1. What is the new APRN law called?

- The new law was set forth in Senate Substitute for House Bill 2279 (“New Law”)
- The New Law added provisions to the Nurse Practice Act and to other parts of the law.
- The New Law will be codified in the Kansas Statutes.
- State Agencies such as the Board of Nursing can, and did, issue permanent regulations in response to the New Law.

2. When did the New Law go into effect?

- Spring 2022 - Senate Substitute for House Bill 2279 was passed by the Kansas Legislature and signed into law with an effective date of July 1, 2022.
- July 1, 2022 – Law Effective July 1, 2022, but compliance for national certification and required professional liability insurance varies on license status.
- October 14, 2022 – Permanent Regulations Effective Date.

3. What were the key changes made by the New Law?

Key Changes under the New Law (Sen. Sub. For HB 2279):

- Requires APRNs to have a current APRN certification in their “specific role and population focus”
- Allows APRNs to “prescribe, procure, and administer” drugs (including controlled substances) consistent with their specific role and population focus and consistent with Kansas law without a written prescribing protocol as authorized by a supervising physician, excluding abortion
• Allows APRNs to prescribe durable medical equipment
• Requires APRNs to maintain malpractice insurance coverage

4. By what date does an APRN have to have professional liability insurance in place?
   An APRN must provide proof of insurance:
   • At the time of Initial Licensure, or,
   • At the time of Renewal of License for those who are already licensed as of July 1, 2022.

5. Are there exceptions to the new insurance requirement?
   Yes. The requirements do NOT apply to APRNs who:
   • Practice solely in employment for which the APRN is covered under the federal or Kansas Tort Claims Act;
   • Practice solely as a charitable healthcare provider under K.S.A. 75-6102; or
   • Are serving on active duty in the armed forces of the US.

6. Insurance Scenario: I am a new APRN student graduate. My new employer will be adding me to its professional liability policy. Will that suffice for me to obtain a license from the Board of Nursing?
   • Your professional insurance carrier and/or agent can assist you with getting the needed insurance documentation for licensure.

7. If a physician accepts a referral of a patient from an APRN who practices independently and who does not have any protocol, agreement, or other arrangement with such physician, is the physician who agrees to care for the referred patient liable for the APRN’s actions?
   • While legal liability is always a question that must be answered through the legal system, it is helpful to note that Kansas law defines a “responsible licensee” under 65-28, 127(b) as “a person licensed by the state board of healing arts to practice medicine and surgery or chiropractic who has accepted responsibility for the actions of persons who perform acts pursuant to written agreements or practice protocols with, or at the order of, or referral, direction, supervision or delegation from such responsible licensee [i.e., the physician in this case].”
In the situation described, the physician has only accepted a referral from the APRN to provide care to the patient. Nothing in the scenario described in the question suggests the physician has accepted responsibility for the action of the APRN pursuant to an agreement or practice protocol nor has the physician accepted responsibility for the actions of the APRN done at the order of, or referral, direction, supervision or delegation from such physician. Note, the “referral” mentioned in 65-28,127 is a referral from the physician to the APRN, not a referral from the APRN to the physician.

8. Does the New Law prohibit the use of practice agreements and written protocols between physicians and APRNs?

- The New Law does not prohibit the use of practice agreements and written protocols between APRNs and physicians in connection with APRNs’ practice. APRNs and physicians may still enter into such agreements, arrangements, and protocols. Hospitals may also continue to have policies and procedures requiring such agreements, arrangements, and protocols be in place for care provided in the hospital.

9. Are there instances in which agreements, arrangements, and/or protocols are needed between physicians and APRNs?

- Yes, there are situations in which agreements, protocols, and/or other arrangements between physicians and APRNs will need to be put in place.

Examples of instances in which agreements, arrangements, and/or protocols are needed between physicians and APRNs:

**Example:** To the extent physicians are delegating acts to APRNs that constitute the practice of medicine, written protocols, written policies, and/or written practice arrangements with a physician should be put in place.

**Example:** To the extent APRNs want to do acts that constitute the practice of medicine, they will need physician involvement, e.g., physician order, direction, supervision, or proper delegation by a physician of authority pursuant to written protocols, written policies, and/or written practice arrangements.

