

1 AN ACT relating to prescriptive authority.

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

3 ➔Section 1. KRS 314.042 is amended to read as follows:

- 4 (1) An applicant for licensure to practice as an advanced practice registered nurse shall  
5 file with the board a written application for licensure and submit evidence, verified  
6 by oath, that the applicant:
- 7 (a) Has completed an education program that prepares the registered nurse for one  
8 (1) of four (4) APRN roles that has been accredited by a national nursing  
9 accrediting body recognized by the United States Department of Education;
  - 10 (b) Is certified by a nationally established organization or agency recognized by  
11 the board to certify registered nurses for advanced practice registered nursing;
  - 12 (c) Is able to understandably speak and write the English language and to read the  
13 English language with comprehension; and
  - 14 (d) Has passed the jurisprudence examination approved by the board as provided  
15 in subsection (12) of this section.
- 16 (2) The board may issue a license to practice advanced practice registered nursing to an  
17 applicant who holds a current active registered nurse license issued by the board or  
18 holds the privilege to practice as a registered nurse in this state and meets the  
19 qualifications of subsection (1) of this section. An advanced practice registered  
20 nurse shall be:
- 21 (a) Designated by the board as a certified registered nurse anesthetist, certified  
22 nurse midwife, certified nurse practitioner, or clinical nurse specialist; and
  - 23 (b) Certified in at least one (1) population focus.
- 24 (3) The applicant for licensure or renewal thereof to practice as an advanced practice  
25 registered nurse shall pay a fee to the board as set forth in regulation by the board.
- 26 (4) An advanced practice registered nurse shall maintain a current active registered  
27 nurse license issued by the board or hold the privilege to practice as a registered

1 nurse in this state and maintain current certification by the appropriate national  
2 organization or agency recognized by the board.

3 (5) Any person who holds a license to practice as an advanced practice registered nurse  
4 in this state shall have the right to use the title "advanced practice registered nurse"  
5 and the abbreviation "APRN." No other person shall assume the title or use the  
6 abbreviation or any other words, letters, signs, or figures to indicate that the person  
7 using the same is an advanced practice registered nurse. No person shall practice as  
8 an advanced practice registered nurse unless licensed under this section.

9 (6) Any person heretofore licensed as an advanced practice registered nurse under the  
10 provisions of this chapter who has allowed the license to lapse may be reinstated on  
11 payment of the current fee and by meeting the provisions of this chapter and  
12 regulations promulgated by the board pursuant to the provisions of KRS Chapter  
13 13A.

14 (7) The board may authorize a person to practice as an advanced practice registered  
15 nurse temporarily and pursuant to applicable regulations promulgated by the board  
16 pursuant to the provisions of KRS Chapter 13A if the person is awaiting licensure  
17 by endorsement.

18 (8) (a) Except as authorized by subsection (9) of this section, before an advanced  
19 practice registered nurse engages in the prescribing or dispensing of  
20 nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced  
21 practice registered nurse shall enter into a written "Collaborative Agreement  
22 for the Advanced Practice Registered Nurse's Prescriptive Authority for  
23 Nonscheduled Legend Drugs" (CAPA-NS) with a physician licensed in  
24 Kentucky that defines the scope of the prescriptive authority for nonscheduled  
25 legend drugs.

26 (b) The advanced practice registered nurse shall notify the Kentucky Board of  
27 Nursing of the existence of the CAPA-NS and the name of the collaborating

1 physician and shall, upon request, furnish to the board or its staff a copy of the  
2 completed CAPA-NS. The Kentucky Board of Nursing shall notify the  
3 Kentucky Board of Medical Licensure that a CAPA-NS exists and furnish the  
4 collaborating physician's name.

5 (c) The CAPA-NS shall be in writing and signed by both the advanced practice  
6 registered nurse and the collaborating physician. A copy of the completed  
7 collaborative agreement shall be available at each site where the advanced  
8 practice registered nurse is providing patient care.

9 (d) The CAPA-NS shall describe the arrangement for collaboration and  
10 communication between the advanced practice registered nurse and the  
11 collaborating physician regarding the prescribing of nonscheduled legend  
12 drugs by the advanced practice registered nurse.

13 (e) The advanced practice registered nurse who is prescribing nonscheduled  
14 legend drugs and the collaborating physician shall be qualified in the same or  
15 a similar specialty.

