

CHAPTER 143**(HB 151)**

AN ACT relating to insurance fraud.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 304.47-020 is amended to read as follows:

- (1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance act" if he or she engages in any of the following, including but not limited to matters relating to workers' compensation:
 - (a) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, Kentucky Claims Commission, Special Fund, or any agent thereof:
 1. Any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy or from a "self-insurer" as defined by KRS Chapter 342, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim; or
 2. Any statement as part of, or in support of, an application for an insurance policy, for renewal, reinstatement, or replacement of insurance, or in support of an application to a lender for money to pay a premium, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to the application;
 - (b) Knowingly and willfully transacts any contract, agreement, or instrument which violates this title;
 - (c) Knowingly and with intent to defraud or deceive:
 1. Receives money for the purpose of purchasing insurance, and fails to obtain insurance;
 2. Fails to make payment or disposition of money or voucher as defined in KRS 304.17A-750, as required by agreement or legal obligation, that comes into his or her possession while acting as a licensee under this chapter;
 3. Presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, or to the commissioner, any statement, knowing that the statement contains any false, incomplete, or misleading information concerning any material fact or thing, as part of, or in support of one (1) or more of the following:
 - a. The rating of an insurance policy;
 - b. The financial condition of an insurer;
 - c. The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one (1) or more lines of insurance in all or part of this Commonwealth by an insurer; or
 - d. A document filed with the commissioner; or
 4. Engages in any of the following:
 - a. Solicitation or acceptance of new or renewal insurance risks on behalf of an insolvent insurer; or
 - b. Removal, concealment, alteration, tampering, or destruction of money, records, or any other property or assets of an insurer;
 - (d) Issues or knowingly presents fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, insurance binders, or any other documents that purport to evidence insurance;
 - (e) Makes any false or fraudulent representation as to the death or disability of a policy or certificate holder in any written statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer;
 - (f) Engages in unauthorized insurance, as set forth in KRS 304.11-030; or

- (g) Assists, abets, solicits, or conspires with another to commit a fraudulent insurance act in violation of this subtitle.
- (2) ~~[(a) Except as provided in paragraphs (b) and (c) of this subsection,]~~ A person convicted of a violation of subsection (1) of this section shall be guilty of a **Class A** misdemeanor, **unless** ~~[where]~~ the aggregate of the claim, benefit, or money referred to in subsection (1) of this section is ~~[less than or equal to five hundred dollars (\$500), and shall be punished by:]~~
- (a) ~~[(1)]~~ **Five hundred dollars (\$500) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony** ~~[imprisonment for not more than one (1) year];~~
- (b) ~~[(2)]~~ **Ten thousand dollars (\$10,000) or more but less than one million dollars (\$1,000,000), in which case it is a Class C felony** ~~[A fine, per occurrence, of not more than one thousand dollars (\$1,000) per individual nor five thousand dollars (\$5,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater]; or~~
- (c) ~~[(3)]~~ **One million dollars (\$1,000,000) or more, in which case it is a Class B felony** ~~[Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph].~~
- (3) ~~[(b)]~~ A ~~[Except as provided in paragraph (c) of this subsection, where the claim, benefit, or money referred to in subsection (1) of this section exceeds an aggregate of five hundred dollars (\$500), a person convicted of a violation of subsection (1) of this section shall be guilty of a felony and shall be punished by:]~~
1. ~~Imprisonment for not less than one (1) nor more than five (5) years;~~
 2. ~~A fine, per occurrence, of not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or~~
 3. ~~Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph.~~
- (e) ~~Any~~ person, with the purpose to establish or maintain a criminal syndicate ~~[,]~~ or to facilitate any of its activities, ~~[as set forth in KRS 506.120(1),]~~ shall be guilty of engaging in organized crime, a Class B felony, **if he or she engages in any of the activities set forth in KRS 506.120(1).**
- (4) **A person convicted of a crime established in this section** ~~[and]~~ shall be punished by:
- (a) ~~[(1)]~~ Imprisonment for a term:
1. **Not to exceed the period set forth in KRS 532.090 if the crime is a Class A misdemeanor; or**
 2. **Within the periods set forth in KRS 532.060 if the crime is a Class D, C, or B felony** ~~[not less than ten (10) years nor more than twenty (20) years];~~
- (b) ~~[(2)]~~ A fine, per occurrence, of:
1. **For a misdemeanor, not more than one thousand dollars (\$1,000) per individual nor five thousand dollars (\$5,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or**
 2. **For a felony, not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation, or twice the amount of gain received as a result of the violation; whichever is greater; or**
- (c) ~~[(3)]~~ Both imprisonment and a fine, as set forth in subparagraphs 1. and 2. of this paragraph.
- (5) ~~[(d)]~~ In addition to imprisonment, the assessment of a fine, or both, a person convicted of a **crime established in** ~~[violation of paragraph (a), (b), or (c) of subsection (2) of]~~ this section may be ordered to make restitution to any victim who suffered a monetary loss due to any actions by that person which resulted in the adjudication of guilt, and to the division for the cost of any investigation. The amount of restitution shall equal the monetary value of the actual loss or twice the amount of gain received as a result of the violation, whichever is greater.
- (6) ~~[(3)]~~ Any person damaged as a result of a violation of any provision of this section shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses, including attorneys' fees, at the trial and appellate courts.
- (7) ~~[(4)]~~ The provisions of this section shall also apply to any agent, unauthorized insurer or its agents or representatives, or surplus lines carrier who, with intent, injures, defrauds, or deceives any claimant with

regard to any claim. The claimant shall have the right to recover the damages provided in subsection ~~(6)~~~~(3)~~ of this section.

➔Section 2. KRS 304.47-050 is amended to read as follows:

- (1) Any person, other than those specified in subsection (2) of this section, having knowledge or believing that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under the subtitle is being or has been committed may send to the division a report of information pertinent to this knowledge of or belief and any additional relevant information the commissioner may request.
- (2) The following ~~persons, individuals~~ having knowledge or believing that a fraudulent insurance act or any other act or practice which may constitute a felony or misdemeanor under this subtitle is being or has been committed, shall send to the division a report or information pertinent to the knowledge or belief and additional relevant information that the commissioner or the commissioner's employees or agents may require:
 - (a) Any professional practitioner licensed or regulated by the Commonwealth, except as provided by law;
 - (b) Any private medical review committee;
 - (c) Any insurer, agent, or other person licensed under this chapter;~~and~~
 - (d) ***The following Kentucky Boards:***
 1. ***Board of Medical Licensure;***
 2. ***Board of Chiropractic Examiners;***
 3. ***Board of Nursing;***
 4. ***Board of Physical Therapy;***
 5. ***Board of Occupational Therapy; and***
 6. ***Board for Massage Therapy; and***
 - (e) Any employee of the persons named in paragraphs (a) to ~~(d)~~~~(e)~~ of this subsection.
- (3) The division or its employees or agents shall review this information or these reports and select the information or reports that, in the judgment of the division, may require further investigation. The division shall then cause an investigation of the facts surrounding the information or report to be made to determine the extent, if any, to which a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under this subtitle is being committed.
- (4) The ~~following Department of Workers' Claims~~ shall provide the division access to all relevant information the commissioner may request:
 - (a) ***The Department of Workers' Claims; and***
 - (b) ***The boards named in subsection (2)(d) of this section.***
- (5) The division shall report any alleged violations of law which the investigations disclose to the appropriate licensing agency and the Commonwealth's attorney, Attorney General, or other prosecuting agency having jurisdiction with respect to a violation. If prosecution by the Commonwealth's attorney, Attorney General, or other prosecuting agency is not begun within sixty (60) days of the report, the prosecuting attorney shall inform the division of the reasons for the lack of prosecution. In addition to filing a report with the appropriate prosecuting agency, the commissioner may, through the Attorney General, prosecute violations of this subtitle in the Circuit Court of the county in which the alleged wrongdoer resides or has his or her principal place of business, in the Circuit Court of the county in which the fraudulent insurance act has been committed, or, with consent of the parties, in the Franklin Circuit Court.
- (6) Notwithstanding the provisions of subsections (1) to (5) of this section, any person having knowledge or believing that a fraudulent insurance act or any other act that may be prohibited under this subtitle is being or has been committed, may notify any law enforcement agency of his or her knowledge or belief and provide information relevant to the act, as may be requested by that agency, including, but not limited to, insurance policy information including the application for insurance, policy premium payment records, history of previous claims made by the insured, and other information relating to the investigation of the claim, including

