

**Kansas State Board of Nursing  
Landon State Office Building Room 106  
ARNP Committee Notes  
July 16, 2002**

Time: 1:00 – 3:15 PM

**Committee Members:** Artis Perret, RN, MSN, ARNP, Chair  
Diane Okeson, Ed.D, MN, RN, ARNP/CNS, V-Chair  
Judith Hiner, BSN, RN, CNA  
Kelly Ann Elliott, CNM, WHNP, PhD.  
Katharine Clark, RN, ARNP/RNA  
Patrice Rawlins, RN, ARNP  
Diana Corpstein, RN, ARNP, BC

Comm. Mem. absent Mark Steadham, Public Member

Staff: Patty Brown, RN, MS, Educ. Spec.  
D'Ambra Baker, Administrative Assistant

**Call to Order** The Meeting was called to order by Artis Perret,  
Committee Chair at 1:00 p.m. in room 106.

**Review of Onsite Packets** There were no onsite packets for this meeting

**Additions/Revisions to Agenda** There were no additions or revisions to  
the agenda

**Approval of May 2002 minutes** The minutes of May 2002 were reviewed. It  
was moved the minutes be approved.  
Motion #1 K. Elliott/ D. Okeson

**Consent Items**

1. Approval of applications – It was moved to approve of  
applications by program review and staff approval.  
Motion #2 D. Okeson/P. Rawlins

**Old Business:**

1. Statutes K.A.R. 65-1130 and 65-1132  
- legal opinion on statutory authority to require certification  
and or recertification  
Response from Guen Easley July 2002: Whether KSA 2001  
Supp. 65-1130 authorizes KSBN to require ARNP to get

national certification as a prerequisite to state certification as an ARNP:

“The Legislature has delegated to the Board the authority to set the guidelines or standards and requirements for obtaining certification as advanced nurse practitioners to the Board. The legislature can delegate the power to administer and enforce a statute to the administrative agency, such as the Board of Nursing, so long as the Legislature provides sufficient guidelines. The Legislature, however, cannot delegate its power to a nongovernmental association. Since the prohibition against the delegation of legislative power or authority to a nongovernmental organization applies to the Legislature, an administrative agency, such as the Kansas Board of Nursing, similarly is unable to delegate its authority to a nongovernmental association because as an administrative agency, it cannot exceed its statutory authority, the power granted to it by the Legislature. In other words, the Legislature cannot delegate authority to do something it cannot do.

For this reason, the Board may not delegate its power to determine who is qualified to practice as an advanced nurse practitioner to a national organization because to do so would unlawfully delegate the Board’s authority to a nongovernmental organization. The nongovernmental organization would have the authority to establish who is qualified and the authority to change the standard whenever the organization changes its criteria for national certification.

There is a difference, however, between imposing a requirement that a nurse be certified by a national organization as a prerequisite to Kansas certification (that constitutes unlawful delegation) and adopting a standard that must be met (that does *not* constitute unlawful delegation). For example, K.S.A. 2001 Supp. 65-1152 sets a standard to be followed rather than imposing a requirement of certification by a national organization. The statute lists the qualifications for authorization to practice as a registered nurse anesthetist:

“(1) Be licensed to practice professional nursing under the Kansas nurse practice act;

“(2) has successfully completed a course of study in nurse anesthesia in a school of nurse anesthesia approved by the board;

“(3) has successfully completed an examination approved by the board *or has been certified by a national organization whose certifying standards are approved by the board as equal to or greater than the corresponding standards established under this act* for obtaining authorization to practice as a registered nurse anesthetist.”

Rather than requiring that an applicant be certified by a national organization, the statute provides the applicant the alternative of obtaining certification from a national organization whose standards are approved by the Board. The language “whose standards are approved by the board as equal to or greater than” provides the Board with the ultimate authority to decide who is qualified and who is not qualified. Retaining ultimate authority overcomes an unlawful delegation challenge.

Recommendation:

The Board needs to set their own standards, first, so that the board can judge whether the certification standards are equal or they need to approve the standards of a national organization by adopting them as their own. I recommend that the Board promulgate a regulation giving an applicant for certification as an advanced registered nurse practitioner a choice of either meeting the standards set by the Board or being certified by a national organization whose certifying standards are approved by the board as equal to or greater than the corresponding standards established by the Board.”

Discussion on requirements for recertification follows same process - derive statutory authority from RN Regulation.

Discussed impact of mandatory certification:

- fiscal impact estimates distributed
- average pass rates on certification exam 70%
- Approximately 30% (675) of current KS. ARNP’s are not certified – many are not eligible to sit for the exam; some cannot maintain certification due to practice requirement.

Reviewed current regulation 60-11-103 (e) and determined language already in place to allow acceptance of national certification, but need to use the regulations as the norm instead of the exception and to clean up the process of recertification/certification but not to touch the regulation. Will review ARNP application and instructions at next meeting

- Review standards of certifying organizations and update list at next meeting

**New Business:**

Announcements:

Medceu.com is no longer approved by the Alabama State Nurses Association. Board office has received complaints from nurses who were unable to reenter the site and who were billed for additional education they didn’t do.

Tom McKibban was elected as the president of the American Association of Nurse Anesthetist (AANA)

**Agenda**

Old Business:

- 1). Review of ARNP application & instructions
- 2). Review of standards of certifying organizations

**Adjourn**

It was moved that the ARNP Committee Meeting adjourn at 2:30.

Motion #3 P. Rawlins/ K. Elliott