



# Lunch & Learn



# Bill Analysis: How to read and analyze legislation

July 17, 2019

Jamie Kings, MA, AANP State Policy Analyst  
Ashley Shew, MPA, AANP State Policy Analyst

Presented in partnership  
by:



American Association of  
NURSE PRACTITIONERS®

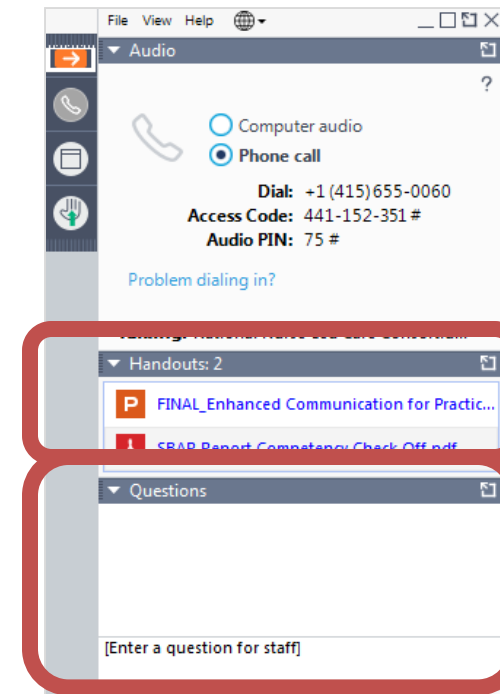


Transforming Clinical  
Practices Initiative

# Housekeeping Items

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# National Investment in Quality Improvement

- Changes to the health care system are here
- Nurse practitioners (NPs) will play a key role during the critical transition from Fee-for-Service to **Value-Based Reimbursement**
- **NNCC** and the **AANP** have partnered together to create the **Nurse Practitioner Support & Alignment Network (NP SAN)**:
  - Prepare NPs for the upcoming changes to the health care system
  - Provide free continuing education & professional development centered around value-based health care practices
  - Offer key training opportunities that ready practices for **Value-Based Reimbursement**

# Preparing NPs for Value-Based Reimbursement

## What is the Quality Payment Program?

Began in 2017 as a result of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) and requires CMS by law to implement an incentive program referred to as the *Quality Payment Program*, that provides for two participation tracks:

Merit-based Incentive  
Payment System (MIPS)]

MIPS

*If you decide to participate in MIPS, you will earn a performance-based payment adjustment through MIPS.*

OR

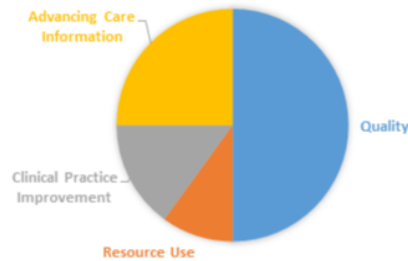
Advanced Alternative  
Payment Models (APMs)

Advanced  
APMs

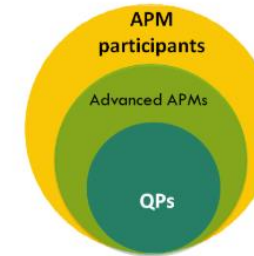
*If you decide to take part in an Advanced APM, you may earn a Medicare incentive payment for participating in an innovative payment model.*

# MIPS

# APMs



## MIPs vs. APMs Timeline



- Designed for individuals & small practices
  - Four (4) performance areas
  - Replaces all current incentive programs
  - Exempt if practice DOES NOT meet low volume threshold.
- Higher risk model
  - Risk is shared throughout the APM
  - Number of acceptable payment models is limited
  - Rules to being considered a qualified provider (QP)

# Where Can I Go to Learn More?

1. CMS QPP website [www.qpp.cms.gov](http://www.qpp.cms.gov)
2. NPI Lookup for participation status <https://qpp.cms.gov/participation-lookup>
3. AANP <https://www.aanp.org/legislation-regulation/federal-legislation/macra-s-quality-payment-program>



