

HOUSE BILL No. 2532

By Committee on Health and Human Services

Requested by Representative Oropeza on behalf of the Kansas State Board of
Nursing

1-23

1 AN ACT concerning health and healthcare; relating to the powers, duties
2 and functions of the Kansas state board of nursing; establishing an
3 impaired provider program; expanding the grounds for disciplinary
4 action taken against a licensee; permitting deferred disciplinary action
5 against an impaired licensee; providing for the reinstatement of a
6 revoked license; amending K.S.A. 65-1120a, 65-1121a and 65-1129
7 and K.S.A. 2025 Supp. 65-1117 and 65-1120 and repealing the existing
8 sections; also repealing K.S.A. 74-1110.
9

10 *Be it enacted by the Legislature of the State of Kansas:*

11 New Section 1. (a) As used in this section:

12 (1) "Board" means the Kansas state board of nursing.

13 (2) "Licensee" means:

14 (A) A registered professional nurse, as defined in K.S.A. 65-1113,
15 and amendments thereto;

16 (B) a licensed practical nurse, as defined in K.S.A. 65-1113, and
17 amendments thereto;

18 (C) an advanced practice registered nurse, as defined in K.S.A. 65-
19 1113, and amendments thereto;

20 (D) a registered nurse anesthetist, as defined in K.S.A. 65-1151, and
21 amendments thereto; or

22 (E) a mental health technician whose license is issued by the board of
23 nursing.

24 (3) "Substance" means alcohol, drugs, a controlled substance or any
25 combination thereof.

26 (4) "Participant" means an enrollee in the impaired provider program.

27 (b) Notwithstanding the provisions of K.S.A. 65-4924, and
28 amendments thereto, the board may establish an impaired provider
29 program to promote the identification, intervention, treatment and
30 monitoring of licensees who may be impaired by reason of substance use
31 or reasonable suspicion of substance abuse or by mental or behavioral
32 health conditions affecting such licensees' ability to practice.

33 (c) The impaired provider program shall be made available to, upon
34 the discretion of the board, to an applicant and licensee who:

1 (1) Admits to the use of substances;
2 (2) self-refer;
3 (3) tests positive in a pre-employment, employment or for-cause drug
4 or alcohol screening;

5 (4) has refused to obtain an alcohol or drug screen as requested by an
6 employer, the board of nursing or another professional licensing agency in
7 the United States, a United States territory or another country;

8 (5) has pled guilty or nolo contendere, been convicted of or has
9 entered into a diversion agreement in lieu of further criminal proceedings
10 for a violation of law in a court of competent judgment in the United
11 States, a United States territory or another country; or

12 (6) there is reasonable suspicion of a physical or mental impairment
13 impacting the practice of nursing by an individual licensed or authorized to
14 practice nursing or who has applied for under the Kansas nursing practice
15 act.

16 (d) The program shall be a minimum of one year in duration and shall
17 include, but may not be limited to, the following interventions at the
18 participant's expense:

- 19 (1) Random drug and alcohol testing;
20 (2) chemical dependency evaluation; or
21 (3) mental or behavioral health evaluations.

22 (e) After receiving a complaint or an application, the board shall
23 screen the information submitted to determine if the applicant or licensee
24 may be eligible for the impaired provider program. Upon enrollment in the
25 program, the applicant or licensee shall enter into a written agreement that
26 sets forth the requirements of the impaired provider program. If the board
27 declines the applicant or licensee's entrance into the program, the board
28 may proceed with the regular process of investigating a complaint or
29 application for a determination of disqualification of licensure or discipline
30 as provided in K.S.A. 65-1120, and amendments thereto. The board shall
31 retain sole discretion to offer the program at any time.

32 (f) Upon successful completion of the impaired provider program, the
33 licensee shall be deemed to have no disciplinary action against their
34 license and shall not be required to disclose participation in the program.
35 Evidence of participation in the program may be considered by the board
36 for a subsequent violation involving alcohol, drugs or controlled
37 substances.

38 (g) The board may adopt rules and regulations subject to the
39 provisions of this section and K.S.A. 65-1120, and amendments thereto, to
40 administer, implement and enforce any impaired provider program
41 established pursuant to this section.

42 (h) The board may expend appropriated funds necessary to provide
43 for operational expenses of any impaired provider program established

1 pursuant to this section.