statements of any person, proofs of loss, and notice of loss. Reporting to any other agency does not relieve those listed in subsection (2) of this section of their mandatory duty to report to the division.

- (7) If the information referred to in this section is specifically requested by the division, any other law enforcement agency, or a prosecuting attorney, the insurer shall provide certified copies of the requested information within ten (10) business days of the request or as soon thereafter as reasonable.
- (8) In the absence of malice, fraud, or gross negligence, ~~the following no insurer or agent authorized by an insurer to act on its behalf, law enforcement agency, the Department of Workers' Claims, their respective employees, or an insured,~~ shall **not** be subject to any civil liability for libel, slander, or related cause of action by virtue of filing reports or for releasing or receiving any information pursuant to this subsection:
- (a) *An insurer;*
 - (b) *An agent authorized by an insurer to act on its behalf;*
 - (c) *A law enforcement agency;*
 - (d) *The Department of Workers' Claims;*
 - (e) *The boards named in subsection (2)(d) of this section;*
 - (f) *Employees of the persons named in paragraphs (d) and (e) of this subsection; or*
 - (g) *An insured.*

➔Section 3. KRS 189.635 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to ensure that uniform definitions, classifications, and other federal requirements are in compliance.
- (2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his or her law enforcement agency.
- (3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of Kentucky State Police within ten (10) days after investigation of the accident upon forms supplied by the department.
- (4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars (\$500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of Kentucky State Police within ten (10) days of occurrence of the accident upon forms provided by the department.
- (5) (a) All accident reports filed with the Department of Kentucky State Police in compliance with subsection (4) above shall not be considered open records under KRS ~~61.870~~~~[61.872]~~ to 61.884 and shall remain confidential, except that the department may:
- 1. Disclose the identity of a person involved in an accident when his or her identity is not otherwise known or when he or she denies his or her presence at an accident; **and**
 - 2. *Make the reports available:*
 - a. *To the persons named in paragraph (c) of this subsection; and*
 - b. *In accordance with subsection (8) of this section.*
- (b) ~~{Except as provided in subsection (9) of this section,}~~ All other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure under KRS 61.870 to 61.884, except when:

1. ~~When~~ Produced pursuant to a properly executed subpoena or court order; ~~or~~ ~~or except pursuant to~~
 2. **Disclosed as provided in** ~~subsection (8) of~~ this section.
- (c) **Accident** ~~These~~ reports shall be made available ~~only~~ to:
1. The parties to the accident; ~~;~~
 2. The parents or guardians of a minor who is party to the accident; ~~;~~ ~~and~~
 3. Insurers or their written designee for insurance business purposes of any party who is the subject of the report; ~~;~~ ~~or to~~
 4. The attorneys of the parties *to the accident*;
 5. *Any party to litigation who files with the department a request for the report and includes a copy of the first page of a District or Circuit Court clerk-stamped complaint naming all parties; and*
 6. *The Department of Workplace Standards in the Labor Cabinet if the accident report is pertinent to an occupational safety and health investigation.*
- (6) (a) Except as provided for in *paragraph (b)* of this subsection, the department shall not release accident reports for a commercial purpose.
- (b) *Notwithstanding any other provision of this section*, the department may, as a matter of public safety, contract with an outside entity and release *unredacted* vehicle damage data extracted from accident reports to ~~the~~ ~~such an~~ entity if the data is used solely for the purpose of providing the public a means of determining a vehicle's accident history. The department may further contract with a third party to provide electronic access to reports for persons and entities who are entitled to ~~the~~ ~~such~~ reports under ~~subsection~~ ~~subsections~~ (5) ~~and~~ ~~(9)~~ of this section.
- (7) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to set out a fee schedule for accident reports made available pursuant to subsections (5) ~~;~~ ~~(8)~~ and (8) ~~;~~ ~~(9)~~ of this section. These fees shall be in addition to those charged to the public for records produced under KRS Chapter 61.
- (8) (a) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report.
- (b) *For the purposes of this subsection:*
1. *"News-gathering organization" includes:*
 - a. A newspaper or periodical ~~shall be considered a news-gathering organization~~ if it:
 - i. ~~1.~~ Is published at least fifty (50) of fifty-two (52) weeks during a calendar year;
 - ii. ~~2.~~ Contains at least twenty-five percent (25%) news content in each issue or no more than seventy-five percent (75%) advertising content in any issue in the calendar year; and
 - iii. ~~3.~~ Contains news of general interest to its readers that can include news stories, editorials, sports, weddings, births, and death notices; ~~;~~
 - b. *A television or radio station with a valid broadcast license issued by the Federal Communications Commission;*
 - c. *A news organization that broadcasts over a multichannel video programming service as defined in KRS 136.602;*
 - d. *A Web site published by or affiliated with any entity described in subdivision a., b., or c. of this subparagraph;*

- e. *An online-only newspaper or magazine that publishes news or opinion of interest to a general audience and is not affiliated with any entity described in subparagraph 2. of this paragraph; and*
 - f. *Any other entity that publishes news content by any means to the general public or to members of a particular profession or occupational group; and*
2. *"News-gathering organization" does not include any product or publication with the primary purpose of distributing advertising or of publishing names and other personal identifying information concerning parties to motor vehicle accidents which may be used to solicit for services covered under Subtitle 39 of KRS Chapter 304.*
- (c) A *news-gathering organization*~~[newspaper, periodical, or radio or television station]~~ shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.
- (d) ~~[For the purposes of this section, the meaning of "news-gathering organization" does not include any product or publication:~~
- 1. ~~Which is intended primarily for members of a particular profession or occupational group; or~~
 - 2. ~~With the primary purpose of distributing advertising or of publishing names and other personal identifying information concerning parties to motor vehicle accidents which may be used to solicit for services covered under Subtitle 39 of KRS Chapter 304.~~
- (e) ~~]~~A request under this *subsection*~~[section]~~ shall be completed using a form promulgated by the department through administrative regulations in accordance with KRS Chapter 13A. The form under this paragraph shall include:
- 1. The name and address of the requestor and the news-gathering organization the requestor represents;
 - 2. A statement that the requestor is a news-gathering organization under this subsection *and identifying the specific subdivision of paragraph (b)1. of this subsection under which the requester qualifies;*
 - 3. A statement that the request is in compliance with the criteria contained in this section; and
 - 4. A declaration of the requestor as to the accuracy and truthfulness of the information provided in the request.
- (e) 1. *The department shall redact all personal information from a report prior to making it available to a news-gathering organization as defined under paragraph (b)1.f. of this subsection.*
2. *Reports may be provided to news-gathering organizations as defined under paragraph (b)1.a. to e. of this subsection without redaction.*
3. *For the purposes of this paragraph, "personal information" means:*
- a. *The address, driver's license number, phone number, date of birth, and any other contact information contained in the report for each person listed on the report; and*
 - b. *The vehicle identification numbers (VINs) for each vehicle listed on the report.*
- (9) ~~[The report shall be made available without subpoena to any party to litigation who files with the department a request for the report and includes a copy of the first page of a District or Circuit Court clerk stamped complaint naming all parties.~~
- (10) ~~The report shall be made available without subpoena to the Department of Workplace Standards in the Labor Cabinet if the accident report is pertinent to an occupational safety and health investigation.~~
- (11) ~~]~~The motor vehicle insurers of any train engineer or other train crew member involved in an accident on a railroad while functioning in their professional capacity shall be prohibited from obtaining a copy of any accident report filed on the accident under this section without written consent from the individual the company insures. Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder, in his or her professional capacity, is a train engineer or other train crew member involved in an accident on a railroad.