# **BILL ANALYSIS: HOW TO READ AND ANALYZE LEGISLATION FOR IMPACT TO PATIENTS AND THE PROFESSION**

Jamie Kings, MA, AANP State Policy Analyst

Ashley Shew, MPA, AANP State Policy Analyst



# OBJECTIVES

- Know where to find laws and rules that govern NP practice
- Identify common challenges
- Articulate impacts in key areas

# AGENDA

- State Policy Overview
  - State Laws & Rules
- Bill Basics
  - What is a bill?
  - Anatomy of a Bill
  - Common Legislative Terms
- Analyzing a Bill
  - Reading a Bill
  - Comparing to current policy
  - Determining the Impact

# STATE POLICY OVERVIEW

# STATE POLICY & CHANGE MECHANISMS

- State Laws (statute)
  - Δ Changed only by state elected legislature through enacted legislation (bills)
- State Regulations (administrative code)
  - Δ Rule changes made by state executive agencies/boards
- Official Forms
  - Δ Can be changed at direction of legislature or through state agency regulatory changes

# BILL BASICS

# BILL BASICS: WHAT IS A BILL?

## BILL

A bill is the mechanism used to change, repeal or create state laws (statutes).

- Example: MA HB 1867 →

*An Act to support access, value and equity in health care (SAVE Act)*

- *By Representatives Donato & Khan*
- *A petition relative to nurse practitioner services and related care. Public Health.*

HOUSE DOCKET, NO. 1785      FILED ON: 1/17/2019  
**HOUSE . . . . . No. 1867**  
By Representatives Donato of Medford and Khan of Newton, a petition (accompanied by bill, House, No. 1867) of Paul J. Donato, Kay Khan and others relative to nurse practitioner services and related care. Public Health.

### *The Commonwealth of Massachusetts*

*In the One Hundred and Ninety-First General Court  
(2019-2020)*

An Act to support access, value and equity in health care (SAVE Act).

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1           SECTION 1. Section 1 of chapter 94C of the General Laws, as appearing in the 2014
- 2           Official Edition, is hereby amended by inserting after the definition for Marihuana the following
- 3           definition:-
- 4           Medication Order, an order entered on a patient's medical record maintained at a hospital,
- 5           other health facility, or ambulatory health care setting registered under this chapter and that is
- 6           dispensed only for immediate administration at the facility to the ultimate user by an individual
- 7           who under chapter 94C administers such medication.

# BILL BASICS: WHAT IS A BILL? WHAT'S NOT?

8                   RECOGNIZING SCHOOL NURSE DAY DURING NATIONAL NURSES  
9   WEEK.

10

11                   WHEREAS, with immense pride and pleasure, we  
12   recognize School Nurse Day during National Nurses Week; and  
13                   WHEREAS, each year, May 6 through May 12 serves as  
14   National Nurses Week, with May 8 being School Nurse Day; and  
15                   WHEREAS, school nurses play an integral role in the  
16   health of the students and in schools overall; school nurses  
17   contribute much time and compassion to the schools in which  
18   they serve; school nurses meet the needs of students,  
19   families, and school communities by using critical thinking  
20   and providing highly skilled, evidence-based practices; and  
21                   WHEREAS, school nurses are vital to schools in  
22   numerous ways; they improve attendance through health  
23   promotion, disease prevention, and disease management; the  
24   improvement of attendance leads to the improvement of  
25   academics because it allows for the students to be healthy,  
26   present in the classrooms, and ready to learn; furthermore,  
27   since school nurses address the health concerns of students,

## RESOLUTION

An honorary expression of the legislature. Resolutions do not change state laws.

← Example: AL HJR 179  
*(House Joint Resolution)*

Recognizes School Nurse Day  
during National Nurses Week.