16 (f) The CAPA-NS is not intended to be a substitute for the exercise of  
17 professional judgment by the advanced practice registered nurse or by the  
18 collaborating physician.

19 (g) The CAPA-NS shall be reviewed and signed by both the advanced practice  
20 registered nurse and the collaborating physician and may be rescinded by  
21 either party upon written notice to the other party and the Kentucky Board of  
22 Nursing.

23 (9) (a) Before an advanced practice registered nurse may discontinue or be exempt  
24 from a CAPA-NS required under subsection (8) of this section, the advanced  
25 practice registered nurse shall have completed four (4) years of prescribing as  
26 a certified nurse practitioner, clinical nurse specialist, certified nurse midwife,  
27 or as a certified registered nurse anesthetist. For certified nurse practitioners

1           and clinical nurse specialists, the four (4) years of prescribing shall be in a  
2           population focus as defined in KRS 314.011.

3           (b) After four (4) years of prescribing with a CAPA-NS in collaboration with a  
4           physician:

- 5           1. An advanced practice registered nurse whose license is in good standing  
6           at that time with the Kentucky Board of Nursing and who will be  
7           prescribing nonscheduled legend drugs without a CAPA-NS shall notify  
8           that board that the four (4) year requirement has been met and that he or  
9           she will be prescribing nonscheduled legend drugs without a CAPA-NS;
- 10          2. The advanced practice registered nurse will no longer be required to  
11          maintain a CAPA-NS and shall not be compelled to maintain a CAPA-  
12          NS as a condition to prescribe after the four (4) years have expired, but  
13          an advanced practice registered nurse may choose to maintain a CAPA-  
14          NS indefinitely after the four (4) years have expired; and
- 15          3. If the advanced practice registered nurse's license is not in good  
16          standing, the CAPA-NS requirement shall not be removed until the  
17          license is restored to good standing.

18          (c) An advanced practice registered nurse wishing to practice in Kentucky  
19          through licensure by endorsement is exempt from the CAPA-NS requirement  
20          if the advanced practice registered nurse:

- 21          1. Has met the prescribing requirements in a state that grants independent  
22          prescribing to advanced practice registered nurses; and
- 23          2. Has been prescribing for at least four (4) years.

24          (d) An advanced practice registered nurse wishing to practice in Kentucky  
25          through licensure by endorsement who had a collaborative prescribing  
26          agreement with a physician in another state for at least four (4) years is  
27          exempt from the CAPA-NS requirement.

- 1 (10) (a) *Except as provided in subsections (13) and (14) of this section,* before an  
2 advanced practice registered nurse engages in the prescribing of Schedules II  
3 through V controlled substances as authorized by KRS 314.011(8), the  
4 advanced practice registered nurse shall enter into a written "Collaborative  
5 Agreement for the Advanced Practice Registered Nurse's Prescriptive  
6 Authority for Controlled Substances" (CAPA-CS) with a physician licensed in  
7 Kentucky that defines the scope of the prescriptive authority for controlled  
8 substances.
- 9 (b) The advanced practice registered nurse shall notify the Kentucky Board of  
10 Nursing of the existence of the CAPA-CS and the name of the collaborating  
11 physician and shall, upon request, furnish to the board or its staff a copy of the  
12 completed CAPA-CS. The Kentucky Board of Nursing shall notify the  
13 Kentucky Board of Medical Licensure that a CAPA-CS exists and furnish the  
14 collaborating physician's name.
- 15 (c) The CAPA-CS shall be in writing and signed by both the advanced practice  
16 registered nurse and the collaborating physician. A copy of the completed  
17 collaborative agreement shall be available at each site where the advanced  
18 practice registered nurse is providing patient care.
- 19 (d) The CAPA-CS shall describe the arrangement for collaboration and  
20 communication between the advanced practice registered nurse and the  
21 collaborating physician regarding the prescribing of controlled substances by  
22 the advanced practice registered nurse.
- 23 (e) The advanced practice registered nurse who is prescribing controlled  
24 substances and the collaborating physician shall be qualified in the same or a  
25 similar specialty.
- 26 (f) The CAPA-CS is not intended to be a substitute for the exercise of  
27 professional judgment by the advanced practice registered nurse or by the

1 collaborating physician.