2 (i) Any board member, board staff member, members of the program,
3 as well as any administrator, staff member, consultant, agent or employee
4 of the program acting within the scope of their duties and without actual
5 malice, and any other individual who furnishes information to the program
6 in good faith and without actual malice, shall not be liable for any claim of
7 damages as a result of any statement, decision, opinion, investigation or
8 action taken pursuant to the program or by any individual member of the
9 program, board member, board staff member or a presiding officer in an
10 administrative proceeding or hearing.

11 (j) Except as provided in subsection (f), all information, interviews,
12 reports, statements, memorandum, drug or alcohol testing results or other
13 documents furnished to or produced pursuant to the program, in addition
14 to communications to or from the program, any findings, conclusions,
15 interventions, treatment, rehabilitation or other proceedings of the program
16 that in any way pertain to an applicant or licensee who may be, or who is,
17 impaired shall be privileged and confidential and shall not be subject to
18 disclosure under the Kansas open records act, K.S.A. 45-215, et seq., and
19 amendments thereto. The provisions of this subsection shall expire on July
20 1, 2031, unless the legislature reviews and reenacts this provision pursuant
21 to K.S.A. 45-229, and amendments thereto.

22 (k) This section shall be a part of and supplemental to the Kansas
23 nurse practice act.

24 New Sec. 2. In all matters before the Kansas state board of nursing,
25 the board shall have the power to revoke a license or authorization issued
26 to a person who does not renew the license or authorization or who
27 voluntarily surrenders such person's license or authorization while an
28 investigation or charges are pending or anticipated that involve an alleged
29 misconduct violation of any provision of the Kansas nurse practice act or
30 any rules or regulations adopted by the board.

31 Sec. 3. K.S.A. 2025 Supp. 65-1117 is hereby amended to read as
32 follows: 65-1117. (a) All licenses issued under the provisions of this act,
33 whether initial or renewal, including multi-state licenses under the nurse
34 licensure compact, shall expire every two years. The expiration date shall
35 be established by the rules and regulations of the board. Any licensed
36 nurse may file a multi-state license application together with the
37 prescribed multi-state license fee at any time the nurse holds an active
38 license. The board shall send a notice for renewal of license to every
39 registered professional nurse and licensed practical nurse at least 60 days
40 prior to the expiration date of such person's license. Every person so
41 licensed who desires to renew such license shall file with the board, on or
42 before the date of expiration of such license, a renewal application
43 together with the prescribed biennial renewal fee. Every licensee who is no

1 longer engaged in the active practice of nursing may so state by affidavit
2 and submit such affidavit with the renewal application. An inactive license
3 may be requested along with payment of a fee which shall be fixed by
4 rules and regulations of the board. Except for the first renewal for a license
5 that expires within 30 months following licensure examination or for
6 renewal of a license that expires within the first nine months following
7 licensure by reinstatement or endorsement, every licensee with an active
8 nursing license shall submit with the renewal application evidence of
9 satisfactory completion of a program of continuing nursing education
10 required by the board. The board by duly adopted rules and regulations
11 shall establish the requirements for such program of continuing nursing
12 education. Upon receipt of such application, payment of fee, upon receipt
13 of the evidence of satisfactory completion of the required program of
14 continuing nursing education and upon being satisfied that the applicant
15 meets the requirements set forth in K.S.A. 65-1115 or 65-1116, and
16 amendments thereto, in effect at the time of initial licensure of the
17 applicant, the board shall verify the accuracy of the application and grant a
18 renewal license.

19 (b) Any person who fails to secure a renewal license within the time
20 specified herein may secure a reinstatement of such lapsed license by
21 making verified application therefor on a form provided by the board, by
22 rules and regulations, and upon furnishing proof that the applicant is
23 competent and qualified to act as a registered professional nurse or
24 licensed practical nurse and by satisfying all of the requirements for
25 reinstatement including payment to the board of a reinstatement fee as
26 established by the board. A reinstatement application for licensure will be
27 held awaiting completion of such documentation as may be required, but
28 such application shall not be held for a period of time in excess of that
29 specified in rules and regulations.

30 (c) (1) Each licensee shall notify the board in writing of:

31 (A) A change in *contact information, including name, email, phone*
32 *number or mailing address* within 30 days of the change; or

33 (B) a conviction of any felony or misdemeanor, that is specified in
34 rules and regulations adopted by the board, within 30 days from the date
35 the conviction becomes final.

36 (2) As used in this subsection, "conviction" means a final conviction
37 without regard to whether the sentence was suspended or probation
38 granted after such conviction. Also, for the purposes of this subsection, a
39 forfeiture of bail, bond or collateral deposited to secure a defendant's
40 appearance in court, which forfeiture has not been vacated, shall be
41 equivalent to a conviction. Failure to so notify the board shall not
42 constitute a defense in an action relating to failure to renew a license, nor
43 shall it constitute a defense in any other proceeding.

