

Testimony re: SB 174
Senate Public Health & Welfare Committee
Presented by Amy Siple
on behalf of Kansas Advanced Practice Nurses Association
February 18, 2021

Mister Chairman, Members of the Committee:

My name is Amy Siple and I am an APRN in Kansas. I have been serving the primary care needs of older adults in long term care centers for 22 years. I come today to testify in support of SB 174.

SB 174:

- **Removes the requirement for a collaborative practice agreement/written protocol** with a physician. The bill does not eliminate collaboration, just the written agreement requirement. The outdated collaborative practice agreement requirement creates barriers to access of care and quality of care. In today's landscape it is extremely hard to find a physician able to sign a CPA. In many cases exorbitant fees are required to secure a yearly signature from a physician, making the economics unfeasible. I collaborate with many Physicians but I do not need a CPA contract to do that. 23 states have either never had or have eliminated the Collaborative Practice Agreement (CPA) requirement for APRNs. Hundreds of studies prove that removing the CPA does not negatively impact patient care. In fact, patient outcomes are the same or better. Also, the Veterans Administration, the Department of Defense, and the Bureau of Indian Affairs do not require CPAs.
- **Requires a transition to practice for new APRN graduates** of 4,000 hours during which a collaborative practice agreement with a physician or a full practice authority APRN is required.
- **Requires APRNs to be nationally certified.** This will put our state in alignment with national standards for APRN regulation and practice.
- **Requires APRNs to carry malpractice insurance coverage** and to participate in the Health Care Stabilization Fund.
- **Keeps APRN regulation under the Board of Nursing.** Since APRNs were first recognized by Kansas law, they have been regulated by the Kansas Board of Nursing. In every state with Full Practice Authority APRNs are regulated by the State Board of Nursing. Some have suggested that if this bill passes, APRNs should be regulated by the Board of Healing Arts. The FTC notes that the board of healing arts regulating APRNs would constitute restraint of trade. Such regulation would be unconstitutional pursuant to the North Carolina Dental Board vs FTC US Supreme Court case.

SB 174:

- **Does NOT Change the scope of practice for APRNs.** Following the passage of this bill, APRNs will continue to render the same services in accordance with their education and certification.
- **Does NOT Change the requirement for APRNs to collaborate with physicians.** APRNs will continue to collaborate with physicians and other health care providers in accordance with their ethics and as required in SB 174.

Evidence that it is safe to remove restrictions on APRNs comes from an annual review of state laws and regulations governing APRNs that now includes malpractice claims in its analysis. The 2010 *Pearson Report* documents no increase in claims registered in the Healthcare Integrity and

Protection Data Bank in states where APRNs have full authority to practice and prescribe independently. [Institute of Medicine, 2011]

Please look at the attachment which shows the 23 states where APRNs have Full Practice Authority, in the green. Compare with how states rate on unnecessary Hospitalizations and Basic Healthcare. APRNs with Full Practice Authority offers increased access to care for ultimately better healthcare for citizens of Kansas.

Because we were not able to see the bill before it was thrown in, we have a balloon amendment that would conform the bill to our original draft intent. We have worked with Rep. John Barker and Revisor Scott Abbott has the draft amendment (attached).

Thank you for allowing me to testify and I will be happy to yield to questions.

APRN Full Practice Authority (no collaborative practice agreement) Provides Increased Health Care Access SB 174

APRNs (Advanced Practice Registered Nurses) are first registered nurses who go on to obtain advanced training in Masters and Doctorate level programs. These programs are narrowly tailored to the specialization sought by the practitioner, which can include Health Assessment, Primary Care, Disease Prevention, Family and Child Health, Acute and Chronic Disease Education & Disease Management. APRNs are trained to diagnose and treat patients within their national certification, and collaborate, consult, and refer to other health care professionals.

Journal of the American Medical Association:

“Primary care is the most affordable safety net we can offer our citizens.”

