

HOUSE BILL No. 2496

Balloon
House Bill No. 2496

By Committee on Health and Human Services

1-18

AN ACT concerning nursing; board of nursing; enacting the nurse
licensure compact; authorizing criminal history record checks;
: amending K.S.A. 65-1127 and K.S.A. 2017 Supp. 65-1113,
65-1117, 65-1118, 65-1120 and 74-1106 and repealing the
existing sections

Be it enacted by the Legislature of the State of Kansas:
Section 1. This ~~act~~ shall be ~~known~~ and may be cited as the nurse
licensure compact. section
known

Nurse Licensure Compact
ARTICLE I

FINDINGS AND DECLARATION OF PURPOSE

- (a) The legislature of the state of Kansas finds that:
 - (1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;
 - (2) violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
 - (3) the expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;
 - (4) new practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;
 - (5) the current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and
 - (6) uniformity of nurse licensure requirements among the states promotes public safety and public health benefits.
- (b) The general purposes of this compact are to:
 - (1) Facilitate the states' responsibility to protect the public's health and safety;
 - (2) ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
 - (3) facilitate the exchange of information among party states in the areas of nurse regulation, investigation and adverse actions;
 - (4) promote compliance with the laws governing the practice of nursing in each jurisdiction;
 - (5) invest all party states with the authority to hold a nurse

2/15/2018

5

1 the other provisions of this compact.

2 (f) This compact may be amended by the party states. No amendment
3 to this compact shall become effective and binding upon the party states
4 unless and until it is enacted into the laws of all party states.

5 (g) Representatives of non-party states to this compact shall be
6 invited to participate in the activities of the commission, on a nonvoting
7 basis, prior to the adoption of this compact by all states.

8 ARTICLE XI

9 CONSTRUCTION AND SEVERABILITY

10 This compact shall be liberally construed so as to effectuate the
11 purposes thereof. The provisions of this compact shall be severable, and if
12 any phrase, clause, sentence or provision of this compact is declared to be
13 contrary to the constitution of any party state or of the United States, or if
14 the applicability thereof to any government, agency, person or
15 circumstance is held invalid, the validity of the remainder of this compact
16 and the applicability thereof to any government, agency, person or
17 circumstance shall not be affected thereby. If this compact shall be held to
18 be contrary to the constitution of any party state, this compact shall remain
19 in full force and effect as to the remaining party states and in full force and
20 effect as to the party state affected as to all severable matters.

21 Sec. 2 This act shall take effect and be in force from and after its
22 publication in the statute book. 9

Insert Sections 2 through 8 - attached

November 6, 2019, and

Sec. 2. K.S.A. 2017 Supp. 65-1113 is hereby amended to read as follows: 65-1113. When used in this act and the act of which this section is amendatory:

- (a) "Board" means the board of nursing.
- (b) "Diagnosis" in the context of nursing practice means that identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen and shall be construed as distinct from a medical diagnosis.
- (c) "Treatment" means the selection and performance of those therapeutic measures essential to effective execution and management of the nursing regimen, and any prescribed medical regimen.
- (d) *Practice of nursing.* (1) The practice of professional nursing as performed by a registered professional nurse for compensation or gratuitously, except as permitted by K.S.A. 65-1124, and amendments thereto, means the process in which substantial specialized knowledge derived from the biological, physical, and behavioral sciences is applied to: the care, diagnosis, treatment, counsel and health teaching of persons who are experiencing changes in the normal health processes or who require assistance in the maintenance of health or the prevention or management of illness, injury or infirmity; administration, supervision or teaching of the process as defined in this section; and the execution of the medical regimen as prescribed by a person licensed to practice medicine and surgery or a person licensed to practice dentistry.
(2) The practice of nursing as a licensed practical nurse means the performance for compensation or gratuitously, except as permitted by K.S.A. 65-1124, and any amendments thereto, of tasks and responsibilities defined in ~~part paragraph (1) of this subsection (d)~~, which tasks and responsibilities are based on acceptable educational preparation within the framework of supportive and restorative care under the direction of a registered professional nurse, a person licensed to practice medicine and surgery or a person licensed to practice dentistry.
- (e) A "professional nurse" means a person who is licensed to practice professional nursing as defined in ~~part 1 of subsection (d)(1) of this section.~~
- (f) A "practical nurse" means a person who is licensed to practice practical nursing as defined in ~~part 2 of subsection (d)(2) of this section.~~
- (g) "Advanced practice registered nurse" or "APRN" means a professional nurse who holds a license from the board to function as a professional nurse in an advanced role, and this advanced role shall be defined by rules and regulations adopted by the board in accordance with K.S.A. 65-1130, and amendments thereto.
- (h) "Continuing nursing education" means learning experiences intended to build upon the educational and experiential bases of the registered professional and licensed practical nurse for the enhancement of practice, education, administration, research or theory development to the end of improving the health of the public.