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

4 1. ~~Have been licensed to practice as an advanced practice registered nurse~~  
5 ~~for one (1) year with the Kentucky Board of Nursing; or~~

6 2. ~~Be nationally certified as an advanced practice registered nurse and be~~  
7 ~~registered, certified, or licensed in good standing as an advanced~~  
8 ~~practice registered nurse in another state for one (1) year prior to~~  
9 ~~applying for licensure by endorsement in Kentucky.~~

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

13 ~~(h)~~~~(i)~~ The CAPA-CS shall be reviewed and signed by both the advanced  
14 practice registered nurse and the collaborating physician and may be rescinded  
15 by either party upon written notice to the other party and the Kentucky Board  
16 of Nursing.

17 ~~(i)~~~~(j)~~ The CAPA-CS shall state the limits on controlled substances which may  
18 be prescribed by the advanced practice registered nurse, as agreed to by the  
19 advanced practice registered nurse and the collaborating physician. *The*  
20 *CAPA-CS may include any limitations on drugs and amounts that may be*  
21 *prescribed, as well as any requirements for the advanced practice registered*  
22 *nurses to communicate with the collaborating physician before prescribing*  
23 *a controlled substance. These agreements may be individualized to*  
24 *accommodate variations in practice.* The limits so imposed may be more  
25 stringent than either the schedule limits on controlled substances established  
26 in KRS 314.011(8) or the limits imposed in regulations promulgated by the  
27 Kentucky Board of Nursing thereunder.

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

7       (11) Nothing in this chapter shall be construed as requiring an advanced practice  
8                   registered nurse designated by the board as a certified registered nurse anesthetist to  
9                   enter into a collaborative agreement with a physician, pursuant to this chapter or any  
10                  other provision of law, in order to deliver anesthesia care.

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

17       **(13) (a) Except as provided in subsection (14) of this section, before an advanced**  
18                   **practice registered nurse who wishes to continue to prescribe controlled**  
19                   **substances may discontinue or be exempt from a CAPA-CS required under**  
20                   **subsection (10) of this section, the advanced practice registered nurse shall**  
21                   **have completed four (4) years of prescribing authority for controlled**  
22                   **substances, while maintaining a CAPA-CS, United States Drug**  
23                   **Enforcement Administration registration, and a master account with the**  
24                   **electronic system for monitoring controlled substances established by KRS**  
25                   **218A.202.**

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

27                   **1. An advanced practice registered nurse who has had four (4) years of**

1           prescribing authority with a CAPA-CS and who wishes to prescribe  
2           controlled substances without a CAPA-CS shall submit, via the APRN  
3           update portal, a request for review from the Kentucky Board of  
4           Nursing that the advanced practice registered nurse's license is in  
5           good standing;

6           2. The advanced practice registered nurse shall not prescribe controlled  
7           substances without a CAPA-CS until the board has completed its  
8           review and has notified the advanced practice registered nurse in  
9           writing that the advanced practice registered nurse is exempt from the  
10           CAPA-CS requirement; and

11           3. The review request shall include the payment of a fee set by the board  
12           through the promulgation of an administrative regulation.

13           (c) Upon receipt of a request pursuant to this subsection, the Kentucky Board  
14           of Nursing shall perform a review to determine whether the license of the  
15           advanced practice registered nurse is in good standing based upon an  
16           evaluation of the criteria specified in this subsection and in the  
17           administrative regulation promulgated by the board pursuant to this  
18           subsection, including but not limited to:

19           1. Verification that a current United States Drug Enforcement  
20           Administration registration certificate for the advanced practice  
21           registered nurse is on file with the board;

22           2. Verification that a current CAPA-CS notification for the advanced  
23           practice registered nurse is on file with the board;

24           3. Verification that the advanced practice registered nurse has an active  
25           master account with the electronic system for monitoring controlled  
26           substances pursuant to KRS 218A.202;

27           4. Verification through a criminal background check of the absence of



1                   any unreported misdemeanor or felony convictions in Kentucky; and  
2                   5.   Verification through a check of the coordinated licensure information  
3                   system specified in KRS 314.475 of the absence of any unreported  
4                   disciplinary actions in another state.

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

10                  (e) If the advanced practice registered nurse's license is found to be in good  
11                  standing, the advanced practice registered nurse shall be notified by the  
12                  board in writing that a CAPA-CS is no longer required. The advanced  
13                  practice registered nurse shall not be required to maintain a CAPA-CS as a  
14                  condition to prescribe controlled substances unless the board later imposes  
15                  such a requirement as part of an action instituted under KRS 314.091(1).  
16                  An advanced practice registered nurse may choose to maintain a CAPA-CS  
17                  indefinitely after the determination of good standing has been made.