United Health Group on Medicare enrollment:

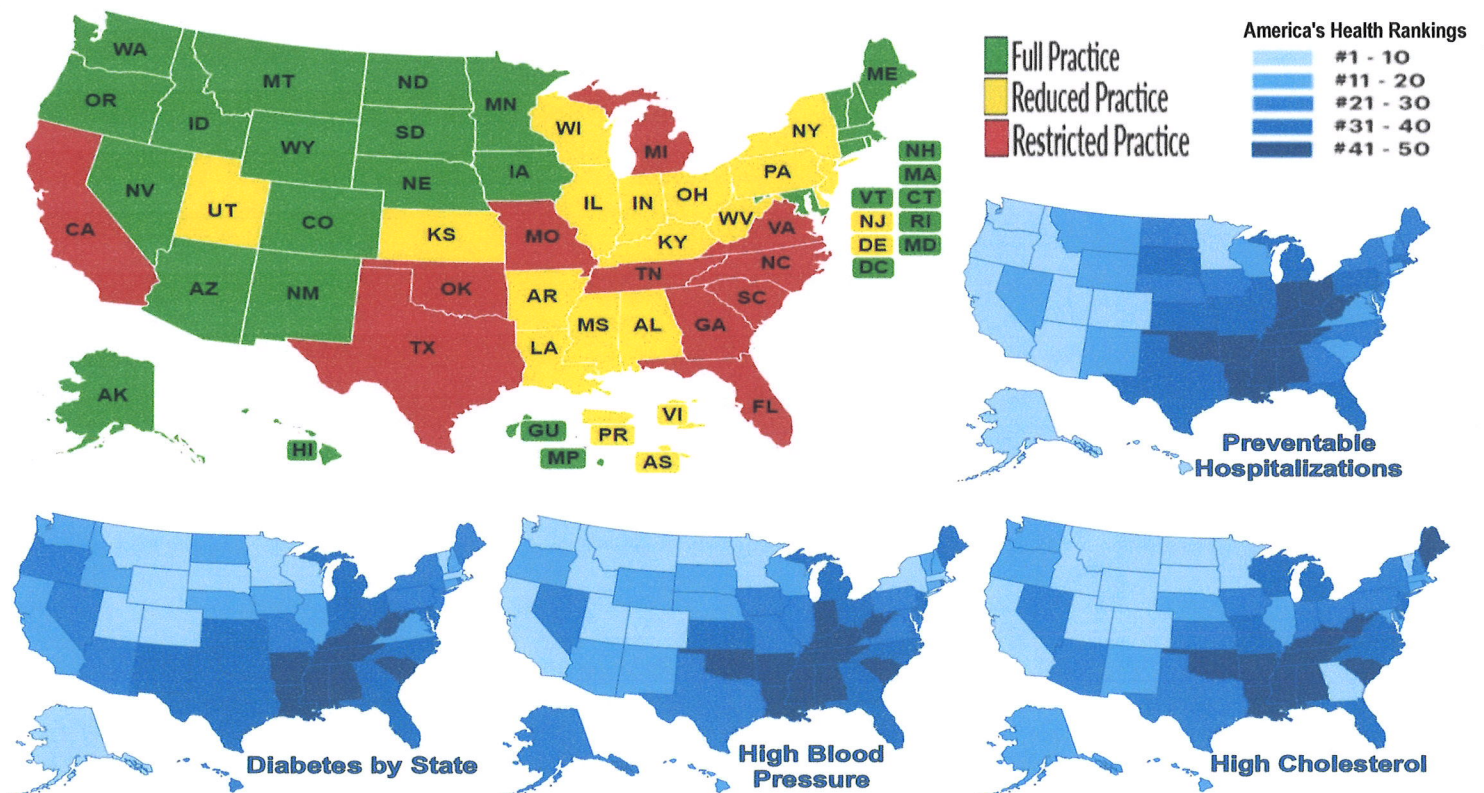
- **If implemented nationally, APRN Full Practice Authority would reduce primary care shortages from 44 million to 13 million individuals**
- **Currently 54 million people in Medicare and 26% have 3 or more with chronic diseases ...**
By 2030, 80 million people in Medicare and 40% expected to have 3 or more chronic diseases

Federal Trade Commission: Removing Collaborative Practice Agreement (CPA) Requirements allow a more competitive market; APRNs play a critical role in alleviating provider shortages and expanding access to health care services for medically underserved populations.

23 states and numerous federal agencies allow APRNs Full Practice Authority (FPA). APRNs in Kansas practice with FPA within our Vet. Affairs system, Indian Health Service, and on our military bases. Other federal agencies recognize the need for FPA to improve access to safe and quality care and remove barriers to a free market: FTC, HHS, DOT and DOL.

The map below shows states where barriers are removed and APRNs are allowed Full Practice Authority.

APRNs FPA allows better Access to Care, Disease Prevention, Disease Education, and Disease Management.



SENATE BILL No. 174

By Committee on Public Health and Welfare

2-8

1 AN ACT concerning advanced practice registered nurses; relating to the
2 board of nursing; definition of practice; prescribing authority; licensure
3 requirements; rules and regulations; amending K.S.A. 65-1130 and
4 K.S.A. 2020 Supp. 40-3401, 65-1113 and 65-4101 and repealing the
5 existing sections.