Sec. 3. K.S.A. 2017 Supp. 65-1117 is hereby amended to read as follows: 65-1117. (a) All licenses issued under the provisions of this act, whether initial or renewal, including multi-state licenses under the nurse licensure compact, shall expire every two years. The expiration date shall be established by the rules and regulations of the board. Any licensed nurse may file a multi-state license application together with the prescribed multi-state license fee at any time the nurse holds an active license. The board shall send a notice for renewal of license to every registered professional nurse and licensed practical nurse at least 60 days prior to the expiration date of such person's license. Every person so licensed who desires to renew such license shall file with the board, on or before the date of expiration of such license, a renewal application together with the prescribed biennial renewal fee. Every licensee who is no longer engaged in the active practice of nursing may so state by affidavit and submit such affidavit with the renewal application. An inactive license may be requested along with payment of a fee, which shall be fixed by rules and regulations of the board. Except for the first renewal for a license that expires within 30 months following licensure examination or for renewal of a license that expires within the first nine months following licensure by reinstatement or endorsement, every licensee with an active nursing license shall submit with the renewal application evidence of satisfactory completion of a program of continuing nursing education required by the board. The board by duly adopted rules and regulations shall establish the requirements for such program of continuing nursing education. [Continuing nursing education means learning experiences intended to build upon the educational and experiential bases of the registered professional and licensed practical nurse for the enhancement of practice, education, administration, research or theory development to the end of improving the health of the public.] Upon receipt of such application, payment of fee, upon receipt of the evidence of satisfactory completion of the required program of continuing nursing education and upon being satisfied that the applicant meets the requirements set forth in K.S.A. 65-1115 or 65-1116, and amendments thereto, in effect at the time of initial licensure of the applicant, the board shall verify the accuracy of the application and grant a renewal license.

(b) Any person who fails to secure a renewal license within the time specified herein may secure a reinstatement of such lapsed license by making verified application therefor on a form provided by the board, by rules and regulations, and upon furnishing proof that the applicant is competent and qualified to act as a registered professional nurse or licensed practical nurse and by satisfying all of the requirements for reinstatement including payment to the board of a reinstatement fee as established by the board. A reinstatement application for licensure will be held awaiting completion of such documentation as may be required, but such application shall not be held for a period of time in excess of that specified in rules and regulations.

[(c) — Any person whose license as a registered professional nurse has lapsed for a period of more than 13 years beyond its expiration date and who has been employed for at least 10 of the last 13 years in an allied health profession which employment required substantially comparable patient care to that of care provided by a registered professional nurse may apply for reinstatement as a registered professional nurse and shall not be required to complete a refresher course as established by the board, but shall be reinstated as a registered professional nurse by the board upon application to the board for reinstatement of such license on a form provided by the board, upon presentation to the board of an affidavit from such person detailing such person's work history, upon determination by the board that the work history with regard to patient care is substantially comparable to patient care provided by a registered professional nurse, upon determination by the board that such person is otherwise qualified to be licensed as a registered professional nurse and upon paying to the board the reinstatement fee established by the board. This subsection shall expire on January 1, 2012.]

[(d)] (1) Each licensee shall notify the board in writing of: (A) A change in name or address within 30 days of the change; or (B) a conviction of any felony or misdemeanor, that is specified in rules and regulations adopted by the board, within 30 days from the date the conviction becomes final.