~~(10)(12)~~ For reporting and statistical purposes, an autocycle as defined in KRS 186.010 shall be listed as its own distinct category and shall not be considered to be a motor vehicle or a motorcycle for reports issued under this section.

➔SECTION 4. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section and in Section 5 of this Act:*

(a) *"Compensation arrangement" has the same meaning as in 42 U.S.C. sec. 1395nn, as amended; and*

(b) *"Health care provider" or "provider" means:*

1. *An individual who is licensed under KRS 309.353 or KRS Chapter 311, 311A, 311B, 312, 313, 314, 314A, 315, 319, 319A, 319B, 320, or 327 and who is not enrolled in the Kentucky Medicaid program; or*
2. *A medical laboratory, as defined in KRS 333.020, that is not enrolled in the Kentucky Medicaid program.*

(2) *Except as otherwise provided in subsection (3) of this section:*

(a) *If a health care provider, directly or indirectly, has either of the following financial relationships with a person or entity, the provider shall not make a referral to the person or entity for the furnishing of health care services for which payment may be made from basic or added reparation benefits provided under this subtitle:*

1. *An ownership or investment interest in the person or entity, whether through debt, equity, or other means; or*
2. *A compensation arrangement between the provider, directly or indirectly, and the person or entity; and*

(b) *No person or entity shall present, cause to be presented, or collect payment on a claim or bill for health care services referred to the person or entity that the person or entity knows or should know is in violation of paragraph (a) of this subsection.*

(3) *Any conduct or activity which is permitted by or protected under 42 U.S.C. sec. 1395nn(b) to (e), as amended, 42 U.S.C. sec. 1320a-7b(b)(3), as amended, or a federal regulation adopted under those sections, as amended, shall not be deemed to violate this section, and the conduct or activity shall be accorded the same protections allowed under these federal laws and regulations.*

(4) (a) *No insurer shall be required to pay basic or added reparations benefits to a person or entity for health care services referred to that person or entity in violation of this section.*

(b) *If a person or entity collects any amount in basic or added reparations benefits in violation of this section, the person or entity shall refund, on a timely basis, the amount collected.*

➔Section 5. KRS 304.99-060 is amended to read as follows:

(1) (a) The owner of any vehicle who fails to have in full force and effect the security required by Subtitle 39 of this chapter shall:

1. Be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or sentenced to not more than ninety (90) days in jail, or both;
2. Have the registration of the motor vehicle revoked and the license plates of the vehicle suspended for a period of one (1) year or until such time as proof, in a form satisfactory to the commissioner, is furnished that the security is then and will remain in effect; and
3. For the second and each subsequent offense within any five (5) year period, have his or her operator's license revoked in accordance with KRS 186.560, and may be sentenced to one hundred and eighty (180) days in jail, or fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500), or both.

(b) Penalties under paragraph (a) of this subsection for the first offense are subject to conditional discharge, suspension, or other forms of reduction of penalty by judicial discretion upon production of proof of security.

- (c) For the second and each subsequent offense, minimum fines, suspensions, and penalties under paragraph (a) of this subsection are subject to conditional discharge, suspension, or other forms of reduction of penalty, by judicial discretion only upon production of proof of security and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.
 - (d) Upon expiration of the minimum six (6) month policy period, the court shall order the vehicle owner to appear before it to verify renewal of the security required by Subtitle 39 of this chapter by production of proof of security and a receipt showing that a premium for a minimum six (6) month policy period has been paid.
 - (e) Failure to appear shall result in the suspension of the vehicle owner's operator's license pursuant to KRS 186.570.
 - (f) Unless uninterrupted coverage is maintained, cancellation or expiration of the procured security before the end of the minimum six (6) month policy period shall be a Class B misdemeanor.
 - (g) Unless the requirement of paragraph (d) of this subsection is satisfied, the court shall revoke any conditional discharge, suspension, or other form of reduction of penalty granted under paragraph (c) of this subsection.
- (2) A person who operates a motor vehicle without security on the motor vehicle as required by Subtitle 39 of this chapter shall:
- (a) Be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) or sentenced to not more than ninety (90) days in jail, or both; and
 - (b) For the second and each subsequent offense within any five (5) year period, have his or her operator's license revoked in accordance with KRS 186.560, and may be sentenced to not more than one hundred eighty (180) days in jail or fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500), or both.
- (3) If the person who operates a motor vehicle without security on the motor vehicle as required by Subtitle 39 of this chapter is also the owner of the motor vehicle, the person shall be subject to penalties under both subsection (1) and subsection (2) of this section.
- (4) ***The following shall be subject to a civil penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each violation:***
- (a) ***Any person or entity that presents, causes to be presented, or collects payment on a bill or claim for health care services that the person or entity knows or should know were referred in violation of Section 4 of this Act; and***
 - (b) ***Any person or entity that knowingly fails to make a timely refund required by Section 4 of this Act.***
- (5) ***A health care provider or other person or entity that enters into an arrangement or scheme that the provider, person, or entity knows or should know has a principal purpose of assuring referrals by the provider that, if made directly by the provider, would be in violation of Section 4 of this Act shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) nor more than twenty-five thousand dollars (\$25,000) per arrangement or scheme.***
- ➔Section 6. KRS 309.362 is amended to read as follows:
- (1) The board may deny or refuse to renew a license, may suspend or revoke a license, may issue an administrative reprimand, or may impose probationary conditions or fines not to exceed five hundred dollars (\$500) when the licensee has engaged in unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include the following:
- (a) Obtaining or attempting to obtain a license by fraud, misrepresentation, concealment of material facts, or making a false statement to the board;
 - (b) Being convicted of a felony in any court if the act or acts for which the licensee or applicant for license was convicted are determined by the board to have a direct bearing on whether the person is trustworthy to serve the public as a licensed massage therapist, if in accordance with KRS Chapter 335B. "Conviction," as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere in a court of law;
 - (c) Violating any lawful order or administrative regulation promulgated by the board;

