursuant to this subsection, the Kentucky Board of

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- Nursing shall perform a review to determine whether the license of the advanced practice registered nurse is in good standing based upon an evaluation of the criteria specified in this subsection and in the administrative regulation promulgated by the board pursuant to this subsection, including but not limited to:*
- 1. Verification that a current United States Drug Enforcement Administration registration certificate for the advanced practice registered nurse is on file with the board;*
 - 2. Verification that a current CAPA-CS notification for the advanced practice registered nurse is on file with the board;*
 - 3. Verification that the advanced practice registered nurse has an active master account with the electronic system for monitoring controlled substances pursuant to KRS 218A.202;*
 - 4. Verification through a criminal background check of the absence of any unreported misdemeanor or felony convictions in Kentucky; and*
 - 5. Verification through a check of the coordinated licensure information system specified in KRS 314.475 of the absence of any unreported disciplinary actions in another state.*
- (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 purpose of removing the requirement for the advanced practice registered nurse to have a CAPA-CS in order to prescribe controlled substances.*
- (e) If the advanced practice registered nurse's license is found to be in good standing, the advanced practice registered nurse shall be notified by the board in writing that*

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- a CAPA-CS is no longer required. The advanced practice registered nurse shall not be required to maintain a CAPA-CS as a condition to prescribe controlled substances unless the board later imposes such a requirement as part of an action instituted under KRS 314.091(1). An advanced practice registered nurse may choose to maintain a CAPA-CS indefinitely after the determination of good standing has been made. An advanced practice registered nurse who chooses to practice without a CAPA-CS shall be held to the same standard of care as all other providers with prescriptive authority.*
- (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 are no longer required to have a CAPA-CS in order to prescribe, through a review of data obtained from the electronic system for monitoring controlled substances pursuant to KRS 218A.202 and may take disciplinary action under KRS 314.091(1) if a violation has 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 such prescribing authority to advanced practice registered nurses;*
 - 2. Has had authority to prescribe controlled substances for at least eight (8) years; and*

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3. Has a license in good standing as described in subsection (13) of this section and in the administrative regulation promulgated by the board pursuant to subsection (13) 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 eight (8) years and wishes to continue to prescribe controlled substances shall enter into a CAPA-CS with a physician licensed in Kentucky until the cumulative eight (8) year requirement is met, after which the advanced practice registered nurse who wishes to prescribe controlled substances without a CAPA-CS shall follow the process identified in subsection (13) of this section and in the administrative regulation promulgated by the board pursuant to subsection (13) of this section.
- (15) An 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 in writing that the advanced practice registered nurse is exempt from the CAPA-CS requirement."