(2) As used in this subsection, "conviction" means a final conviction without regard to whether the sentence was suspended or probation granted after such conviction. Also, for the purposes of this subsection, a forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. Failure to so notify the board shall not constitute a defense in an action relating to failure to renew a license, nor shall it constitute a defense in any other proceeding.

(d) Every person who holds a multi-state license under the nurse licensure compact and who engages in the practice of nursing in Kansas shall notify the board of the person's address and other matters as may be required by the board. The notification shall be in a manner as required by the board. The board shall adopt rules and regulations to implement the provisions of this subsection.

Sec. 4. K.S.A. 2017 Supp. 65-1118 is hereby amended to read as follows: 65-1118. (a) The board shall collect in advance fees provided for in this act as fixed by the board, but not exceeding:

Application for single-state license—professional nurse.....	\$75 150
Application for single-state license—practical nurse.....	\$6 100
Application for single-state biennial renewal of license —professional nurse and practical nurse.....	66 120
Application for single-state reinstatement of license.....	79 150
Application for single-state reinstatement of licenses with temporary permit.....	100 175
Application for multi-state license — professional nurse.....	300
Application for multi-state license — practical nurse.....	300
Application for multi-state biennial renewal of license — professional nurse and practical nurse.....	200
Application for multi-state reinstatement of license.....	300
Application for multi-state reinstatement of licenses with temporary permit.....	300
Application for reinstatement of revoked license.....	1,000
Certified copy of license.....	25
Duplicate of license.....	25
Inactive license.....	20
Application for license—advanced practice registered nurse.....	50
Application for license with temporary permit—advanced practice registered nurse.....	100
Application for renewal of license—advanced practice registered nurse.....	60
Application for reinstatement of license—advanced practice registered nurse.....	75
Application for authorization—registered nurse anesthetist.....	75
Application for authorization with temporary authorization— registered nurse anesthetist.....	110
Application for biennial renewal of authorization—registered nurse anesthetist.....	60
Application for reinstatement of authorization—registered nurse anesthetist.....	75
Application for authorization with temporary authorization—registered nurse anesthetist.....	100
Verification of license to another state.....	30
Application for exempt license—professional and practical nurse.....	50
Application for biennial renewal of exempt license— professional and practical nurse.....	50
Application for exempt license—advanced practice registered nurse.....	50
Application for biennial renewal of exempt license—advanced practice registered nurse.....	50

(b) The board may require that fees paid for any examination under the Kansas nurse practice act be paid directly to the examination service by the person taking the examination.

(c) The board shall accept for payment of fees under this section personal checks, certified checks, cashier's checks, money orders or credit cards. The board may designate other methods of payment, but shall not refuse payment in the form of a personal check. The board may impose additional fees and recover any costs incurred by reason of payments made by personal checks with insufficient funds and payments made by credit cards.

Sec. 5. K.S.A. 2017 Supp. 65-1120 is hereby amended to read as follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may deny, revoke, limit or suspend any license or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or as a registered nurse anesthetist that is issued by the board or applied for under this act, or may require the licensee to attend a specific number of hours of continuing education in addition to any hours the licensee may already be required to attend or may publicly or privately censure a licensee or holder of a temporary permit or authorization, if the applicant, licensee or holder of a temporary permit or authorization is found after hearing:

(1) To be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing;

(2) to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes annotated, or K.S.A. 2017 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(3) has been convicted or found guilty or has entered into an agreed disposition of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

~~(4)~~ to have committed an act of professional incompetency as defined in subsection (e);

~~(5)~~ to be unable to practice with skill and safety due to current abuse of drugs or alcohol;

~~(6)~~ to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;

~~(7)~~ to be guilty of unprofessional conduct as defined by rules and regulations of the board;

~~(8)~~ to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;

~~(9)~~ to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (8); or

~~(10)~~ to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2017 Supp. 21-5407, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2017 Supp. 21-5407, and amendments thereto.

(B) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 2017 Supp. 60-4404, and amendments thereto.