- (d) Violating any provision of this chapter or administrative regulations promulgated thereunder;
 - (e) Having sexual contact as defined by KRS 510.010(7) with a client or having engaged or attempted to engage in lewd or immoral conduct with any client or patient;
 - (f) Engaging in fraud or material deception in the delivery of professional services, including reimbursement or advertising services, in a false or misleading manner;
 - (g) Evidence of gross negligence or gross incompetence in the practice of massage therapy;~~{or}~~
 - (h) Violating the standards of practice or the code of ethics as promulgated by administrative regulations;
 - (i) ***Violating Section 4 of this Act; or***
 - (j) ***Engaging in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.***
- (2) Any licensed massage therapist who does not desire to meet the qualifications for active license renewal shall, upon application and payment of an inactive renewal fee, be issued an inactive license. The license shall not entitle the license holder to use the term "licensed massage therapist," nor to engage in the practice of massage therapy. The inactive renewal fee shall not exceed fifty dollars (\$50) annually.
 - (3) To regain active status, the licensee shall upon application show completion of one (1) hour of continuing professional education for each month the license has been in an inactive state not to exceed five (5) years. Waivers or extensions of continuing education may be approved at the discretion of the board. Beyond five (5) years, the licensee shall meet the requirements in KRS 309.358.
 - (4) The board may, at its discretion, deny, refuse to renew, suspend or revoke a license, or impose probationary conditions following an administrative hearing pursuant to KRS Chapter 13B and in accordance with administrative regulations promulgated by the board.
 - (5) The surrender of a license shall not deprive the board of jurisdiction to proceed with disciplinary actions under KRS 309.350 to 309.364.

➔Section 7. KRS 311.597 is amended to read as follows:

As used in KRS 311.595(9), "dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof" shall include but not be limited to the following acts by a licensee:

- (1) Prescribes or dispenses any medication:
 - (a) With the intent or knowledge that a medication will be used or is likely to be used other than medicinally or for an accepted therapeutic purpose;
 - (b) With the intent to evade any law with respect to sale, use, or disposition of the medication;
 - (c) For the licensee's personal use or for the use of his immediate family when the licensee knows or has reason to know that an abuse of a controlled substance is occurring, or may result from such a practice;
 - (d) In such amounts that the licensee knows or has reason to know, under the attendant circumstances, that said amounts so prescribed or dispensed are excessive under accepted and prevailing medical practice standards; or
 - (e) In response to any communication transmitted or received by computer or other electronic means, when the licensee fails to take the following actions to establish and maintain a proper physician-patient relationship:
 - 1. Verification that the person requesting medication is in fact who the patient claims to be;
 - 2. Establishment of a documented diagnosis through the use of accepted medical practices; and
 - 3. Maintenance of a current medical record.

For the purposes of this paragraph, an electronic, on-line, or telephonic evaluation by questionnaire is inadequate for the initial evaluation of the patient or for any follow-up evaluation.

- (2) Issues, publishes, or makes oral or written representations in which grossly improbable or extravagant statements are made which have a tendency to deceive or defraud the public, or a member thereof, including but not limited to:
- (a) Any representation in which the licensee claims that he can cure or treat diseases, ailments, or infirmities by any method, procedure, treatment, or medicine which the licensee knows or has reason to know has little or no therapeutic value;
 - (b) Represents or professes or holds himself out as being able and willing to treat diseases, ailments, or infirmities under a system or school of practice:
 1. Other than that for which he holds a certificate or license granted by the board, or
 2. Other than that for which he holds a degree or diploma from a school otherwise recognized as accredited by the board, or
 3. Under a school or system which he professes to be self-taught.

For purposes of this subsection, actual injury to a patient need not be established.

- (3) A serious act, or a pattern of acts committed during the course of his medical practice which, under the attendant circumstances, would be deemed to be gross incompetence, gross ignorance, gross negligence, or malpractice.
- (4) Conduct which is calculated or has the effect of bringing the medical profession into disrepute, including but not limited to any departure from, or failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky, and any departure from, or failure to conform to the principles of medical ethics of the American Medical Association or the code of ethics of the American Osteopathic Association. For the purposes of this subsection, actual injury to a patient need not be established.
- (5) Failure by a licensee to report a known or observed violation of KRS Chapter 311 by another licensee as described in KRS 311.606.
- (6) ***Violation by a licensee of Section 4 of this Act.***
- (7) ***Conduct by a licensee that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.***

➔Section 8. KRS 311A.060 is amended to read as follows:

- (1)
 - (a) If it is determined that an entity regulated by the board, a paramedic, first responder, or emergency medical technician has violated a statute, administrative regulation, protocol, or practice standard relating to serving as an entity regulated by the board, a paramedic, first responder, or emergency medical technician, the office of the board may impose any of the sanctions provided in subsection (2) of this section. Any party to the complaint shall have the right to propose findings of fact and conclusions of law, and to recommend sanctions.
 - (b) ***For the purposes of this subsection, violation of "a statute, administrative regulation, protocol, or practice standard relating to serving as an entity regulated by the board, a paramedic, first responder, or emergency medical technician" shall include violation of Section 4 of this Act and conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.***
- (2) The office of the board shall require an acceptable plan of correction and may use any one (1) or more of the following sanctions when disciplining a paramedic, emergency medical technician first responder, emergency medical technician, or any entity regulated by the board:
 - (a) Private reprimand that shall be shared with each of the paramedic's, first responder's, or emergency medical technician's emergency medical services or related employer and medical director;
 - (b) Public reprimand;
 - (c) Fines of fifty dollars (\$50) to five hundred dollars (\$500) for a natural person or fifty dollars (\$50) to five thousand dollars (\$5,000) for a public agency or business entity;
 - (d) Revocation of certification or licensure;
 - (e) Suspension of licensure until a time certain;
 - (f) Suspension until a certain act or acts are performed;
 - (g) Limitation of practice permanently;

- (h) Limitation of practice until a time certain;
 - (i) Limitation of practice until a certain act or acts are performed;
 - (j) Repassing a portion of the paramedic, first responder, or emergency medical technician examination;
 - (k) Probation for a specified time; or
 - (l) If it is found that the person who is licensed or certified by the board has been convicted of, pled guilty to, entered an Alford plea to a felony offense, or has completed a diversion program for a felony offense the license or certification shall be revoked.
- (3) The filing of criminal charges or a criminal conviction for violation of the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the office of the board from instituting or imposing board disciplinary action authorized by this chapter against any person or organization violating this chapter or the administrative regulations promulgated thereunder.
- (4) The institution or imposition of disciplinary action by the office of the board against any person or organization violating the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the filing of criminal charges against or a criminal conviction of any person or organization for violation of the provisions of this chapter or the administrative regulations promulgated thereunder.

➔Section 9. KRS 311B.160 is amended to read as follows:

The board may deny, revoke, or suspend the license of an individual who:

- (1) Has engaged in conduct relating to his or her profession that is likely to deceive, defraud, or harm the public, ***which shall include violation of Section 4 of this Act and conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act;***
- (2) Has engaged in alcohol and other drug abuse as defined in KRS 222.005;
- (3) Develops a physical or mental disability or other condition that makes continued practice or performance of his or her duties potentially dangerous to patients or the public;
- (4) Performs procedures under or represents as valid to any person a license:
 - (a) Not issued by the board;
 - (b) Containing unauthorized alterations; or
 - (c) Containing changes that are inconsistent with board records regarding its issuance;
- (5) Has been convicted of a crime that is a felony under the laws of this state or convicted of a felony in a federal court, unless the individual has had all civil rights restored, if in accordance with KRS Chapter 335B;
- (6) Exhibits significant or repeated failure in the performance of professional duties; or
- (7) Fails to comply with any administrative regulation of the board.