(d) Persons holding a multistate license under the nurse licensure compact and who engage in the practice of nursing in Kansas may be requested by the board to voluntarily provide workforce-related information as reasonably determined by the board. Refusal to voluntarily provide such information shall not be a basis for disciplinary action against or restriction of the multistate license of any such person.

Sec. 4. K.S.A. 2025 Supp. 65-1120 is hereby amended to read as follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may deny, revoke, limit or suspend any license or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or as a registered nurse anesthetist that is issued by the board or applied for under this act, or may require the licensee to attend a specific number of hours of continuing education in addition to any hours the licensee may already be required to attend or may publicly or privately censure a licensee or holder of a temporary permit or authorization, if the applicant, licensee or holder of a temporary permit or authorization is found after hearing:

(1) ~~To be guilty of~~ *have committed* fraud or deceit ~~or to have made a misrepresentation~~ in practicing nursing or in procuring or attempting to procure a license to practice nursing;

(2) ~~to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto convicted of or have entered into an agreed disposition of:~~

(A) *Any felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated, notwithstanding the provisions of K.S.A. 74-120(a), and amendments thereto, except that no license or authorization to practice nursing as a registered professional nurse, a licensed practice nurse, an advanced practice registered nurse or a certified registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 21-6104, 21-6326 or 21-418, and amendments thereto, or a similar crime in another jurisdiction;*

1 (B) *a misdemeanor offense involving alcohol or drugs and has not*
2 *demonstrated to the board's satisfaction that such person has been*
3 *sufficiently rehabilitated;*

4 (C) *any misdemeanor offense, involving crimes against persons, theft*
5 *or dishonesty and has not demonstrated to the board's satisfaction that*
6 *such person has been sufficiently rehabilitated; or*

7 (D) *a misdemeanor involving illegal drugs;*

8 (3) *has been convicted or found guilty or has entered into an agreed*
9 *disposition of a misdemeanor offense related to the practice of nursing as*
10 *determined on a case-by-case basis;*

11 (4) *to have committed an act of professional incompetency as defined*
12 *in subsection (e);*

13 (5) *to be unable to practice with skill and safety due to*~~*current abuse*~~
14 ~~*of drugs or alcohol*~~ *illness, cognitive decline of mental condition, loss of*
15 *motor skills due to a physical condition or use of alcohol or drugs;*

16 (6) ~~*to be a person who*~~ *has been adjudged in need of a guardian or*
17 *conservator, or both, under the act for obtaining a guardian or conservator,*
18 *or both, and who has not been restored to capacity under that act;*

19 (7) ~~*to be guilty of*~~ *has committed unprofessional conduct as defined by*
20 *rules and regulations of the board;*

21 (8) *to have willfully or repeatedly violated*~~*the provisions any*~~
22 *provision of the Kansas nurse practice act or any rules and regulations*
23 *adopted pursuant to that act, including K.S.A. 65-1114 and 65-1122, and*
24 *amendments thereto;*

25 (9) ~~*to have a license to practice nursing as a registered nurse or as a*~~
26 ~~*practical nurse*~~ *any professional or occupational registration, license or*
27 *certification denied, revoked, limited or suspended, or to be publicly or*
28 *privately censured, by the board or a licensing authority of another any*
29 *state, agency of the United States government, territory of the United*
30 *States or country or to have other disciplinary action taken against the*
31 *applicant or licensee by a licensing authority of another state, agency of*
32 *the United States government, territory of the United States or country. A*
33 *certified copy of the record or order of public or private censure, denial,*
34 *suspension, limitation, revocation or other disciplinary action of the*
35 *licensing authority of another state, agency of the United States*
36 *government, territory of the United States or country shall constitute prima*
37 *facie evidence of such a fact for purposes of this paragraph*~~*(9); or*~~

38 (10) *to have assisted suicide in violation of K.S.A. 21-3406, prior to*
39 *its repeal, or K.S.A. 21-5407, and amendments thereto, as established by*
40 *any of the following:*

41 (A) *A copy of the record of criminal conviction or plea of guilty for a*
42 *felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-*
43 *5407, and amendments thereto;*

1 (B) a copy of the record of a judgment of contempt of court for
2 violating an injunction issued under K.S.A. 60-4404, and amendments
3 thereto; and

4 (C) a copy of the record of a judgment assessing damages under
5 K.S.A. 60-4405, and amendments thereto;