(C) A copy of the record of a judgment assessing damages under K.S.A. 2017 Supp. 60-4405, and amendments thereto.

(b) *Proceedings.* Upon filing of a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall investigate the charges, or the board may designate and authorize an employee or employees of the board to conduct an investigation. After investigation, the board may institute charges. If an investigation, in the opinion of the board, reveals reasonable grounds for believing the applicant or licensee is guilty of the charges, the board shall fix a time and place for proceedings, which shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) *Witnesses.* No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state except the crime of perjury as defined in K.S.A. 2017 Supp. 21-5903, and amendments thereto.

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Sec. 5. K.S.A. 2017 Supp. 65-1120

(d) *Costs*: If final agency action of the board in a proceeding under this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district court. All costs accrued by the board, when it is the successful party, and which the attorney general certifies cannot be collected from the applicant or licensee shall be paid from the board of nursing fee fund. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund.

(e) *Professional incompetency defined*: As used in this section, "professional incompetency" means:

- (1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;
 - (2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or
 - (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.
- (f) *Criminal justice information*: The board upon request shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board.

Sec. 6. K.S.A. 65-1127 is hereby amended to read as follows: 65-1127. (a) A licensee shall report to the board of nursing any information the licensee may have relating to alleged incidents of malpractice or the qualifications, fitness or character of a person licensed to practice professional nursing or licensed to practice practical nursing, including persons holding a multi-state license under the nurse licensure compact. No person reporting to the board of nursing under oath and in good faith any information such person may have relating to alleged incidents of malpractice or the qualifications, fitness or character of a person licensed to practice professional nursing or licensed to practice practical nursing shall be subject to a civil action for damages as a result of reporting such information.

(b) Any state, regional or local association of registered professional nurses or licensed practical nurses and the individual members of any committee thereof, which in good faith investigates or communicates information pertaining to the alleged incidents of malpractice or the qualifications, fitness or character of any licensee or registrant to the board of nursing or to any committee or agent thereof, shall be immune from liability in any civil action, that is based upon such information or transmittal of information if the investigation and communication was made in good faith and did not represent as true any matter not reasonably believed to be true.

Sec. 7. K.S.A. 2017 Supp. 74-1106 is hereby amended to read as follows: 74-1106. (a) *Appointment, term of office.* (1) The governor shall appoint a board consisting of 11 members of which six shall be registered professional nurses, two shall be licensed practical nurses and three shall be members of the general public, which shall constitute a board of nursing, with the duties, power and authority set forth in this act.

(2) Upon the expiration of the term of any registered professional nurse, the Kansas state nurses association shall submit to the governor a list of registered professional nurses containing names of not less than three times the number of persons to be appointed, and appointments shall be made after consideration of such list for terms of four years and until a successor is appointed and qualified.

(3) On the effective date of this act, the Kansas federation of licensed practical nurses shall submit to the governor a list of licensed practical nurses containing names of not less than three times the number of persons to be appointed, and appointments shall be made after consideration of such list for a term of four years and until a successor is appointed and qualified.

(4) Each member of the general public shall be appointed for a term of four years and successors shall be appointed for a like term.

(5) Whenever a vacancy occurs on the board of nursing, it shall be filled by appointment for the remainder of the unexpired term in the same manner as the preceding appointment. No person shall serve more than two consecutive terms as a member of the board of nursing and appointment for the remainder of an unexpired term shall constitute a full term of service on such board.

(b) *Qualifications of members.* Each member of the board shall be a citizen of the United States and a resident of the state of Kansas. Registered professional nurse members shall possess a license to practice as a professional nurse in this state with at least five years' experience in nursing as such and shall be actively engaged in professional nursing in Kansas at the time of appointment and reappointment. The licensed practical nurse members shall be licensed to practice practical nursing in the state with at least five years' experience in practical nursing and shall be actively engaged in practical nursing in Kansas at the time of appointment and reappointment. The governor shall appoint successors so that the registered professional nurse membership of the board shall consist of at least two members who are engaged in nursing service, at least two members who are engaged in nursing education and at least one member who is engaged in practice as an advanced practice registered nurse or a registered nurse anesthetist. The consumer members shall represent the interests of the general public. At least one consumer member shall not have been involved in providing health care. Each member of the board shall take and subscribe the oath prescribed by law for state officers, which oath shall be filed with the secretary of state.