18                  (f) If the advanced practice registered nurse's license is found not to be in good  
19                  standing, the CAPA-CS requirement shall not be removed until the license  
20                  is restored to good standing, as directed by the board.

21                  (g) The Kentucky Board of Nursing may conduct random audits of the  
22                  prescribing practices of advanced practice registered nurses, including  
23                  those who are no longer required to have a CAPA-CS in order to prescribe,  
24                  through a review of data obtained from the electronic system for monitoring  
25                  controlled substances pursuant to KRS 218A.202 and may take disciplinary  
26                  action under KRS 314.091(1) if a violation has occurred.

27                  (14) (a) An advanced practice registered nurse wishing to practice in Kentucky

1 through licensure by endorsement is exempt from the CAPA-CS  
2 requirement if the advanced practice registered nurse:

3 1. Has met the prescribing requirements for controlled substances in a  
4 state that grants such prescribing authority to advanced practice  
5 registered nurses;

6 2. Has had authority to prescribe controlled substances for at least four  
7 (4) years; and

8 3. Has a license in good standing as described in subsection (13) of this  
9 section and in the administrative regulation promulgated by the board  
10 pursuant to subsection (13) of this section.

11 (b) An advanced practice registered nurse wishing to practice in Kentucky  
12 through licensure by endorsement who has had the authority to prescribe  
13 controlled substances for less than four (4) years and wishes to continue to  
14 prescribe controlled substances shall enter into a CAPA-CS with a  
15 physician licensed in Kentucky until the cumulative four (4) year  
16 requirement is met, after which the advanced practice registered nurse who  
17 wishes to prescribe controlled substances without a CAPA-CS shall follow  
18 the process identified in subsection (13) of this section and in the  
19 administrative regulation promulgated by the board pursuant to subsection  
20 (13) of this section.

21 (15) An advanced practice registered nurse shall not prescribe controlled substances  
22 without a CAPA-CS until the board has completed its review and has notified the  
23 advanced practice registered nurse in writing that the advanced practice  
24 registered nurse is exempt from the CAPA-CS requirement.

25 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO  
26 READ AS FOLLOWS:

27 (1) There is hereby established within the Office of the Inspector General the

1 Controlled Substance Prescribing Boards Advisory Council. The council shall  
2 consist of eight (8) members, including:

3 (a) A representative appointed by each of the following:

4 1. The inspector general of the Cabinet for Health and Family Services;

5 and

6 2. The Kentucky Office of Drug Control Policy;

7 (b) A representative who is currently a licensed prescriber of scheduled drugs,  
8 appointed by each of the following licensure boards:

9 1. The Kentucky Board of Dentistry;

10 2. The Kentucky Board of Medical Licensure;

11 3. The Kentucky Board of Nursing;

12 4. The Kentucky Board of Optometric Examiners; and

13 5. The Kentucky Board of Podiatry; and

14 (c) A representative who is a licensed pharmacist, appointed by the Kentucky  
15 Board of Pharmacy.

16 (2) The chair of the council shall be the inspector general of the Cabinet for Health  
17 and Family Services.

18 (3) The council shall meet at least quarterly to discuss matters relating to the  
19 prescribing of controlled substances, including:

20 (a) The most effective means to identify and eliminate prescription drug abuse;

21 (b) Methods to help the professional boards coordinate those efforts;

22 (c) Recommended improvements in data collection and reporting by the  
23 electronic system for monitoring controlled substances pursuant to KRS  
24 218A.202;

25 (d) Advice, guidance, and recommendations to professional boards on  
26 prescribing best practices; and

27 (e) Recommendations to professional boards for a continuing education

1           program on opioid stewardship that may be included as part of the  
2           continuing education currently required for all prescribers of controlled  
3           substances.

- 4   (4) The council shall submit an annual report by December 31 of each year to the  
5   Governor and to the Legislative Research Commission. The annual report shall:  
6   (a) Report the council's meeting dates and topics for the preceding year;  
7   (b) Provide relevant statistical information;  
8   (c) Describe the efforts made by the council to share information related to  
9   issues with prescribing controlled substances; and  
10   (d) Provide any policy recommendations, including recommendations for  
11   statutory changes or administrative regulation changes.  
12   (5) Members shall not receive any additional compensation for their service on the  
13   council but shall be reimbursed for all necessary expenses.