# BILL BASICS: ANATOMY OF A BILL

- Bill # HB/SB, AB, LB, HF/SF, **LD**
- Sponsor(s)
- Summary/Abstract
- Title
- Enacting clause
- Operative Text
- Preamble/Legislative Intent
- Effective date

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# BILL BASICS: ANATOMY OF A BILL

- Preamble/Legislative Intent
- Example: →  
AR 2019 Bill Draft

28      SECTION 1. DO NOT CODIFY. Legislative findings and intent.  
29      (a) The General Assembly finds that:  
30              (1) Advanced practice registered nurses are nurses with a  
31      master's or doctorate degree in nursing and clinical competencies in  
32      providing care to diverse populations in a variety of settings;  
33              (2) Advanced practice registered nurses are nationally certified  
34      and practice in all fifty (50) states;  
35              (3) Twenty-two (22) states, two (2) territories, and the  
36      District of Columbia authorize advanced practice registered nurses to have

# BILL BASICS: ANATOMY OF A BILL

- Effective Date
- Example: →
  - PA SB 25-last page

13 Section 4. The authority of the State Board of Nursing to  
14 certify a licensed registered nurse as an advanced practice  
15 registered nurse-certified nurse practitioner shall expire on  
16 the effective date of this section.

17 Section 5. Within 90 days after the effective date of this  
18 section, the State Board of Nursing, the Department of Health,  
19 the Department of Human Services and other affected agencies  
20 shall initiate the promulgation of regulations necessary to  
21 carry out the provisions of this act. The promulgation of the  
22 regulations shall not be a condition precedent to the  
23 applicability of this act.

24 Section 6. This act shall take effect in 60 days.

# COMMON LEGISLATIVE TERMS

- ACT – a bill that has become law.
- AMENDMENT – An alteration (or proposed alteration) to a bill, by adding, deleting, substituting or omitting.
- CARRY-OVER – legislation that is held over from the first year of a legislative biennium to the second year.
- COMMITTEE SUBSTITUTE – a bill offered by a committee to replace the original bill; generally an amendment to the bill  
\*can also be called “Strike-below”

ALWAYS CHECK YOUR STATE’S GLOSSARY

# COMMON LEGISLATIVE TERMS

- **CROSS-OVER DEADLINE** – date by which a bill must pass to the other chamber in order to continue under consideration during a legislative session
- **ENGROSSING** – generally, the process of working any changes made to the bill into the bill text as it moves through the chambers
- **SINE DIE** – final date of legislative session
- **SUNSET** – date that a provision/section/chapter expires unless reauthorized by the legislature; may also refer to the program for review of state agencies
- **TABLE** – A measure is set aside for possible consideration at a future date

ALWAYS CHECK YOUR STATE'S GLOSSARY

# ANALYZING A BILL

# BILL ANALYSIS: KNOW BEFORE YOU GO!

- Before you dig into the “bill guts”, use these to set the scene:

## Bill Sponsor

- Consistent advocate/adversary?

## Bill Status

- Where is it in the legislative process?

## Legislative Deadlines

- May influence last-minute amendments

## Companion Legislation

- Does the other chamber have the same bill?

## Legislative reference guide

- Helps decipher legislative drafting styles

## Current State Statutory Code

- For comparison



# BILL ANALYSIS: HOW TO READ A BILL

1. Read once
2. Re-read and annotate  
Small details with big impact:
  - And
  - Or
  - May/shall/must
  - Notwithstanding
  - Whereas – taking into consideration, the fact that...
3. Compare directly to current law
4. Look up any referenced statute sections
5. Review amendments sequentially: take your time!

# BILL ANALYSIS: KNOW YOUR STATE'S CODE

➤ Statute chapters that commonly intersect with NP practice:

- Nurse Practice Act
- Medical Practice Act
- Health Code – mental health
- Pharmacy Practice Act
- Controlled Substance Act
- Transportation Code
- Insurance Code
- Facility Licensure
- Telehealth
- Physical Therapy Practice Act
- Education – student related items, including higher education
- Criminal Code

# BILL ANALYSIS: KNOW YOUR STATE'S CODE

## ➤ Example Part 1: Read Bill

Draft: Kansas House Bill 2066

What does the bill *aim* to do?

- Proposal to authorize APRNs to prescribe agents without a career-long protocol agreement with a physician

Does the bill adequately untangle other areas of statute that govern this change?