➔Section 10. KRS 312.150 is amended to read as follows:

- (1) Charges may be preferred by the board against the holder of a license to practice chiropractic in this state on any of the following grounds:
 - (a) That fraud, misrepresentation, concealment of material facts, or deceit was used in obtaining or retaining the license;
 - (b) That the licensee no longer possesses a good moral character;
 - (c) That the licensee has been convicted of a felony or violation of any law involving moral turpitude;
 - (d) That the licensee solicits or advises patients utilizing false, deceptive, or misleading statements or information;
 - (e) That the licensee is impaired by drugs or alcohol to the extent that it may affect the health, welfare, or safety of patients;
 - (f) That the licensee is in any way guilty of any deception, misrepresentation, fraud, or unethical conduct in the practice of chiropractic;

- (g) That the licensee has:
 - 1. Violated:**
 - a.** Any of the provisions of this chapter, or any of the administrative regulations of the board; *or*
 - b.** *Section 4 of this Act; or*
 - 2. *Engaged in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act;***
 - (h) That the licensee failed to attend and complete annual continuing chiropractic education courses as provided in KRS 312.175;
 - (i) That the licensee failed to provide a complete copy of the patient's medical records or an itemized statement to the patient upon request, pursuant to KRS 422.317, within ten (10) business days; or
 - (j) That the chiropractor failed to provide notice of a change in address or change in the name and address of the facility where the chiropractor practices as required by KRS 312.145(4).
- (2) Unprofessional conduct shall include any departure or the failure to conform to the minimal standards of acceptable chiropractic practice or the willful or careless disregard for the health, welfare, or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a chiropractor:
- (a) Gross ignorance of, or incompetence in, the practice of chiropractic;
 - (b) Performing unnecessary services;
 - (c) Charging a patient an unconscionable fee or charging for services not rendered;
 - (d) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques, including having patients enter into a contract for a course of treatment;
 - (e) Perpetrating fraud upon patients, third-party payors, or others, relating to the practice of chiropractic, including violations of the federal Medicaid and Medicare laws;
 - (f) Advertising that the licensee shall accept for services rendered assigned payments from any third-party payor as payment in full, if the effect is to give the impression of eliminating the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan; or advertising a fee or charge for a service or treatment different from the fee or charge the licensee submits to a third-party payor for that service of treatment. The licensee shall attach to any claim form submitted to any third-party payor a copy of any coupon or a summary of the terms of any discount given;
 - (g) Accepting for services rendered assigned payments from any third-party payor as payment in full, if the effect is to eliminate the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan, or collecting a fee or charge the licensee submits to a third-party payor for that service or treatment. However, in instances where the intent is not to collect excessive remuneration from a third-party payor but rather to provide services at a reduced rate to a patient unable to afford the deductible or copayment, the services may be performed for a lesser charge or fee. The third-party payor shall be informed by the licensee of the reduced charge; or
 - (h) Conviction of a misdemeanor offense under KRS Chapter 510 involving a patient while the patient was under the care of the chiropractor, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or the chiropractor having been found by the board to have had sexual contact as defined in KRS 510.010 with a patient while the patient was under the care of the chiropractor.
- (3) Upon receipt and due consideration of any charges, the board upon an affirmative vote shall determine whether the nature and quality of the charges are such that further investigation or initiation of disciplinary proceedings against the charged licensee is indicated. If disciplinary proceedings are not warranted, the charges shall be dismissed with or without prejudice. If the board determines that disciplinary proceedings are appropriate, the case may be resolved informally by agreed order or set for hearing to be conducted in accordance with KRS Chapter 13B.
- (4) Except for revocation for nonrenewal, no license shall be revoked or suspended without an opportunity for a hearing. The board may at any time proceed against a licensee on its own initiative either on the basis of

information contained in its own records or on the basis of information obtained through its informal investigation.

- (5) If the board substantiates that sexual contact occurred between the chiropractor and a patient while the patient was under the care of or in a professional relationship with the chiropractor, the chiropractor's license may be revoked or suspended with mandatory treatment of the chiropractor as prescribed by the board. The board may require the chiropractor to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

➔Section 11. KRS 313.080 is amended to read as follows:

- (1) No person shall:
- (a) Call or hold himself out as or use the title dentist, dental specialist, dental hygienist, or dental assistant unless licensed or registered under the provisions of this chapter;
 - (b) Operate, offer to operate, or represent or advertise the operation of a dental practice of any type unless licensed by or employing individuals licensed by the board;
 - (c) Employ a dentist, dental hygienist, or dental assistant unless that person is licensed or registered under the provisions of this chapter; or
 - (d) Maintain any license or certificate authorized by this chapter if convicted of, having entered a guilty plea to, having entered an Alford plea to, or having completed a diversion program for a Class A, B, or C felony offense on or after the date of initial licensure or registration.
- (2) Persons licensed or registered by the board or who are applicants for licensure or registration by the board shall be subject to disciplinary action by the board if they:
- (a) If licensed or registered by the board:~~;~~
 1. Violate:
 - a. Any provision of this chapter or any administrative regulation promulgated by the board;
or
 - b. **Section 4 of this Act; or**
 2. **Engage in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act;**
 - (b) Use fraud or deceit in obtaining or attempting to obtain a license or registration from the board, or are granted a license upon mistake of a material fact;
 - (c) If licensed or registered by the board, negligently act in a manner inconsistent with the practice of the discipline for which the person is licensed or registered;
 - (d) Are unable to practice a discipline regulated by the board with reasonable skill or safety or are unfit or incompetent to practice a discipline regulated by the board;
 - (e) Abuse, misuse, or misappropriate any drugs placed in the custody of the licensee or certified person for administration, or for use of others, or those drugs prescribed by the licensee;
 - (f) Falsify or fail to make essential entries on essential records;
 - (g) Are convicted of a misdemeanor which involved acts which bear directly on the qualifications or ability of the applicant, licensee, or certified person to practice the discipline for which the person is an applicant, licensee, or certified person, if in accordance with KRS Chapter 335B;
 - (h) Are convicted of a misdemeanor which involved fraud, deceit, breach of trust, or physical harm or endangerment to self or others, acts which bear directly on the qualifications or ability of the applicant, licensee, or certificate holder to practice acts in the license or registration held or sought, if in accordance with KRS Chapter 335B;
 - (i) Are convicted of a misdemeanor offense under KRS Chapter 510 involving a patient;
 - (j) Have had a license or certificate to practice as a dentist, dental hygienist, or dental assistant denied, limited, suspended, probated, revoked, or otherwise disciplined in Kentucky or in another jurisdiction

on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;

- (k) Have a license or registration to practice any activity regulated by the board denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or registration to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;
 - (l) Violate any lawful order or directive previously entered by the board;
 - (m) Have been listed on the National Practitioner Databank with a substantiated finding of abuse, neglect, or misappropriation of property;
 - (n) Fail to notify the board in writing of any change in the person's name, residential address, employment address, preferred mailing address, or telephone number within thirty (30) days of the change;
 - (o) Fail to comply with KRS 422.317 regarding patient records; or
 - (p) Fail to report to the board any negative outcome related to dental treatment involving intravenous or conscious sedation beyond anxiety control that requires hospital admission.
- (3) A person who violates subsection (1)(a), (b), (c), or (d) of this section shall be guilty of a Class B misdemeanor for a first offense and a Class A misdemeanor for each subsequent offense. The board shall consider each individual count of a violation as a separate and subsequent offense.
 - (4) The provisions of this section shall not preclude prosecution for the unlawful practice of dentistry by an agency of the Commonwealth.
 - (5) The filing of criminal charges or a criminal conviction for violation of the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the Office of the Board from instituting or imposing board disciplinary action authorized by this chapter against any person or organization violating this chapter or the administrative regulations promulgated thereunder.
 - (6) The institution or imposition of disciplinary action by the Office of the Board against any person or organization violating the provisions of this chapter or the administrative regulations promulgated thereunder shall not preclude the filing of criminal charges against or a criminal conviction of any person or organization for violation of the provisions of this chapter or the administrative regulations promulgated thereunder.

