KANSAS MEDICAL SOCIETY
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To: Senate Public Health and Welfare Committee

From: Jerry Slaughter
Executive Director

Date: February 18, 2015

Subject: SB 218; concerning Advanced Practice Registered Nurses

The Kansas Medical Society appreciates the opportunity to submit the following comments on SB 218, which was introduced at our request. As we mentioned in our testimony earlier this session on SB 69, this bill would change the way scope of practice issues are addressed for advanced practice registered nurses (APRNs). It would direct the Boards of Nursing and Healing Arts to work together to adopt joint regulations governing APRN scope of practice.

We realize this is a controversial proposal that the nurses, and perhaps the licensing agencies, are likely to oppose or at the very least view with skepticism. However, we feel that after several years of contentious discussions and unresolved scope of practice debates that what may be needed is a new approach to APRN scope of practice regulation. The current structure puts legislators in the very difficult position every few years of being asked to decide where the limits of advanced practice nursing are as its role and functions begin to overlap with the practice of medicine.

That is very hard to do, as APRN training continues to evolve, particularly in the healthcare team-based models that are seen as the delivery structure of the future. We need a regulatory approach that has the flexibility to recognize that the role of APRNs is indeed evolving, and that not all APRNs have the same training and clinical capabilities, nor do they practice in the same clinical settings, and the need for protocols or collaborative practice agreements with physicians can vary with the practice type, clinical setting and complexity of services provided.

Of course, you will get some argument on that point. Some APRNs do not believe there is any value in a protocol or collaborative practice agreement with a physician. They acknowledge that their training is not the equivalent of a physicians training, but they believe that their preparation is adequate for the clinical role they are being asked to fill. Our view is that because of the significant differences in the education and clinical training of physicians and APRNs, and because much of what APRNs seek to do has at least to this point been considered the practice of medicine, there is a place for a meaningful collaborative practice agreement in certain clinical situations.

It seems to us that the "all or none, one size fits all" approach to scope of practice and regulation just doesn't work as well today. Though some would like it to be, it is just not that simple. The knowledge base, the technology, the delivery systems, the capabilities of health care providers – all are constantly evolving.

We are proposing a collaborative regulatory approach involving the Boards of Nursing and Healing Arts that will allow us to take all of those factors into consideration. We understand that involving the Healing Arts Board in any way is controversial, because it can be perceived as threatening to APRNs. However, because much of what APRNs are seeking to do overlaps with the practice of medicine, we believe the Board of Healing Arts should have a role in helping to define the practice boundaries, as well as how the various practitioners relate to each other where there are overlapping areas of practice.

The approach in SB 218 would do the following:

- APRNs would continue to be licensed and regulated by the Board of Nursing, but subject to scope of practice regulations which are jointly approved by the Nursing Board and the Healing Arts Board.

- It would create a joint committee structure that would assist the two boards by leading the development of the APRN regulations, and providing a forum for better communication and coordination between the APRN and physician communities, and their respective licensing agencies.

- APRNs prescribing authority is protected, but "responsible physician" language is removed.

- APRNs ability to sign for and order tests and treatments is assured.

- Collaborative practice agreements and protocols would no longer be mandatory, but may be required if the two licensing boards believed they were necessary for certain clinical settings or services.

- The bill would authorize the appointment of the joint committee immediately and allow it to start working, while the existing statutory and regulatory structure stays unchanged until the new regulations are adopted.

- The joint committee and the two licensing boards would have until July 1, 2016 to develop and implement the new joint regulations. However, if the regulation process isn't completed by then, the implementation date can be moved back by the 2016 legislature.

- The two boards would also be required to provide a written progress report to the House and Senate health committees in January 2016.

We understand the initial reaction of the APRN community to this proposal, and their reluctance to consider this legislation as a step towards dealing with these contentious scope of practice issues. However, this proposal will provide the APRN and physician communities with a public, accountable, transparent process where qualified nursing and medical practitioners can discuss these issues and come to mutually agreeable solutions.

Neither side in this debate will have an advantage. The two Boards and the joint committee will be forced to work together to find acceptable compromise. We're not saying this will be easy. As you know, this debate has gone on for many, many years and both sides have very strong feelings.

However, this process would provide the legislature with a means to step back from controversy, and task the two licensing agencies, and the affected professions, with the job of finding an acceptable way to move forward. Most importantly, it will ensure that the two professions gather around a table and talk productively about the expanding role of APRNs and how that should be reflected in the regulatory structure.

Of course, the legislature always has the prerogative to intervene at any point if it feels that the process isn't working, or hasn't achieved what it was designed to do, or that one group has not been treated fairly.

It is our hope that the committee, and the parties, will give serious consideration to our proposal. It does provide a means to address all of the issues that the nurses have raised over the past several years. It also provides a flexible, consensus-driven regulatory approach that relies on the cooperation of both licensing agencies, working together with the professions, to achieve an outcome that makes sense for nurses, physicians and the patients they serve.

Thank you for the opportunity to provide these remarks.

Current Law (KSA 65-1130)

Scope of Practice; rule and reg authority

(c) The board shall adopt rules and regulations applicable to advanced practice registered nurses which:
(3) Define the role of advanced practice registered nurses and establish limitations and restrictions of such role. The board shall adopt a definition of the role under this subsection (c)(3) which is consistent with the education and qualifications required to obtain a license as an advanced practice registered nurse, which protects the public from persons performing functions and procedures as advance practice registered nurses for which they lack adequate education and qualifications and which authorizes advanced practice registered nurses to perform acts generally recognized by the profession of nursing as capable of being performed, in a manner consistent with the public health and safety, by persons with post basic education in nursing.

Prescribing

d) An advanced practice registered nurse may prescribe drugs pursuant to a written protocol as authorized by a responsible physician. Each written protocol shall contain a precise and detailed medical plan of care for each classification of disease or injury for which the advanced practice registered nurse is authorized to prescribe and shall specify all drugs which may be prescribed by the advanced practice registered nurse. Any written prescription order shall include the name, address and telephone number of the responsible physician. The advanced practice registered nurse may not dispense drugs, but may request, receive and sign for professional samples and may distribute professional samples to patients pursuant to a written protocol as authorized by a responsible physician.

SB 218/HB 2205

Scope of Practice; rule and reg authority

New Section 1. (a) For the purposes of this act, the board of nursing and the board of healing arts shall jointly adopt rules and regulations relating to the role of advanced practice registered nurses including such conditions, limitations and restrictions that the boards determine to be necessary to protect the public health and safety, and to protect the public from advanced practice registered nurses performing functions and procedures for which they lack adequate education, training and qualifications. Such rules and regulations shall include the authority to prescribe medications, sign for and order tests and treatments, and perform other delegated medical acts and functions, and shall specify those services or clinical settings which shall require a collaborative practice agreement or protocol with a physician. In such cases, the scope of authority of the advanced practice registered nurse shall be within and consistent with the normal and customary specialty, practice and competence of any collaborating, delegating or supervising physician.
(b) In developing the rules and regulations defining the role of the advanced practice registered nurse, the boards shall consider: (1) The different practice and clinical settings in which advanced practice registered nurses function, and the differing degrees of collaboration, direction or supervision appropriate for such settings;

Prescribing

(d) An advanced practice registered nurse may prescribe drugs pursuant to the rules and regulations adopted by the joint adopting authority. The advanced practice registered nurse may not dispense drugs, but may request, receive and sign for professional samples and may distribute professional samples to patients. In order to prescribe controlled substances, the advanced practice registered nurse shall register with the federal drug enforcement administration.