6 (11) *to have practiced while the license was invalidated, lapsed or*
7 *inactive, pursuant to K.S.A. 65-1117, 65-1131 or 65-1132, and*
8 *amendments thereto;*

9 (12) *to have cheated on an examination administered under this act*
10 *for licensure;*

11 (13) *to have failed to comply with any order of the board;*

12 (14) *to have violated a provision of the Kansas nurse practice act or*
13 *one or more of the rules and regulations of the board; or*

14 (15) *to have abandoned a patient.*

15 (b) ~~Proceedings.~~ Upon filing of a sworn complaint with the board
16 charging a person with having been guilty of any of the unlawful practices
17 specified in subsection (a), two or more members of the board shall
18 investigate the charges, or the board may designate and authorize an
19 employee or employees of the board to conduct an investigation. After
20 investigation, the board may institute charges. If an investigation, in the
21 opinion of the board, reveals reasonable grounds for believing the
22 applicant or licensee is guilty of the charges, the board shall fix a time and
23 place for proceedings, which shall be conducted in accordance with the
24 provisions of the Kansas administrative procedure act ~~Civil fine.~~ In
25 addition to or in lieu of any other penalty prescribed in subsection (a), the
26 board may assess a civil fine in an amount not to exceed \$2,000 for the
27 first violation, \$3,000 for the second violation and \$5,000 for the third
28 violation and each subsequent violation. All fines assessed and collected
29 under this section shall be remitted to the state treasurer in accordance
30 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
31 receipt of each such remittance, the state treasurer shall deposit the entire
32 amount in the state treasury to the credit of the state general fund.

33 (c) *Witnesses.* No person shall be excused from testifying in any
34 proceedings before the board under this act or in any civil proceedings
35 under this act before a court of competent jurisdiction on the ground that
36 such testimony may incriminate the person testifying, but such testimony
37 shall not be used against the person for the prosecution of any crime under
38 the laws of this state except the crime of perjury as defined in K.S.A. 21-
39 5903, and amendments thereto.

40 (d) *Costs.* If final agency action of the board in a proceeding under
41 this section is adverse to the applicant or licensee, the costs of the board's
42 proceedings shall be charged to the applicant or licensee as in ordinary
43 civil actions in the district court, but if the board is the unsuccessful party,

1 the costs shall be paid by the board. Witness fees and costs may be taxed
2 by the board according to the statutes relating to procedure in the district
3 court. All costs accrued by the board, when it is the successful party, and
4 which the attorney general certifies cannot be collected from the applicant
5 or licensee shall be paid from the board of nursing fee fund. All moneys
6 collected following board proceedings shall be credited in full to the board
7 of nursing fee fund.

8 (e) *Professional incompetency defined.* As used in this section,
9 "professional incompetency" means:

10 (1) One or more instances involving failure to adhere to the
11 applicable standard of care to a degree which constitutes gross negligence,
12 as determined by the board;

13 (2) repeated instances involving failure to adhere to the applicable
14 standard of care to a degree which constitutes ordinary negligence, as
15 determined by the board; or

16 (3) a pattern of practice or other behavior which demonstrates a
17 manifest incapacity or incompetence to practice nursing.

18 (f) *Criminal justice information.* The board upon request shall receive
19 from the Kansas bureau of investigation such criminal history record
20 information relating to arrests and criminal convictions as necessary for
21 the purpose of determining initial and continuing qualifications of
22 licensees of and applicants for licensure by the board in accordance with
23 K.S.A. 2025 Supp. 22-4715, and amendments thereto.

24 (g) *The board may defer discipline or other action against any*
25 *impaired licensee who enters into a binding agreement, in a form*
26 *satisfactory to the board, under terms that such licensee agrees not to*
27 *practice nursing or to practice nursing with limitations or conditions and*
28 *to enter into and comply with the requirements of a board-approved*
29 *treatment or monitoring program in accordance with regulations adopted*
30 *by the board. This subsection shall not apply to any licensee who has been*
31 *convicted of, pled guilty to or entered a plea of nolo contendere to a felony*
32 *offense involving a controlled substance. If a licensee fails to comply with*
33 *the board-approved program, the board may then give the licensee notice*
34 *of its intent to lift the stay or deferment and impose discipline or other*
35 *action.*

36 (h) *As used in this section, a conviction includes a finding of guilt by*
37 *a military court martial pursuant to the uniform code of military justice by*
38 *a court of the United States or by a court of competent jurisdiction in any*
39 *state or a diversion or deferred judgment agreement entered into in a*
40 *felony or misdemeanor case.*