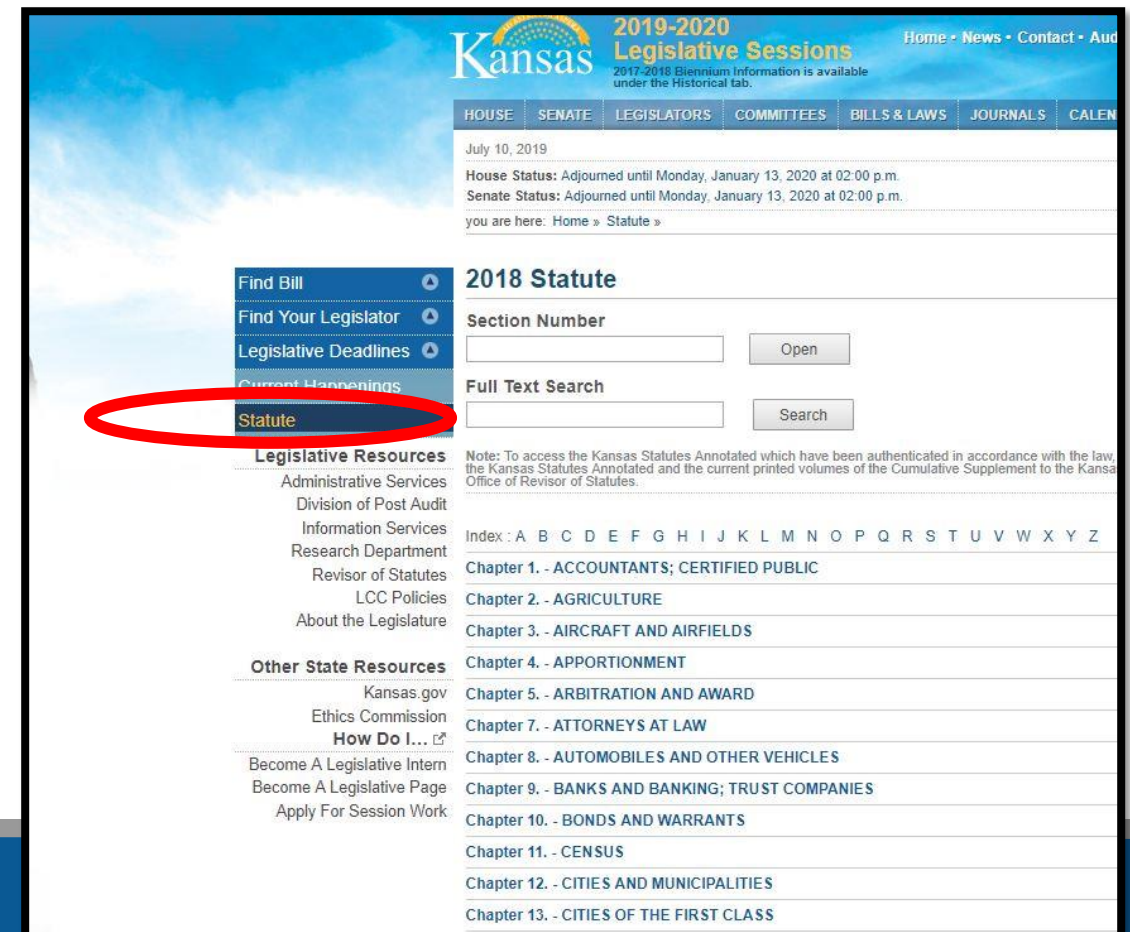
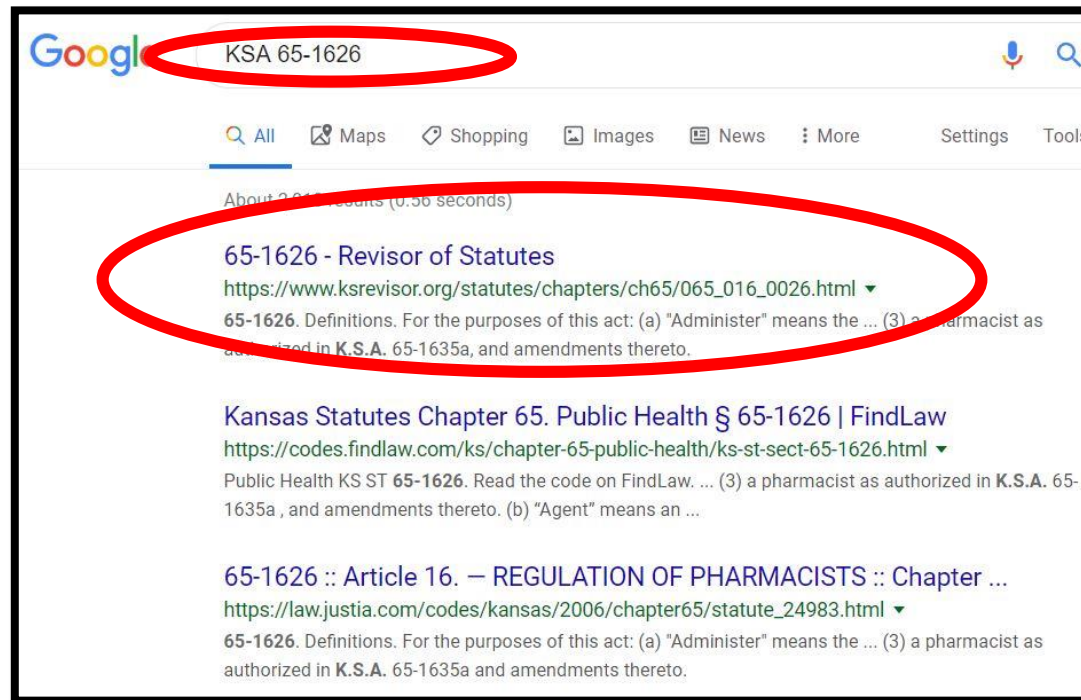
- “Pursuant to other applicable laws”
- Refers to drugs as defined in KSA 65-1626 and 65-4101

