

# Support Proposed Changes in Crisis Intervention Act to Include Advanced Practice Registered Nurses

## Statement/Position:

Propose amendments to K.S.A. 59-29c02 to expand the list of professionals who are included in the definition of "behavioral health professionals" to include Advanced Practice Registered Nurses (APRN's). The current definition of "behavioral health professional" includes physicians, physician assistants, psychologists, qualified mental health professionals, or licensed addiction counselors. K.S.A. 59-29c02(a). By including APRN's in the definition of behavioral health professionals, the APRN is also statutorily authorized to perform the functions of the administrative director of a crisis intervention center because the definition of "administrative director of a crisis intervention center" includes "behavioral health professional." K.S.A. 59-29c02(b).

**The Problem:** The Crisis Intervention Act does not recognize the APRN as a Qualified Mental Health Professional which is in direct contradiction to the Kansas State Board of Nursing Rules and Regulations definition of practice for the APRN. This not only limits the APRN ability to function to their full scope of practice it excludes a primary resource for the consumers in crisis.

The Kansas Nurse Practice Act defines the APRN scope of practice as follows:

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### **APRN**

#### **RULES & REGULATIONS**

##### **60-11-101. Definition of expanded role; limitations; restrictions.**

(a) Each "advanced practice registered nurse" (APRN), as defined by K.S.A. 65-1113 and amendments thereto, shall function in an expanded role to provide primary, secondary, and tertiary health care in the APRN's role of advanced practice. Each APRN shall be authorized to make independent decisions about advanced practice nursing needs of families, patients, and clients and medical decisions based on the authorization for collaborative practice with one or more physicians. This regulation shall not be deemed to require the immediate and physical presence of the physician when care is given by an APRN. Each APRN shall be directly accountable and responsible to the consumer.

(b) "Authorization for collaborative practice" shall mean that an APRN is authorized to develop and manage the medical plan of care for patients or clients based upon an agreement developed jointly and signed by the APRN and one or more physicians. Each APRN and physician shall jointly review the authorization for collaborative practice annually. Each authorization for collaborative practice shall include a cover page containing the names and telephone numbers of the APRN and the physician, their signatures, and the date of review by the APRN and the physician. Each authorization for collaborative practice shall be maintained in either hard copy or electronic format at the APRN's principal place of practice.

(c) "Physician" shall mean a person licensed to practice medicine and surgery by the state board of healing arts.

(d) "Prescription" shall have the meaning specified in K.S.A. 65-1626, and amendments thereto.

(e) "Prescription order" shall have the meaning specified in K.S.A. 65-1626, and amendments thereto.

**History:** (Authorized by and implementing K.S.A. 65-1113, as amended by L. 2011, ch. 114, sec. 39, and K.S.A. 65-1130, as amended by L. 2011, ch. 114, sec. 44; effective May 1, 1984; amended March 31, 2000; amended Sept. 4, 2009; amended May 18, 2012.)

<http://www.ksbn.org/npa/npa.pdf>

**Why this matters:** Across the state the number of all APRN's increased from 5,362 in FY17 to 5,414 in FY18. The Kansas State Board of Nursing reported that in FY18 Kansas had 287 licensed APRN's specializing in Psychiatric/Mental Health. Kansas also supports three Advanced Practice Programs for Psychiatric/Mental Health Nurse Practitioner through the University of Kansas, Washburn University and Wichita State.

There are twenty six Community Mental Health Centers in Kansas whose consumers are receiving services by APRN's specializing in Psychiatric Mental Health. By adding the APRN to the definition of a Qualified Mental Health Professional we are providing an additional resource of service providers to our consumers in crisis across Kansas.

<https://ksbn.kansas.gov/annual-report/>

With amendments to K.S.A. 29c02 to include APRNs as described above, the Act would authorize the APRN to perform the following functions:

**Voluntary Admission to Crisis Intervention Center - K.S.A. 59-29c04.**

1. Notify the legal guardian upon the voluntary admission to a crisis intervention center as required by K.S.A. 59-29c04.

