TESTIMONY TO KANSAS SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
SENATE BILL 218
FEBRUARY 18, 2015

Good afternoon Madam Chairman and Committee Members,

My name is Pamela Fruechting and I am a nurse practitioner in Wichita, Kansas. I also consult as an expert witness in malpractice cases involving nurses and nurse practitioners.

According to Senate Bill 218, the purpose for creating a joint adopting authority between the Board and Healing Arts and the Board of Nursing is: "to protect the public health and safety, and to protect the public from nurse practitioners performing functions and procedures for which they lack adequate education, training and qualifications." (SB 218, New Section 1, lines 10-13)

The phrase, "performing functions and procedures for which they lack adequate education, training, and qualifications" can be simplified into one word: *Malpractice.*

Therefore, the intent of this bill can be summarized as: *A joint adopting authority is necessary to protect the public from the malpractice of nurse practitioners.*

1. How is the public protected from a nurse practitioner's malpractice?

The public is protected through three interrelated channels: The Board of Nursing, the Kansas legal system, and personal ethics.

First, The Kansas Board of Nursing has been successful for decades in regulating nurse practitioners. The Board of Nursing is intimately involved in the formulation and writing of the Nurse Practice Act, defining educational standards, creating and enforcing sound licensing regulations, and ensuring disciplinary action of nurses who violate the Nurse Practice Act. A nurse practitioners license may be suspended, restricted, or revoked in cases of malpractice, ethical misconduct, legal offenses, and crimes. The Board of Nursing has successfully fulfilled their obligations to the public for 40+ years without joint oversight by the Board of Healing Arts.

Second, the Kansas legal system ensure that every citizen is free to file a lawsuit as a legal recourse to alleged malpractice and associated injury. We carry liability insurance. Nurse practitioners have a much lower frequency and lower severity of malpractice claims compared to physicians. According to the Federal Trade Commission (2014), the states that have granted nurse practitioners full practice authority have seen no increase in adverse events.

Third, there is an internal form of regulation that protects the public from malpractice. That's our commitment to ethical standards and moral sense of duty to the public. Like any other healthcare provider, we are bound by the ethical standards of our profession. It implies we know the limits of our abilities and knowledge, and do what's right for our patients. Just as family physicians vary in how soon they refer patients to specialists based upon their personal knowledge and experience, so also nurse practitioners will vary in how soon they refer patients to a specialist.

2. How would a joint adopting authority enhance the Board of Nursing's functions in regulating nurse practitioners?

I don't think it would, based on what I see in this bill. Based on New Section 1, subsections (b) and (c), the joint adopting authority would duplicate the provisions of the Nurse Practice Act - regulation of educational requirements, scope of practice, permitted acts, titles, abbreviations, and licensure.

Forty-five states regulate their nurse practitioners solely by the Board of Nursing. Only five states (NC, SD, Al, VA, FL) have a joint board. The last joint board was formed about 20 years ago. These states typically face perpetual gridlock, leading to restricted nurse practitioner practice and very few advancements in nursing legislation. This is not the model we want for Kansas.

3. Is there any research to support my opinion?

The effects of unduly yoking nurse practitioners to physician supervision at the clinical or regulatory level was one of the major objectives of the United States Federal Trade Commission 2014 research report titled, *Policy Perspectives: Competition and Regulation of Advanced Practice Nurses*. From the Executive Summary, page 2:

Physician supervision requirements may raise competition concerns because they effectively give one group of health care professionals the ability to restrict access to the market by another, competing group of health care professionals, thereby denying health care consumers the benefits of greater competition. In addition, APRNs play a critical role in alleviating provider shortages and expanding access to health care services for medically underserved populations. For these reasons, the FTC staff has consistently urged state legislators to avoid imposing restrictions on APRN scope of practice unless those restrictions are necessary to address well-founded patient safety concerns. Based on substantial evidence and experience, expert bodies have concluded that APRNs are safe and effective as independent providers of many health care services within the scope of their training, licensure, certification, and current practice. Therefore, new or extended layers of mandatory physician supervision may not be justified. (emphasis added) (FTC, 2014, p. 2)

I have presented four reasons to vote no to SB 218: (1) Malpractice is not ensured by increased physician oversight at the regulatory level, (2) the Board of Nursing is effective in regulating nurse practitioner practice per the Nurse Practice Act, (3) states with joint boards have restricted nurse practitioner practice and minimal advances in nursing legislation, and (4) most importantly, the United States Federal Trade Commission strongly advises against restrictions on scope of practice for nurse practitioners and advises against increased physician supervision.

Thank you for your consideration.

Federal Trade Commission. (2014). *Policy perspectives: Competition and the Regulation of Advanced Practice Nurses.* http://www.ftc.gov/reports/policy-perspectives-competition-regulation-advanced-practice-nurses