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2020 Supp. 40-3401 is hereby amended to read as
8 follows: 40-3401. As used in this act:

9 (a) "Applicant" means any healthcare provider.

10 (b) "Basic coverage" means a policy of professional liability
11 insurance required to be maintained by each healthcare provider pursuant
12 to the provisions of K.S.A. 40-3402(a) or (b), and amendments thereto.

13 (c) "Commissioner" means the commissioner of insurance.

14 (d) "Fiscal year" means the year commencing on the effective date of
15 this act and each year, commencing on the first day of July thereafter.

16 (e) "Fund" means the healthcare stabilization fund established
17 pursuant to K.S.A. 40-3403(a), and amendments thereto.

18 (f) (1) "Healthcare provider" means a person licensed to practice any
19 branch of the healing arts by the state board of healing arts, a person who
20 holds a temporary permit to practice any branch of the healing arts issued
21 by the state board of healing arts, a person engaged in a postgraduate
22 training program approved by the state board of healing arts, a medical
23 care facility licensed by the state of Kansas, a podiatrist licensed by the
24 state board of healing arts, a health maintenance organization issued a
25 certificate of authority by the commissioner, an optometrist licensed by the
26 board of examiners in optometry, a pharmacist licensed by the state board
27 of pharmacy, a licensed professional nurse who is authorized to practice as
28 a registered nurse anesthetist, a licensed professional nurse who has been
29 granted a temporary authorization to practice nurse anesthesia under
30 K.S.A. 65-1153, and amendments thereto, a professional corporation
31 organized pursuant to the professional corporation law of Kansas by
32 persons who are authorized by such law to form such a corporation and
33 who are healthcare providers as defined by this subsection, a Kansas
34 limited liability company organized for the purpose of rendering
35 professional services by its members who are healthcare providers as
36

1 (i) "Collaboration" means the process by which two or more
2 healthcare professionals work together to meet the healthcare needs of a
3 patient, as warranted by the patient.

4 (j) "Consultation" means the process by which an advanced practice
5 registered nurse who maintains primary management responsibility for a
6 patient's care seeks advice or opinion of a physician or another member of
7 the healthcare team.

8 Sec. 3. K.S.A. 65-1130 is hereby amended to read as follows: 65-
9 1130. (a) No professional nurse shall announce or represent to the public
10 that such person is an advanced practice registered nurse unless such
11 professional nurse has complied with requirements established by the
12 board and holds a valid license as an advanced practice registered nurse in
13 accordance with the provisions of this section.

14 (b) (1) The board shall establish standards and requirements for any
15 professional nurse who desires to obtain licensure as an advanced practice
16 registered nurse. Such standards and requirements shall include, but not be
17 limited to, standards and requirements relating to the education of
18 advanced practice registered nurses. The board may give such
19 examinations and secure such assistance as it deems necessary to
20 determine the qualifications of applicants.

21 (2) On and after July 1, 2022, an applicant for an initial advanced
22 practice registered nurse license shall have a current advanced practice
23 registered nurse certification in such applicant's specific role granted by a
24 national certifying organization recognized by the board whose
25 certification standards are approved by the board as equal to or greater
26 than the corresponding standards established by the board.

27 (c) The board shall adopt rules and regulations consistent with the
28 Kansas nurse practice act applicable to advanced practice registered
29 nurses which that:

30 (1) Establish roles and identify titles and abbreviations of advanced
31 practice registered nurses which that are consistent with nursing practice
32 specialties recognized by the nursing profession including titles describing
33 the four APRN roles of certified registered anesthetist, clinical nurse
34 specialist, certified nurse midwife and certified nurse practitioner.

35 (2) Establish education and qualifications necessary for licensure for
36 each role of advanced practice registered nurse established by the board at
37 a level adequate to assure the competent performance by advanced
38 practice registered nurses of functions and procedures which advanced
39 practice registered nurses are authorized to perform. Advanced practice
40 registered nursing is based on knowledge and skills acquired in Education
41 and qualifications for APRN licensure established by the board shall
42 include completion of basic nursing education, licensure as a registered
43 nurse and graduation from or completion of a master's or higher degree an

and shall demonstrate maintenance of national certification in the
appropriate advanced practice registered nurse role at the time of
renewal

nurse

1 may request, receive and sign for professional samples and may distribute
2 professional samples to patients pursuant to a written protocol as
3 authorized by a responsible physician.