41 Sec. 5. K.S.A. 65-1120a is hereby amended to read as follows: 65-
42 1120a. (a) A person whose license has been revoked may apply for
43 reinstatement of the license after the expiration of three years from the

1 effective date of the revocation. Application for reinstatement shall be on a
2 form approved by the board and shall be accompanied by a reinstatement
3 fee established by the board under K.S.A. 65-1118, and amendments
4 thereto. ~~The burden of proof by clear and convincing evidence shall be on~~
5 ~~the applicant to show sufficient rehabilitation to justify reinstatement of~~
6 ~~the license.~~

7 (b) *The board may reinstate a revoked license upon a finding that the*
8 *applicant is otherwise qualified for licensure under the Kansas nurse*
9 *practice act and is sufficiently rehabilitated to warrant public trust. The*
10 *burden shall be upon the applicant to establish rehabilitation by clear and*
11 *convincing evidence.*

12 (c) *In determining whether an applicant is sufficiently rehabilitated*
13 *to warrant public trust, the board may consider any relevant evidence,*
14 *including the following:*

- 15 (1) *The present moral fitness of the applicant to practice nursing;*
- 16 (2) *the demonstrated consciousness of the wrongful conduct and the*
17 *disrepute that the conduct has brought to the nursing profession;*
- 18 (3) *the extent of the applicant's rehabilitation;*
- 19 (4) *the seriousness of the original misconduct;*
- 20 (5) *the applicant's conduct after disciplinary action;*
- 21 (6) *the time elapsed since the original discipline;*
- 22 (7) *the applicant's character, maturity and experience at the time of*
23 *the original discipline;*
- 24 (8) *the applicant's present competence to engage in the nursing*
25 *profession; and*
- 26 (9) *other relevant factors bearing on the applicant's ability to*
27 *practice nursing.*

28 (d) If the board determines a license should not be reinstated, the
29 person shall not be eligible to reapply for reinstatement for three years
30 from the effective date of the denial.

31 (e) All proceedings conducted on an application for reinstatement
32 shall be in accordance with the provisions of the Kansas administrative
33 procedure act and shall be reviewable in accordance with the Kansas
34 judicial review act. The board, on its own motion, may stay the
35 effectiveness of an order of revocation of license.

36 ~~(b)(f) On or before January 8, 2018, and on or before the first day of~~
37 ~~the regular session of the Kansas legislature each year thereafter, the board~~
38 ~~of nursing shall submit prepare a written report to the senate standing~~
39 ~~committee on public health and welfare and the house of representatives~~
40 ~~standing committee on health and human services that includes on an~~
41 ~~anonymous but individual and itemized basis: The number of individuals~~
42 ~~who applied for reinstatement of a revoked license during the immediately~~
43 ~~preceding calendar year; the amount of moneys charged to each such~~

1 applicant; the number of such reinstatement applications that were granted
2 and denied; and the basis given to deny any such reinstatement
3 application. *These reports shall be made available by:*

4 (1) *Submitting such report to the Kansas legislative research*
5 *department; and*

6 (2) *providing such report to all members of the senate standing*
7 *committee on public health and welfare and the house of representatives*
8 *standing committee on health and human services, or any successor*
9 *committees, through digital distribution by the Kansas legislative research*
10 *department and the Kansas board of nursing.*

11 (e)(g) This section shall be a part of and supplemental to the Kansas
12 nurse practice act.

13 Sec. 6. K.S.A. 65-1121a is hereby amended to read as follows: 65-
14 1121a. (a) *All administrative proceedings regarding licensure under this*
15 *act shall be conducted under the Kansas administrative procedures act.*
16 Any agency action of the board of nursing pursuant to the Kansas nurse
17 practice act is subject to review in accordance with the Kansas judicial
18 review act.

19 (b) This section shall be a part of and supplemental to the Kansas
20 nurse practice act.

21 Sec. 7. K.S.A. 65-1129 is hereby amended to read as follows: 65-
22 1129. The board ~~shall~~ *may* adopt and promulgate rules and regulations as
23 are necessary to carry out the provisions of ~~this act~~ *the Kansas nurse*
24 *practice act.*

25 Sec. 8. K.S.A. 65-1120a, 65-1121a, 65-1129 and 74-1110 and K.S.A.
26 2025 Supp. 65-1117 and 65-1120 are hereby repealed.

27 Sec. 9. This act shall take effect and be in force from and after its
28 publication in the statute book.