25 (d) (1) An advanced practice registered nurse may prescribe drugs  
26 pursuant to a written protocol as authorized by a responsible physician.  
27 Each written protocol shall contain a precise and detailed medical plan of  
28 care for each classification of disease or injury for which the advanced  
29 practice registered nurse is authorized to prescribe and shall specify all  
30 drugs which may be prescribed by the advanced practice registered nurse.  
31 Any written, procure and administer prescription drugs and controlled  
32 substances in schedules II through V pursuant to applicable federal and  
33 state laws.  
34 (2) A prescription order shall include the name, address and telephone  
35 number of the responsible physician. The advanced practice registered  
36 nurse. An advanced practice registered nurse may not dispense drugs, but  
37 may request, receive and sign for professional samples and may distribute  
38 professional samples to patients pursuant to a written protocol as  
39 authorized by a responsible physician.  
40 (3) In order to prescribe controlled substances, the advanced practice  
41 registered nurse shall: (1)  
42 (A) Register with the federal drug enforcement administration; and  
43 (2)

29 (e) As used in this section, "drug" means those articles and substances  
30 defined as drugs in K.S.A. 65-1626 and 65-4101, and amendments thereto.

# BILL ANALYSIS: KNOW YOUR STATE'S CODE

- Example Part 2: Find Current State Law ( a.k.a statute/code)
  - Copy/paste in browser
  - Legislature Website





# BILL ANALYSIS: KNOW YOUR STATE'S CODE

## ➤ Example Part 3: Compare to Current Law

- Go To Kansas Revised Statutes:

[http://www.kslegislature.org/li/b2019\\_20/statute/](http://www.kslegislature.org/li/b2019_20/statute/)

- Look up:

→Chapter 65- Public Health

→Article 41:

Controlled Substances

→Definitions

- Look for:  
Conflicting language

(mm) "Prescriber" means a practitioner or a mid-level practitioner.

(cc) "Mid-level practitioner" means a certified nurse-midwife engaging in the independent practice of midwifery under the independent practice of midwifery act, an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs pursuant to a written agreement with a supervising physician under K.S.A. 65-28a08, and amendments thereto.