4 (3) In order to prescribe controlled substances, the advanced practice
5 registered nurse shall:

6 (A) Register with the federal drug enforcement administration; and
7 (2)(B) notify the board of the name and address of the responsible
8 physician or physicians. In no case shall the scope of authority of the
9 advanced practice registered nurse exceed the normal and customary
10 practice of the responsible physician federal drug enforcement
11 administration registration as prescribed by the rules and regulations of
12 the board. An advanced practice registered nurse shall comply with
13 federal drug enforcement administration requirements relating to
14 controlled substances.

15 (4) An advanced practice registered nurse certified in the role of
16 registered nurse anesthetist while functioning as a registered nurse
17 anesthetist under K.S.A. 65-1151 through 65-1164, and amendments
18 thereto, shall be subject to the provisions of K.S.A. 65-1151 through 65-
19 1164, and amendments thereto, with respect to drugs and anesthetic agents
20 and shall not be subject to the provisions of this subsection. For the
21 purposes of this subsection, "responsible physician" means a person
22 licensed to practice medicine and surgery in Kansas who has accepted
23 responsibility for the protocol and the actions of the advanced practice
24 registered nurse when prescribing drugs.

25 (5) An advanced practice registered nurse shall maintain malpractice
26 insurance coverage in effect as a condition of rendering professional
27 service as an advanced practice registered nurse in this state and shall
28 provide proof of insurance at the time of licensure and renewal of license.
29 The requirements of this paragraph shall not apply to an advanced
30 practice registered nurse who: Practices solely in employment for which
31 the advanced practice registered nurse is covered under the federal tort
32 claims act or Kansas tort claims act; practices solely as a charitable
33 healthcare provider under K.S.A. 75-6102, and amendments thereto; or is
34 serving on active duty in the military service of the United States.

35 (e) As used in this section, "drug" means those articles and substances
36 defined as drugs in K.S.A. 65-1626 and 65-4101, and amendments thereto.

37 (f) A person registered to practice as an advanced registered nurse
38 practitioner in the state of Kansas immediately prior to the effective date of
39 this act shall be deemed to be licensed to practice as an advanced practice
40 registered nurse under this act and such person shall not be required to file
41 an original application for licensure under this act. Any application for
42 registration filed which that has not been granted prior to the effective date
43 of this act shall be processed as an application for licensure under this act.

or subsection (h)

1 (g) An advanced practice registered nurse certified in the role of
2 certified nurse-midwife and engaging in the independent practice of
3 midwifery under the independent practice of midwifery act with respect to
4 prescribing drugs shall be subject to the provisions of the independent
5 practice of midwifery act and shall not be subject to the provisions of this
6 section.

7 (h) (1) Advanced practice registered nurses licensed in Kansas shall
8 complete 4,000 hours of clinical practice hours or clinical instructional
9 hours within four years under an authorization for collaborative practice
10 as defined in K.A.R. 60-11-101 with a physician or a full practice
11 authority advanced practice registered nurse.

12 (2) Any advanced practice registered nurse applying for licensure by
13 endorsement who has completed at least 4,000 clinical practice hours or
14 clinical instructional hours within four years immediately preceding the
15 endorsement application shall be deemed as completing the transition to
16 full practice authority.

17 (3) Any advanced practice registered nurse applying for licensure by
18 endorsement, who has completed less than 4,000 clinical practice hours or
19 clinical instructional hours within four years immediately preceding the
20 endorsement application may provide documentation of accrued hours, if
21 applicable, to count toward the hours needed for the transition to full
22 practice authority program.

23 (4) Prior to the enactment of this section, any advanced practice
24 registered nurse licensed in Kansas having at least 4,000 hours of practice
25 as required by the board of nursing shall be deemed to have completed the
26 transition to practice program.

27 (5) An advanced practice registered nurse in the transition period
28 program may engage in the practice of nursing as an advanced practice
29 registered nurse and may prescribe, procure and administer prescription
30 drugs as part of the authorization for collaborative practice described in
31 paragraph (2).

32 (6) The board shall specify the manner and form in which a
33 transition period advanced practice registered nurse may identify and
34 represent such credentials, professionally and to the public.

35 (7) A transition period advanced practice registered nurse shall
36 complete any documentation required by the board to demonstrate
37 completion of the transition program prior to becoming a full practice
38 advanced practice registered nurse. Upon successful completion of the
39 transition program, the board shall authorize the advanced practice
40 registered nurse to engage in the practice of advanced practice registered
41 nursing without an authorization for collaborative practice as defined in
42 K.A.R. 60-11-101.