**Evaluation of Admitted Person; District Court Review; Discharge – K.S.A. 59-29c08.**

2. Evaluate a person admitted to a crisis intervention center within four hours of admission as required by K.S.A. 59-29c08(a).

3. Evaluate a person admitted to a crisis intervention center within 23 hours after admission and again not later than 48 hours after admission to determine if the person continues to meet the criteria described in subsection (a) as required by K.S.A. 59-29c08(b).

4. Not later than 48 hours after admission, determine whether the person continues to meet the criteria described in subsection (a) and, if so, file an affidavit to that effect for review by the district court in the county where the crisis intervention center is located as required by K.S.A. 59-29c08(c).

5. Discharge the person admitted pursuant to the act at any time the person no longer meets the criteria described in subsection (a) and, except as provided in subsection (e), not later than 72 hours after admission as required by K.S.A. 59-29c08(d).

6. Not later than 72 hours after admission, file the petition provided by K.S.A. 59-2957 or 59- 29b57, if the APRN determines the person continues to meet the criteria described in subsection (a) as required by K.S.A. 59-29c08(e).

**Notice of Rights and Documentation Upon Admission – K.S.A. 59-29c09.**

7. Advise the person of their right to contact legal counsel, guardian, and others as enumerated; provide notice of the involuntary admission to legal guardian, attorney, immediate family; advise person of their legal rights as required by K.S.A 59-29c09(a).

**Administration of Medications and Other Treatments – K.S.A. 59-29c10.**

8. **Note:** an APRN is statutorily authorized to prescribe, administer, or supply prescription-only drugs. K.A.R. 60-11-104a. The Act currently limits the administration of medication only upon

written order of a **physician** or verbal order subsequently signed by the **physician**. If it is determined that the APRNs' role should be expanded beyond evaluation and include the authorization to administer medication, K.S.A. 59-29c10(a) would need amended.

This change in language is addressed in the Administration of medications and other treatments section of this document

### **Restraints; Seclusion – K.S.A. 59-29c11.**

9. Determine whether restraints or seclusion is appropriate as specified by the statute. 59-29c11(a) and (b). Note, however, that the monitoring period is determined by the physician or psychologist while the statement explaining the treatment necessity for the use of restraints or seclusion may be made by the head of the crisis intervention center (which would include the APRN), physician, or psychologist.

### **Patient's Rights - K.S.A. 59-29c12.**

10. Restrict the person's right to mail as contemplated by K.S.A. 59-29c12(a)(2), except for circumstances set forth under K.S.A. 59-29c12(a)(8).

Below are suggested amendments shown with underlining:

#### **59-29c02. Definitions**

When used in the crisis intervention act:

(a) "Behavioral health professional" includes a physician, physician assistant, advanced practice registered nurse, psychologist, qualified mental health professional or licensed addiction counselor.

(b) "Head of a crisis intervention center" means the administrative director of a crisis intervention center or a behavioral health professional designated by such person.

(c) "Law enforcement officer" shall have the meaning ascribed to it in K.S.A. 22-2202, and amendments thereto.

(d) "Licensed addiction counselor" shall have the meaning ascribed to it in K.S.A. 59-29b46(d), (e) or (f), and amendments thereto.

(e) "Crisis intervention center" means any entity licensed by the Kansas department for aging and disability services that is open 24 hours a day, 365 days a year, equipped to serve voluntary and involuntary individuals in crisis due to mental illness, substance abuse or a co-occurring condition, and that uses certified peer specialists.

(f) "Crisis intervention center service area" means the counties to which the crisis intervention center has agreed to provide service.

(g) "Physician" means a person licensed to practice medicine and surgery as provided for in the Kansas healing arts act or a person who is employed by a state psychiatric hospital or by an agency of the United States and who is authorized by law to practice medicine and surgery within such hospital or agency.

(h) "Psychologist" means a licensed psychologist, as defined by K.S.A. 74-5302, and amendments thereto.

(i) "Qualified mental health professional" shall have the meaning ascribed to it in K.S.A. 59-2946(j), and amendments thereto.