# BILL ANALYSIS: DETERMINING THE IMPACT

## ➤ Questions that Guide Analysis:

1. What does the bill *aim* to do?
2. Does it do that?
3. Does the bill adequately untangle other areas of statute that govern this change?
4. How does the bill fit in the context of:
  - Current state policy landscape
  - Consensus Model goals for profession
  - Other national models/trends
  - AANP practice environment message
  - All settings/populations of NP practice

# BILL ANALYSIS: DETERMINING THE IMPACT

➤ Ask: How might the bill impact:

- Patients
- Not just your practice, but all other NPs licensed in the state
- Other APRNs
- Independent business owners
- Educational institutions and faculty NPs
- Employers
- New grads & NP workforce
- NP policy in other states
- Other policy goals in your state
- Future efforts of NPs in the legislature



# BILL ANALYSIS: RECENT OPPOSITIONAL PUSHBACK IN KEY AREAS

- Workforce
  - Do requirements differ for independently owned NP or NP-led practices than for NPs who are employed by hospitals and physician groups?
  - Are there different requirements for NPs in some facilities?
  - Would an NP in part time practice have a hard time meeting bill requirements?
  - Do provisions hinder new graduates?
- Education
  - Does the bill require a residency or residency-like requirements?
  - Does the bill require long periods in collaboration or supervisor before authorization to practice with less physician involvement?
  - Does the bill mandate significantly higher Continuing education (CE) requirements?
  - Does the bill make licensure distinctions between DNP, Masters or online graduates?
- Patient care/patient access
  - Will patient access to NP care be different in depending on where the patient is seen?
    - Limitations based on setting?
    - Rural or provider shortage areas only?
- Sets precedents
  - Is this bill different than the Consensus Model recommendations?
  - Would this make a state an outlier—or adopt “first in the nation” requirements?
  - Would the bill regulate NPs outside of the Board of Nursing?

# BILL ANALYSIS: COMMON CHALLENGES

- Misuse of terms
  - “Full Practice Authority”
  - APRN roles vs. NP
- Technical issues/drafting errors
  - Copy/paste errors from model language
  - Placeholder blank spaces
  - Conforming changes issues
- No net gain
  - “Two steps forward, one back”
- Does not untangle all other intersecting statutes
  - Most commonly: Pharmacy/ Controlled Substances Act

# BILL ANALYSIS: HELPFUL HINTS

- Summaries
  - If not included in the bill itself, a summary may be completed by the legislative research office. Most states don't have these in the bill text.
  - Good starting point for a confusing or large bill, but ALWAYS VERIFY INFORMATION
- Fiscal Notes
  - Estimates the potential cost of enacting a piece of legislation
- Compare notes! See what others in the NP community are saying
  - Check the AANP bill tracker
  - Call AANP for analysis and partnership

# EXAMPLE

- 2019 Regular Session
- Mississippi Senate Bill 2040
- <http://billstatus.ls.state.ms.us/documents/2019/pdf/SB/2001-2099/SB2040IN.pdf>

AN ACT TO AMEND SECTION 73-25-35, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTIFIED NURSE PRACTITIONERS WITH OVER 3,600 HOURS OF CLINICAL PRACTICE SHALL NOT BE REQUIRED TO HAVE A WRITTEN COLLABORATIVE AGREEMENT WITH A PHYSICIAN OR BE REQUIRED TO SUBMIT PATIENT CHARTS TO A PHYSICIAN FOR REVIEW; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-25-35, Mississippi Code of 1972, is amended as follows:

73-25-35. (1) Registered nurses who are licensed and certified by the Mississippi Board of Nursing as nurse practitioners are not prohibited from such nursing practice, but are entitled to engage therein without a physician's license.