43 (8) The board shall adopt rules and regulations as necessary to

An advanced practice registered nurse certified and functioning in the
role of registered nurse anesthetist shall not be subject to the
requirements of this subsection.
(9)

And by redesignating paragraphs accordingly

1 pharmacy.
2 (y) "Isomer" means all enantiomers and diastereomers.

3 (z) "Manufacture" means the production, preparation, propagation,
4 compounding, conversion or processing of a controlled substance either
5 directly or indirectly or by extraction from substances of natural origin or
6 independently by means of chemical synthesis or by a combination of
7 extraction and chemical synthesis and includes any packaging or
8 repackaging of the substance or labeling or relabeling of its container,
9 except that this term does not include the preparation or compounding of a
10 controlled substance by an individual for the individual's own lawful use
11 or the preparation, compounding, packaging or labeling of a controlled
12 substance;

13 (1) By a practitioner or the practitioner's agent pursuant to a lawful
14 order of a practitioner as an incident to the practitioner's administering or
15 dispensing of a controlled substance in the course of the practitioner's
16 professional practice; or

17 (2) by a practitioner or by the practitioner's authorized agent under
18 such practitioner's supervision for the purpose of or as an incident to
19 research, teaching or chemical analysis or by a pharmacist or medical care
20 facility as an incident to dispensing of a controlled substance.

21 (aa) "Marijuana" means all parts of all varieties of the plant Cannabis
22 whether growing or not, the seeds thereof, the resin extracted from any
23 part of the plant and every compound, manufacture, salt, derivative,
24 mixture or preparation of the plant, its seeds or resin. It does not include:
25 (1) The mature stalks of the plant, fiber produced from the stalks, oil or
26 cake made from the seeds of the plant, any other compound, manufacture,
27 salt, derivative, mixture or preparation of the mature stalks, except the
28 resin extracted therefrom, fiber, oil or cake or the sterilized seed of the
29 plant that is incapable of germination; (2) any substance listed in schedules
30 II through V of the uniform controlled substances act; (3) cannabidiol
31 (other trade name: 2-[[3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-
32 5-pentyl-1,3-benzenediol]); or (4) industrial hemp as defined in K.S.A.
33 2020 Supp. 2-3901, and amendments thereto, when cultivated, produced,
34 possessed or used for activities authorized by the commercial industrial
35 hemp act.

36 (bb) "Medical care facility" shall have the meaning ascribed to that
37 term in K.S.A. 65-425, and amendments thereto.

38 (cc) "Mid-level practitioner" means a certified nurse-midwife
39 engaging in the independent practice of midwifery under the independent
40 practice of midwifery act, an advanced practice registered nurse issued a
41 license pursuant to K.S.A. 65-1131, and amendments thereto, who has
42 authority to prescribe drugs pursuant to ~~a written protocol with a~~
43 ~~responsible physician under~~ K.S.A. 65-1130, and amendments thereto, or a

and is currently participating in the transition to practice program

1 surgery, dentist, podiatrist, veterinarian, optometrist, or scientific
2 investigator or other person authorized by law to use a controlled
3 substance in teaching or chemical analysis or to conduct research with
4 respect to a controlled substance.

advanced practice registered nurse exempt from or having
completed the transition to practice program pursuant to
K.S.A. 65-1130, and amendments thereto,

5 (mm) "Prescriber" means a practitioner or a mid-level practitioner.

6 (nn) "Production" includes the manufacture, planting, cultivation,
7 growing or harvesting of a controlled substance.

8 (oo) "Readily retrievable" means that records kept by automatic data
9 processing applications or other electronic or mechanized recordkeeping
10 systems can be separated out from all other records within a reasonable
11 time not to exceed 48 hours of a request from the board or other authorized
12 agent or that hard-copy records are kept on which certain items are
13 asterisked, redlined or in some other manner visually identifiable apart
14 from other items appearing on the records.

15 (pp) "Ultimate user" means a person who lawfully possesses a
16 controlled substance for such person's own use or for the use of a member
17 of such person's household or for administering to an animal owned by
18 such person or by a member of such person's household.

19 Sec. 5. K.S.A. 65-1130 and K.S.A. 2020 Supp. 40-3401, 65-1113 and
20 65-4101 are hereby repealed.

21 Sec. 6. This act shall take effect and be in force from and after its
22 publication in the statute book.

July 1, 2022, and