**Example:** Infusion is a treatment option that is typically based on a medical diagnosis and a medical plan of care. Consequently, some APRNs would need a physician order, direction, supervision, or proper delegation of authority by a physician pursuant to written protocols, written policies, and/or written practice arrangements.
Example: If an underlying medical diagnosis is needed as a basis for prescribing a medication, physician involvement is needed, e.g., physician order, direction, supervision, or proper delegation of authority by a physician pursuant to written protocols, written policies, and/or written practice arrangements.

10. Did the New Law expand the scope of practice of APRNs?
   - Nothing in HB 2279 expanded the scope of practice of APRNs.

11. Can an APRN practicing independently admit patients to a hospital?

   Patients should be admitted pursuant to the order of a member of a hospital’s Medical Staff, i.e., a physician or dentist.

   Pursuant to KDHE regulations:
   - Admitting Privileges may be granted to any practitioner as defined in K.A.R. 28-34-1a(w).” See, K.S.A. 28-34-6a(a).
   - “Practitioner” is a “member of the hospital’s medical staff” and may include a physician or dentist.” K.A.R. 28-34-1a(w).
   - A hospital’s “organized medical staff” is the “formal organization of physicians and dentists, with the responsibility and authority to maintain proper standards for patient care as delegated by the governing body.” K.A.R. 28-34-1a(r).

   In complying with the KDHE regulations set forth above, Hospitals should:
   1) Review the Hospital’s Governing Bylaws and the Hospital’s Medical Staff Bylaws. The Hospital should act consistent with any bylaw provisions and make modification if needed.
   2) Review contracts with third-party payors, including insurance carriers and government payors such as Medicare and Medicaid. Determine if there are any requirements regarding admission that impact billing, i.e., that must be met to obtain payment for the care associated with a patient’s admission to the hospital.

12. Can an APRN practicing independently order infusions at a hospital?
   - KDHE regulations state:
     “Medication or treatment shall be administered only upon written and signed orders of a practitioner who is acting within the scope of that practitioner’s license and who is qualified according to the medical staff bylaws.” K.A.R. 28-34-6a(g)(1).
   - KDHE regulations further provide that “drug administration” is the “direct application of a drug or biological, whether by injection, inhalation, ingestion, or any other means,
to the body of a patient by either…(1) A Practitioner, or pursuant to the lawful direction of a practitioner…; or (2) the patient at the direction and in the presence of a practitioner.” K.A.R. 28-34-1a(i).

- Since a “practitioner” is a member of the hospital’s medical staff and must be a physician or dentist, it is recommended that infusions be done pursuant to order of a physician or dentist or pursuant to proper delegation, e.g., written protocols, written policies, and/or written practice arrangements. K.A.R. 28-34-1a(w); 28-34-1a(r). See also, K.A.R. 28-34-6a(g)(2).

13. Can an APRN practicing independently discharge a patient from a hospital?

- KDHE regulations state:

  “Medication or treatment shall be administered only upon written and signed orders of a practitioner who is acting within the scope of that practitioner’s license and who is qualified according to the medical staff bylaws.” K.A.R. 28-34-61(g)(1).

Since a “practitioner” is a member of the hospital’s medical staff and must be a physician or dentist, it is recommended that discharge be done pursuant to order of a physician or dentist or pursuant to proper delegation by a physician, e.g., written protocols, written policies, and/or written practice arrangements. K.A.R. 28-34-1a(w); 28-34-1a(r). See also, K.A.R. 28-34-6a(g)(2).

14. Can an APRN practicing independently sign a death certificate?

- “The funeral director or person acting as such who first assumes custody of a dead body shall file the death certificate. Such person shall obtain the personal data from the next of kin or the best qualified person or source available and shall obtain the medical certification of cause of death form the physician last in attendance prior to burial” K.S.A. 65-2412(b).

- “When death occurred without medical attendance or when inquiry is required by the laws relating to postmortem examinations, the coroner shall investigate the cause of death and shall complete and sign the medical certification within 24 hours after receipt of the death certificate or as provided in K.S.A. 65-2414, and amendments thereto. K.S.A. 65-2412(c).

- The district coroner shall be a resident of the state of Kansas licensed to practice medicine and surgery by the state board of healing arts or shall be a resident of a military or other federal enclave withing the state and shall by duly licensed to practice medicine and surgery withing such enclave. K.S.A. 22a-226.

- “All hospitals…shall keep a record…and include such information as required by the standard certificate of …death. K.A.R. 28-17-14.