➔Section 12. KRS 314.091 is amended to read as follows:

- (1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter or the privilege to practice as a nurse recognized by the board in accordance with this chapter, or to otherwise discipline a licensee, credential holder, privilege holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:
 - (a) Is guilty of fraud or deceit in procuring or attempting to procure a license, credential, or privilege to practice nursing;
 - (b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States, if in accordance with KRS Chapter 335B. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence;
 - (c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;
 - (d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;
 - (e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;
 - (f) Abuses controlled substances, prescription medications, illegal substances, or alcohol;

- (g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;
 - (h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;
 - (i) Has a license, privilege, or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or privilege to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth, including action by another jurisdiction for failure to repay a student loan;
 - (j) Has violated any of the provisions of this chapter;
 - (k) Has violated any lawful order or directive previously entered by the board;
 - (l) Has violated any administrative regulation promulgated by the board;
 - (m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property;
 - (n) Has violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law;
 - (o) Used or possessed a Schedule I controlled substance;~~{or}~~
 - (p) Has used or been impaired as a consequence of the use of alcohol or drugs while practicing as a nurse;
 - (q) *Has violated Section 4 of this Act; or***
 - (r) *Has engaged in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.***
- (2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license, privilege, or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.
 - (3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.
 - (4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.
 - (5) A final order of the board shall be by majority vote thereof.
 - (6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.
 - (7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license, privilege, or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.
 - (8) The board may, by administrative regulation, provide for the recovery of the costs of an administrative hearing.

➔Section 13. KRS 314A.225 is amended to read as follows:

- (1) The board may refuse to issue a certificate, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand or admonishment, or any combination thereof regarding any certificate holder upon proof that the certificate holder has:
 - (a) Committed any crime, act of dishonesty, or corruption, if in accordance with KRS Chapter 335B. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the

ensuing disciplinary hearing of the guilt of the certificate holder or applicant. Conviction includes all instances in which a plea of no contest is the basis of conviction;

- (b) Misrepresented or concealed a material fact in obtaining, renewing or reinstating a certificate;
 - (c) Committed any unfair, false, misleading, or deceptive act or practice;
 - (d) Been incompetent or negligent in the practice of respiratory care;
 - (e) Violated any state statute or administrative regulation governing the practice of respiratory care or any activities undertaken by a respiratory care practitioner, ***which shall include violation of Section 4 of this Act and conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act;***
 - (f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
 - (g) Violated the code of ethics as set forth in administrative regulations promulgated by the board; or
 - (h) Violated any applicable provision of any federal or state law, if in accordance with KRS Chapter 335B.
- (2) One (1) year from the date of revocation, any person whose certificate has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the certificate upon a finding that the individual has complied with any terms prescribed by that board and is again able to competently engage in the practice of respiratory care.
- (3) The board may reconsider, modify, or reverse its probation, suspensions, or other disciplinary actions.
- (4) The surrender of a certificate shall not serve to deprive the board of jurisdiction to proceed with disciplinary action under this chapter.

➔Section 14. KRS 315.121 is amended to read as follows:

- (1) The board may refuse to issue or renew a license, permit, or certificate to, or may suspend, temporarily suspend, revoke, fine, place on probation, reprimand, reasonably restrict, or take any combination of these actions against any licensee, permit holder, or certificate holder for the following reasons:
- (a) Unprofessional or unethical conduct;
 - (b) Mental or physical incapacity that prevents the licensee, permit holder, or certificate holder from engaging or assisting in the practice of pharmacy or the wholesale distribution or manufacturing of drugs with reasonable skill, competence, and safety to the public;
 - (c) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of such plea, one (1) or more of the following, if in accordance with KRS Chapter 335B:
 - 1. A crime as defined in KRS 335B.010; or
 - 2. A violation of the pharmacy or drug laws, rules, or administrative regulations of this state, any other state, or the federal government;
 - (d) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician is incapable of engaging or assisting in the practice of pharmacy with reasonable skill, competence, and safety to the public and failing to report any relevant information to the board;
 - (e) Knowingly making or causing to be made any false, fraudulent, or forged statement or misrepresentation of a material fact in securing issuance or renewal of a license, permit, or certificate;
 - (f) Engaging in fraud in connection with the practice of pharmacy or the wholesale distribution or manufacturing of drugs;
 - (g) Engaging in or aiding and abetting an individual to engage or assist in the practice of pharmacy without a license or falsely using the title of "pharmacist," "pharmacist intern," "pharmacy technician," or other term which might imply that the individual is a pharmacist, pharmacist intern, or pharmacy technician;
 - (h) Being found by the board to be in violation of any provision of this chapter, KRS Chapter 217, KRS Chapter 218A, or the administrative regulations promulgated pursuant to these chapters;
 - (i) Violation of any order issued by the board to comply with any applicable law or administrative regulation;

- (j) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician has engaged in or aided and abetted the unlawful distribution of legend medications, and failing to report any relevant information to the board; or
 - (k) Failure to notify the board within fourteen (14) days of a change in one's home address.
- (2) Unprofessional or unethical conduct includes but is not limited to the following acts of a pharmacist, pharmacist intern, or pharmacy technician:
- (a) Publication or circulation of false, misleading, or deceptive statements concerning the practice of pharmacy;
 - (b) Divulging or revealing to unauthorized persons patient information or the nature of professional services rendered without the patient's express consent or without order or direction of a court. In addition to members, inspectors, or agents of the board, the following are considered authorized persons:
 1. The patient, patient's agent, or another pharmacist acting on behalf of the patient;
 2. Certified or licensed health-care personnel who are responsible for care of the patient;
 3. Designated agents of the Cabinet for Health and Family Services for the purposes of enforcing the provisions of KRS Chapter 218A;
 4. Any federal, state, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person; or
 5. An agency of government charged with the responsibility of providing medical care for the patient, upon written request by an authorized representative of the agency requesting such information;
 - (c) Selling, transferring, or otherwise disposing of accessories, chemicals, drugs, or devices found in illegal traffic when the pharmacist, pharmacy intern, or pharmacy technician knows or should have known of their intended use in illegal activities;
 - (d) Engaging in conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a patient, or engaging in conduct which substantially departs from accepted standards of pharmacy practice ordinarily exercised by a pharmacist or pharmacy intern, with or without established proof of actual injury;
 - (e) Engaging in grossly negligent professional conduct, with or without established proof of actual injury;
 - (f) Except as provided in KRS 315.500, selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug;
 - (g) Willfully or knowingly failing to maintain complete and accurate records of all drugs received, dispensed, or disposed of in compliance with federal and state laws, rules, or administrative regulations;
 - (h) Obtaining any remuneration by fraud, misrepresentation, or deception;
 - (i) Accessing or attempting to access confidential patient information for persons other than those with whom a pharmacist has a current pharmacist-patient relationship and where such information is necessary to the pharmacist to provide pharmacy care; ~~{or}~~
 - (j) Failing to exercise appropriate professional judgment in determining whether a prescription drug order is lawful;
 - (k) ***Violating Section 4 of this Act; or***
 - (l) ***Engaging in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.***
- (3) Any licensee, permit holder, or certificate holder entering an "Alford" plea, pleading nolo contendere, or who is found guilty of a violation prescribed in subsection (1)(c) of this section shall within thirty (30) days notify the board of that plea or conviction. Failure to do so shall be grounds for suspension or revocation of the license, certificate, or permit.

