KANSAS AFFILIATE of the AMERICAN COLLEGE of NURSE-MIDWIVES
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Testimony in Opposition of SB41
Presented to the Senate Committee on Public Health and Welfare
February 4th, 2025

Chairperson Gossage and Members of the Committee,

Thank you for the opportunity to provide testimony in opposition to Senate Bill 41 as currently written. While we appreciate efforts to include Advanced Practice Registered Nurses (APRN)s, in the definition of healthcare providers under the Health Care Stabilization Fund (HCSF), we must highlight several critical concerns regarding previous impacts on APRN-Certified Nurse-Midwives (CNM)s practicing in Kansas who are already included in the HCSF. Without essential amendments, this bill threatens the viability of APRN practice in the state and exacerbates existing challenges related to malpractice insurance coverage.

Key Concerns

1. **Malpractice Carrier Monopoly & Rising Costs**
    - The Health Care Stabilization Fund (HCSF) currently operates with only one malpractice carrier for CNMs, eliminating market competition. Prior to 2022 there were no options for carriers in the fund for CNMs. CNMs were forced to obtain 3 denials and then use the KS Availability Fund which cost even more. This monopolization drives up costs, placing an undue financial burden on CNMs.
    - The excessive costs of malpractice insurance are forcing CNMs to leave Kansas, surrender their licenses, or place them on inactive status due to unaffordability.
    - APRNs moving with their military spouse temporarily to Kansas were also not able to practice due to costs of coverage and confusion over HCSF requirements.
2. **Lack of Flexible Coverage Options**
    - CNMs have no option for customized malpractice coverage that aligns with their practice roles. Those working part-time, in gynecology-only care, academia, or in administrative positions are still required to pay full-time, high-risk premiums. This would likely be the case for nurse practitioners (NP)s who function in a variety of roles.
3. **Inactive Licensure Restrictions**
    - Kansas law currently requires APRNs to forfeit their license after five years of inactivity. This restriction disproportionately affects APRNs who take breaks for family leave, academia, volunteer work, or administrative roles, limiting their ability to return to practice without completely redoing their education.
4. **Confusion Surrounding Dual Licensure**
    - APRN frequently have dual board certification (such as Family Nurse Practitioners, Psychiatric Mental Health or Women's Health Nurse Practitioners) face uncertainty regarding malpractice coverage. There is no clear guidance on how HCSF applies to APRNs working in overlapping specialty roles.

Proposed Amendments for Consideration
We would support this legislation with the inclusion of the following amendments to address the inequities and financial burdens imposed on APRNs:

1. **Tiered Malpractice Rates**
    - Implement a malpractice premium structure similar to physicians, which accounts for different scopes of practice. APRNs who provide only office-based care, gynecologic care, work in

administrative or academic settings, or practice in low-risk roles should not be charged the same rates as full-scope, high-risk providers, or those involved in surgical procedures.

2. **State Tort Coverage for Public Institutions**
    - Extend state tort malpractice coverage to APRNs working in state-funded institutions such as universities and public health departments, similar to coverage already provided for other healthcare providers in these settings. This change would reduce the financial burden on taxpayers while ensuring adequate protection for providers.
3. **Adding Requirements for APRNs to be included in the HCSF Board**
    - There are currently no requirements for an APRN to be on the HCSF board.
    - Adding an APRN from each discipline (CNM, CRNA, NP) assures adequate representation
4. **Increased Insurance Competition**
    - Streamline the HCSF application process and introduce measures to encourage additional malpractice carriers to enter the Kansas market, increasing competition and lowering premiums for APRNs specifically CNMs.
5. **Temporary Licensure Flexibility**
    - Implement malpractice exemptions in addition to charitable health care providers, and to the five-year licensure expiration rule for APRNs who experience job loss, take family leave, transition to academia, or administrative roles, and/or temporarily step away from clinical practice. This flexibility would retain skilled providers in Kansas and facilitate their return to practice when appropriate.
6. **Add Freestanding Birth Centers to the Definition of Qualified Health Care Provider**
    - Kansas recently received a Transforming Maternal Health (TMaH) grant to increase access to midwives and freestanding birth centers
    - Approximately 3 freestanding birth centers in Kansas closed within the last 3 years primarily due to rising costs, low Medicaid reimbursement and high malpractice costs.
    - Adding this category will help provide sustainability for Kansas birth centers to continue care in the state and help reduce maternal and infant mortality.

Without these amendments, SB 41 will continue to create barriers to APRNs ability to practice in Kansas, reducing access to healthcare. We urge the committee to consider these necessary amendments prior to passing SB41.

Sincerely,

Board of Directors

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