(j) "Treatment" means any service intended to promote the mental health of the patient and rendered by a qualified professional, licensed or certified by the state to provide such service as an

independent practitioner or under the supervision of such practitioner; and the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to persons with an alcohol or substance abuse problem.

(k) "Domestic partner" means a person with whom another person maintains a household and an intimate relationship, other than a person to whom such person is legally married.

(l) "Physician assistant" (PA) means a person licensed by the state board of healing arts to provide medical services and perform duties and responsibilities through delegated authority or written agreement with a supervising physician.

(m) "Advanced practice registered nurse" (APRN) means a professional nurse who holds a license from the Kansas Board of Nursing to function as a professional nurse in an advanced role, as defined by K.A.R. 60-11-101, which authorizes the APRN to provide primary, secondary, and tertiary health care and to make independent decisions about advanced practice nursing needs of families, patients, and clients and medical decisions based on the authorization for collaborative practice with one or more physicians.

### **59-29c10. Administration of medications and other treatments**

(a) Medications and other treatments shall be prescribed, ordered and administered only in conformity with accepted clinical practice. Medication shall be administered only upon the written order of a physician, PA, or APRN, or upon a verbal order noted in the patient's medical records and subsequently signed by the physician, PA, or APRN. The attending physician, PA, or APRN shall review regularly the drug regimen of each patient under the physician's, PA's, or APRN's care and shall monitor any symptoms or harmful side effects. Prescriptions for psychotropic medications shall be written with a termination date not exceeding 30 days thereafter, but may be renewed.

(b) During the course of treatment, the responsible physician, PA, APRN, or psychologist or such person's designee shall reasonably consult with the patient or the patient's legal guardian and give consideration to the views the patient or legal guardian expresses concerning treatment and any alternatives, including views expressed in any wellness recovery action plan or psychiatric advance directive. No medication or other treatment may be administered to any voluntary patient without the patient's consent or the consent of such patient's legal guardian.

(c) Consent for medical or surgical treatments not intended primarily to treat a patient's mental disorder shall be obtained in accordance with applicable law.

(d) Whenever a patient receiving treatment pursuant to this act objects to taking any medication prescribed for psychiatric treatment, and after full explanation of the benefits and risks of such medication such objection continues, the medication may be administered over the patient's objection. Such objection shall be recorded in the patient's medical record.

(e) In no case shall experimental medication be administered without the patient's consent, which consent shall be obtained in accordance with K.S.A. 59-29c12(a)(6), and amendments thereto.



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**In summary:** A report on the Psychiatric Shortage: Causes and Solutions by The National Council for Behavioral Health states, "One of the major paths to improving outcomes is to shift

the focus of each of these professional groups to practice up to the level of their professional license”. These professional groups includes the Advanced Practice Registered Nurse.

[https://www.thenationalcouncil.org/wp-content/uploads/2017/03/Psychiatric-Shortage\\_National-Council-.pdf](https://www.thenationalcouncil.org/wp-content/uploads/2017/03/Psychiatric-Shortage_National-Council-.pdf)

The Kansas Mental Health Task Force recognized the Kansas Mental Health Reform Act of 1990 resulted in a reduction of staffed state hospital beds from 1000 to 258 in 2017. The Community Mental Center became the primary provider for those patients who were now to receive community based care. If we are in fact to meet the needs of our communities we have to have providers who can deliver the care.

[https://www.kdads.ks.gov/docs/default-source/csp/bhs-documents/final-mental-health-task-force-report---january-2019.pdf?sfvrsn=4dac04ee\\_0](https://www.kdads.ks.gov/docs/default-source/csp/bhs-documents/final-mental-health-task-force-report---january-2019.pdf?sfvrsn=4dac04ee_0)

In addition to funding, the Crisis Intervention Act is limited in its effectiveness without the inclusion of the APRN as a Qualified Mental Health Professional and recognizing their authority as it pertains to prescribing, administering and monitoring medications. As we struggle to meet the behavioral health needs of all Kansans, our laws should support APRN’s practicing to their full scope of practice and recognize them as a vital resource in our state.