- (4) Any person whose license, permit, or certificate has been revoked in accordance with the provisions of this section, may petition the board for reinstatement. The petition shall be made in writing and in a form prescribed by the board. The board shall investigate all reinstatement petitions, and the board may reinstate a license, permit, or certificate upon showing that the former holder has been rehabilitated and is again able to engage in the practice of pharmacy with reasonable skill, competency, and safety to the public. Reinstatement may be on the terms and conditions that the board, based on competent evidence, reasonably believes necessary to protect the health and welfare of the citizens of the Commonwealth.
- (5) Upon exercising the power of revocation provided for in subsection (1) of this section, the board may reasonably prohibit any petition for reinstatement for a period up to and including five (5) years.
- (6) Any licensee, permit holder, or certificate holder who is disciplined under this section for a minor violation may request in writing that the board expunge the minor violation from the licensee's, permit holder's, or certificate holder's permanent record.
- (a) The request for expungement may be filed no sooner than three (3) years after the date on which the licensee, permit holder, or certificate holder has completed disciplinary sanctions imposed and if the licensee, permit holder, or certificate holder has not been disciplined for any subsequent violation of the same nature within this period of time.
- (b) No person may have his or her record expunged under this section more than once.

The board shall promulgate administrative regulations under KRS Chapter 13A to establish violations which are minor violations under this subsection. A violation shall be deemed a minor violation if it does not demonstrate a serious inability to practice the profession; assist in the practice of pharmacy; provide home medical equipment and services; adversely affect the public health, safety, or welfare; or result in economic or physical harm to a person; or create a significant threat of such harm.

➔Section 15. KRS 319.082 is amended to read as follows:

- (1) The board may suspend, revoke, or refuse to issue or renew a license; may accept an assurance of voluntary compliance; restrict, or place a credential holder on probation; or issue an administrative reprimand or private admonishment upon proof that the credential holder has:
- (a) Committed any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not, if in accordance with KRS Chapter 335B. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of such a crime, the judgment and sentence is presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information and of the person's violation of the statute on which it is based. For the purpose of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;
- (b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;
- (c) Committed any unfair, false, misleading, or deceptive act or practice;
- (d) Been incompetent or negligent in the practice of psychology;
- (e) Practiced psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal, or foreign jurisdiction;
- (f) Violated any state statute or administrative regulation governing the practice of psychology, ***which shall include violation of Section 4 of this Act and conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act;***
- (g) Unlawfully failed to cooperate with the board by:
1. Not furnishing any papers or documents requested by the board;
 2. Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the board;
 3. Not appearing before the board at the time and place designated; or
 4. Not properly responding to subpoenas issued by the board;
- (h) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

- (i) Aided or abetted an unlicensed person to practice when a license or certificate is required;
 - (j) Grossly overcharged for professional services;
 - (k) Practiced beyond the scope demonstrated by an appropriate combination of knowledge, skill, experience, training, and education;
 - (l) Failed to provide adequate supervision for certified psychologists, licensed psychological associates, applicants for licensure, or other staff;
 - (m) Been convicted of any misdemeanor or felony relating to the practice of psychology, if in accordance with KRS Chapter 335B. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended;
 - (n) Physically abused or had sexual contact with a patient, client, student, or supervisee;
 - (o) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a client, patient, or student, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or been found by the board to have had sexual contact as defined in KRS 510.010 with a client, patient, student, or supervisee;
 - (p) Improperly divulged confidential information;
 - (q) Exercised undue influence in such a manner as to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;
 - (r) Showed an inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition; or
 - (s) Failed to comply with the requirements of the board for continuing education.
- (2) Private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(1) and shall not constitute disciplinary action, but may be used by the board for statistical purposes or in subsequent disciplinary action against the credential holder or applicant.
- (3) No unlawful act or violation of any provision of this chapter by any credential holder employed or supervised by a licensed psychologist shall be cause for the revocation of the supervisor's license, unless the board finds that the licensed psychologist had knowledge of it.
- (4) Three (3) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate his or her petition and may reinstate his or her license upon finding that the former licensee has complied with the provisions of this chapter and administrative regulations promulgated by the board and is again able to engage in the practice of psychology with reasonable skill, competency, and safety to the public.
- (5) The board may, at its own discretion, reconsider, modify, or reverse its probations, suspensions, revocations, restrictions, or refusals to issue or renew licenses at any time.

➔Section 16. KRS 319A.190 is amended to read as follows:

- (1) The board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions where the licensee or applicant for licensure has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include:
- (a) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
 - (b) Unprofessional conduct as defined by administrative regulations promulgated by the board, or violating the code of ethics promulgated by the board;
 - (c) Being convicted of a felony in any court if the act or acts for which he was convicted are found by the board to have a direct bearing on whether he should be entrusted to serve the public in the capacity of a licensed occupational therapist or licensed occupational therapy assistant, if in accordance with KRS Chapter 335B;
 - (d) Violating any lawful order or administrative regulation rendered or promulgated by the board;~~{or}~~

- (e) Violating any provision of this chapter;
 - (f) *Violating Section 4 of this Act; or*
 - (g) *Engaging in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.*
- (2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license may be ordered by the board in a decision made after an administrative hearing conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the board. The board shall have discretion to accept or reject an application for reinstatement following an administrative hearing conducted in accordance with KRS Chapter 13B.
- (3) The surrender of a license shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.

➔Section 17. KRS 319B.140 is amended to read as follows:

- (1) The board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions where the licensee or applicant for licensure has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include:
- (a) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
 - (b) Unprofessional conduct as defined by administrative regulations promulgated by the board or violation of the code of ethics promulgated by the board through administrative regulations;
 - (c) Being convicted of a felony in any court if the act or acts for which the applicant or licensee was convicted are found by the board to have a direct bearing on whether he or she should be entrusted to serve the public in the capacity of the licensed profession, if in accordance with KRS Chapter 335B;
 - (d) Violating any lawful order or administrative regulation rendered or promulgated by the board;~~{or}~~
 - (e) Violating any provision of this chapter;
 - (f) *Violating Section 4 of this Act; or*
 - (g) *Engaging in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.*
- (2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon an applicant or licensee may be ordered by the board in a decision made after an administrative hearing conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the board. The board may accept or reject an application for reinstatement following an administrative hearing conducted in accordance with KRS Chapter 13B.
- (3) The surrender of a license shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.