**(2) In the event that (a) an existing written practice agreement with a collaborating physician terminates as a result of: the collaborating physician moving, retiring, no longer needing the services of the nurse practitioner, no longer being qualified to practice, or another cause due to no fault on the part of the nurse practitioner; and (b) the nurse practitioner demonstrates that he has made a good faith effort to enter into a new written practice agreement with a collaborating physician and has been unable to do so, upon approval of the Mississippi Board of Nursing, such certified nurse practitioner may continue to practice in collaboration with an advanced practice registered nurse or nurse practitioner who has been certified and practicing for more than three thousand six hundred (3,600) hours, and such certified nurse practitioner shall not be required to submit patient charts to a physician for review.**

**SECTION 2. This act shall take effect and be in force from and after July 1, 2019.**

2019 Mississippi Senate Bill No. 2040, Mississippi One Hundred Thirty-Fourth Legislative Session, 2019 Mississippi Senate Bill No. 2040, Mississippi One Hundred Thirty-Fourth Legislative Session

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# QUESTIONS?

## State Policy Team

Tay Kopanos, VP State Government Affairs

Julia Dieperink, Policy Coordinator

Jamie Kings, State Policy Analyst

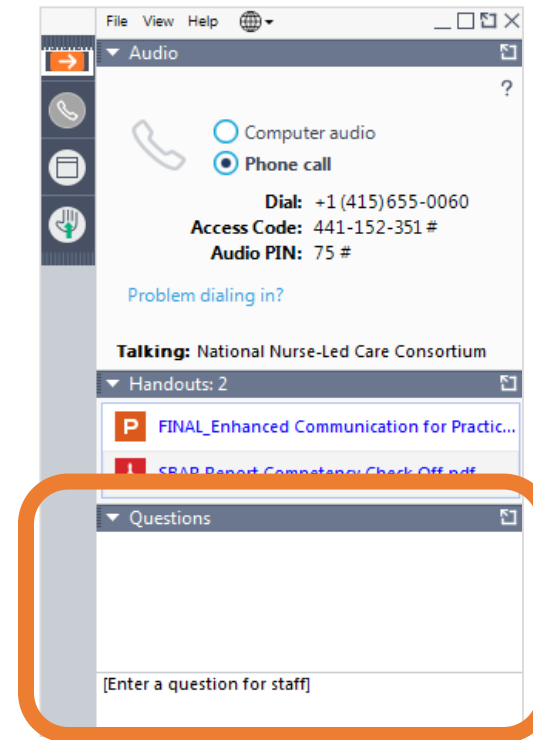
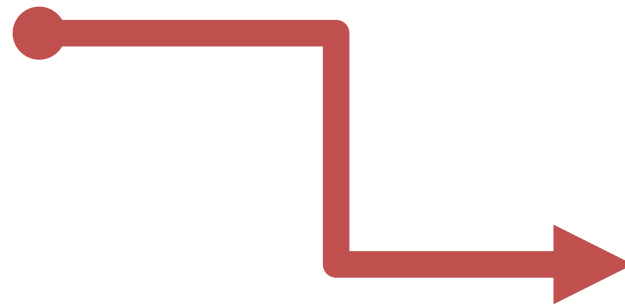
Ashley Shew, State Policy Analyst



statepolicy@aanp.org

# Any Questions??

Please **submit questions** via the question pane in your GoToWebinar control panel or raise your hand to ask a question.



# Other QPP or NP SAN Questions?

For more information on the **QPP** or the **Nurse Practitioner Support and Alignment Network (NP SAN)**:

- Email **Cheryl Fattibene** at [cfattibene@nncc.us](mailto:cfattibene@nncc.us)
- Visit us **online** at <https://www.aanp.org/practice/np-san>
- **Stay up to date** on the latest CE opportunities: [http://bit.ly/NPSAN\\_subscribe](http://bit.ly/NPSAN_subscribe)

# Coming Up

## Documentation & Coding: Building your Sundae



Lynn Rapsilber, DNP, APRN, ANP-BC, FAANP

**August 14, 2019 @ 12 pm ET**



REGISTRATION IS OPEN

NURSE-LED CARE CONFERENCE 2019

DESIGNING THE FUTURE OF HEALTHCARE

OCTOBER 1-3, 2018

[NURSELEDCARE.ORG](http://NURSELEDCARE.ORG)