(c) *Duties and powers.* (1) The board shall meet annually at Topeka during the month of September and shall elect from its members a president, vice-president and secretary, each of whom shall hold their respective offices for one year. The board shall employ an executive administrator, who shall be a registered professional nurse, who shall not be a member of the board and who shall be in the unclassified service under the Kansas civil service act, and shall employ such other employees, who shall be in the classified service under the Kansas civil service act as necessary to carry on the work of the board. The information technology and operational staff shall remain employees of the board. As necessary, the board shall be represented by an attorney appointed by the attorney general as provided by law, whose compensation shall be determined and paid by the board with the approval of the governor. The board may hold such other meetings during the year as may be deemed necessary to transact its business.

(2) The board shall adopt rules and regulations consistent with this act necessary to carry into effect the provisions thereof, and such rules and regulations may be published and copies thereof furnished to any person upon application.

(3) The board shall prescribe curricula and standards for professional and practical nursing programs and mental health technician programs, and provide for surveys of such schools and courses at such times as it may deem necessary. It shall accredit such schools and approve courses as meet the requirements of the appropriate act and rules and regulations of the board.

(4) The board shall examine, license and renew licenses of duly qualified applicants and conduct hearings upon charges for limitation, suspension or revocation of a license or approval of professional and practical nursing and mental health technician programs and may limit, deny, suspend or revoke for proper legal cause, licenses or approval of professional and practical nursing and mental health technician programs, as hereinafter provided. Examination for applicants for registration shall be given at least twice each year and as many other times as deemed necessary by the board. The board shall promote improved means of nursing education and standards of nursing care through institutes, conferences and other means.

(5) The board shall have a seal of which the executive administrator shall be the custodian. The president and the secretary shall have the power and authority to administer oaths in transacting business of the board, and the secretary shall keep a record of all proceedings of the board and a register of professional and practical nurses and mental health technicians licensed and showing the certificates of registration or licenses granted or revoked, which register shall be open at all times to public inspection.

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Sec. 7. K.S.A. 2017 Supp. 74-11106

(6) The board may enter into contracts as may be necessary to carry out its duties.

(7) The board is hereby authorized to apply for and to accept grants and may accept donations, bequests or gifts. The board shall remit all moneys received by it under this paragraph (7) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the grants and gifts fund which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or a person designated by the president.

(8) A majority of the board of nursing including two professional nurse members shall constitute a quorum for the transaction of business.

(d) *Subpoenas.* In all investigations and proceedings, the board shall have the power to issue subpoenas and compel the attendance of witnesses and the production of all relevant and necessary papers, books, records, documentary evidence and materials. Any person failing or refusing to appear or testify regarding any matter about which such person may be lawfully questioned or to produce any books, papers, records, documentary evidence or relevant materials in the matter, after having been required by order of the board or by a subpoena of the board to do so, upon application by the board to any district judge in the state, may be ordered by such judge to comply therewith. Upon failure to comply with the order of the district judge, the court may compel obedience by attachment for contempt as in the case of disobedience of a similar order or subpoena issued by the court. A subpoena may be served upon any person named therein anywhere within the state with the same fees and mileage by an officer authorized to serve subpoenas in civil actions in the same procedure as is prescribed by the code of civil procedure for subpoenas issued out of the district courts of this state.

(e) *Compensation and expenses.* Members of the board of nursing attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. No member of the board of nursing shall be paid an amount as provided in K.S.A. 75-3223, and amendments thereto, if such member receives an amount from another governmental or private entity for the purpose for which such amount is payable under K.S.A. 75-3223, and amendments thereto.

Sec. 8. K.S.A. 65-1127 and K.S.A. 2017 Supp. 65-1113, 65-1117, 65-1118, 65-1120 and 74-1106 are hereby repealed.