

ISSUE ALERTS



NEW TEMPORARY APRN REGULATIONS TAKE EFFECT

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Statutory revisions governing advanced practice registered nurses (“APRNs”) took effect July 1, 2022, and are intended to allow APRNs to provide advanced practice nursing services without entering into a written collaborative practice agreement or prescription protocol with a physician. The statutory amendments also require APRNs to be certified in their specific role and population focus by a national certifying organization and to maintain malpractice insurance.

Effective July 18, 2022, temporary Kansas State Board of Nursing (“KSBN”) regulations governing APRNs and the scope of their practice were approved by the legislative joint committee on administrative rules and regulations. They eliminate all references to collaborative practice agreements and other physician oversight that were previously in KSBN regulations and also include revisions related to the new certification and licensure requirements. Beginning July 1, 2023, APRNs must be certified by a national certifying organization in a “specific role and population focus,” and also submit proof of malpractice insurance to renew their licenses. The temporary regulations, which were approved in two groups, are posted here and here.

These regulations are temporarily in effect for 120 days, and subject to public comment for 60 days. A KSBN public hearing on the regulations is scheduled for Sept. 6, 2022. After the public comment period and hearing, the KSBN may make changes and proceed with final approval. It will presumably adopt the temporary regulations as final regulations without significant modifications to allow APRNs to practice without physician oversight.

The Kansas Board of Healing Arts and the Kansas Medical Society submitted written statements in opposition to the KSBN temporary regulations and took the position that an authorization for collaborative practice is still required because of the overlap with medical practice. In addition, the Kansas Board of Healing Arts advised the joint legislative committee that it had requested an opinion of the Kansas Attorney General as to whether Kansas law still requires an APRN to be subject to a collaborative practice agreement while providing services overlapping with the practice of medicine.

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The KSBON temporary regulations do not provide significant clarity to this issue and appear to generally defer to the scope of training of APRNs and the standard of care. The key definition states that an APRN may make independent decisions about advanced practice nursing needs “and medical decisions.” K.A.R. 60-11-101. Other regulations follow on this by stating that an APRN may develop and manage the medical plan of care for patients. *E.g.*, K.A.R. 60-11-104. These open-ended provisions do not limit the ability of employers, hospitals, and third-party payors to define or limit the scope of practice of an APRN in a particular context. But questions seem virtually certain to continue to arise.

FOR MORE INFORMATION

If you have questions or want more information regarding the new APRN laws in Kansas, contact your legal counsel. If you do not have regular counsel for such matters, Foulston Siefkin LLP would welcome the opportunity to work with you to meet your specific business needs. Foulston’s healthcare lawyers maintain a high level of knowledge regarding federal and state regulations affecting the healthcare industry. At the same time, our healthcare practice group’s relationship with Foulston’s other practice groups, including the taxation, general business, labor and employment, and commercial litigation groups, enhances our ability to consider the legal ramifications of any situation or strategy. For more information, contact **Dick Hay** at 785.354.9413 or dhay@foulston.com, **Alex W. Schulte** at 913.253.2155 or aschulte@foulston.com, or **Nancy E. Musick** at 913.253.2140 or nmusick@foulston.com. For more information on the firm, please visit our website at www.foulston.com.

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