➔Section 18. KRS 320.310 is amended to read as follows:

- (1) The board may refuse to issue, refuse to renew, limit or restrict, revoke, or suspend a license, may place on probation, or reprimand a licensee, may order restitution, may impose a fine not to exceed one thousand dollars (\$1,000) for each violation of this chapter or the corresponding administrative regulations, or may impose any combination of these penalties if it finds that an applicant or a licensee has:
- (a) Engaged in any practice of fraud or deceit in obtaining or attempting to obtain a license;
 - (b) Been convicted of any felony or has been convicted of a misdemeanor involving sexual misconduct, if in accordance with KRS Chapter 335B. A record of the conviction or a certified copy of the record shall be conclusive evidence of the conviction;
 - (c) Chronic or persistent inebriety or addiction to a drug habit to an extent that continued practice is dangerous to patients or to the public safety;
 - (d) Been granted a license upon a mistake of material fact;
 - (e) Engaged in incompetence, as determined by the board;

- (f) Practiced as an itinerant, peddled from door to door, established a temporary office, or practiced optometry outside of or away from his or her regular office or place of practice, except that the board may promulgate administrative regulations to authorize the practice of optometry outside of the licensee's regular office for a charitable purpose as defined by the board;
 - (g) Employed, procured, induced, aided, or abetted any person, not holding a Kentucky license, to practice optometry or in practicing optometry;
 - (h) Used the title "doctor" or its abbreviation without further qualifying this title or abbreviation with the word "optometrist" or suitable words or letters designating an optometry degree;
 - (i) Engaged in any conduct likely to deceive or defraud the public;
 - (j) Violated any order issued by the board;
 - (k) Had his or her license to practice optometry in any other jurisdiction revoked, suspended, limited, placed on conditions of probation, or subjected to any other disciplinary action by that jurisdiction's licensing authority;
 - (l) Prescribed any therapeutic agent in an amount that the optometrist knows, or should know, is excessive under accepted and prevailing standards, or which the optometrist knows, or has reason to know, will be used or is likely to be used other than for an accepted therapeutic purpose;
 - (m) Developed a physical or mental disability, or other condition, which renders the continued practice by the optometrist dangerous to patients or the public;~~[-or-]~~
 - (n) Violated any statute under this chapter or administrative regulation promulgated under those statutes;
 - (o) ***Violated Section 4 of this Act; or***
 - (p) ***Engaged in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.***
- (2) Nothing in this section shall prevent an optometrist from establishing branch offices if each office contains minimum equipment as required by administrative regulation of the board, ensures patient care as necessary, and has a Kentucky licensed optometrist in charge of the office.
- (3) Any licensee, permit holder, or certificate holder who is disciplined under this chapter for a minor violation may request in writing that the board expunge the minor violation from the licensee's, permit holder's, or certificate holder's permanent record.
- (a) The request for expungement may be filed no sooner than three (3) years after the date on which the licensee, permit holder, or certificate holder has completed disciplinary sanctions imposed and if the licensee, permit holder, or certificate holder has not been disciplined for any subsequent violation of the same nature within this period of time.
 - (b) No person may have his or her record expunged under this chapter more than once.

The board shall promulgate administrative regulations under KRS Chapter 13A to establish violations which are minor violations under this subsection. A violation shall be deemed a minor violation if it does not demonstrate a serious inability to practice the profession; adversely affect the public health, safety or welfare; or result in economic or physical harm to a person, or create a significant threat of such harm.

➔Section 19. KRS 327.070 is amended to read as follows:

- (1) The board, after due notice and an opportunity for an administrative hearing conducted in accordance with KRS Chapter 13B may take any one (1) or a combination of the following actions against any licensee, certificate holder, or applicant:
- (a) Refuse to license or certify any applicant;
 - (b) Refuse to renew the license or certificate of any person;
 - (c) Suspend or revoke or place on probation the license or certificate of any person;
 - (d) Impose restrictions on the scope of practice of any person;
 - (e) Issue an administrative reprimand to any person;

- (f) Issue a private admonishment to any person; and
 - (g) Impose fines for violations of this chapter not to exceed two thousand five hundred dollars (\$2,500).
- (2) The following acts by a licensee, certificate holder, or applicant may be considered cause for disciplinary action:
- (a) Indulgence in excessive use of alcoholic beverages or abusive use of controlled substances;
 - (b) Engaging in, permitting, or attempting to engage in or permit the performance of substandard patient care by himself or by persons working under his supervision due to a deliberate or negligent act or failure to act, regardless of whether actual injury to the patient is established;
 - (c) Having engaged in or attempted to engage in a course of lewd or immoral conduct with any person:
 - 1. While that person is a patient of a health care facility defined by KRS 216B.015 where the physical therapist or physical therapist's assistant provides physical therapy services; or
 - 2. While that person is a patient or client of the physical therapist or physical therapist's assistant;
 - (d) Having sexual contact, as defined by KRS 510.010(7), without the consent of both parties, with an employee or coworker of the licensee or certificate holder;
 - (e) Sexually harassing an employee or coworker of the licensee or certificate holder;
 - (f) Conviction of a felony or misdemeanor in the courts of this state or any other state, territory, or country which affects his ability to continue to practice competently and safely on the public, if in accordance with KRS Chapter 335B. "Conviction," as used in this paragraph, shall include a finding or verdict of guilt, an admission of guilt, or a plea of nolo contendere;
 - (g) Obtaining or attempting to obtain a license or certificate by fraud or material misrepresentation or making any other false statement to the board;
 - (h) Engaging in fraud or material deception in the delivery of professional services, including reimbursement, or advertising services in a false or misleading manner;
 - (i) Evidence of gross negligence or gross incompetence in his practice of physical therapy;
 - (j) Documentation of being declared mentally disabled by a court of competent jurisdiction and not thereafter having had his rights restored;
 - (k) Failing or refusing to obey any lawful order or administrative regulation of the board;
 - (l) Promoting for personal gain an unnecessary device, treatment, procedure, or service, or directing or requiring a patient to purchase a device, treatment, procedure, or service from a facility or business in which he has a financial interest;~~and~~
 - (m) Being impaired by reason of a mental, physical, or other condition that impedes his or her ability to practice competently;
 - (n) *Violation of Section 4 of this Act; and*
 - (o) *Conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.*
- (3) A private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(1). A private admonishment shall not constitute disciplinary action but may be used by the board for statistical purposes or in subsequent disciplinary action against the same licensee, certificate holder, or applicant.

➔Section 20. KRS 333.190 is amended to read as follows:

A medical laboratory license may be denied, revoked, suspended, limited, annulled, or renewal thereof denied for any of the following reasons:

- (1) Making false statements on an application for medical laboratory license or any other documents required by the cabinet.
- (2) Permitting unauthorized persons to perform technical procedures or to issue or sign reports.
- (3) Demonstrating incompetence or making frequent errors in the performance or reporting of medical laboratory examinations and procedures.
- (4) Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

- (5) Reporting the results determined on a specimen by a medical laboratory which has not been licensed or exempted under this chapter.
- (6) Rendering a report on medical laboratory work actually performed in another medical laboratory without designating the name of the director and the name and address of the medical laboratory in which the test was performed.
- (7) Knowingly having professional connection with or knowingly lending the use of the name of the licensed medical laboratory or its director to an unlicensed medical laboratory.
- (8) Violating or aiding and abetting in the violation of any provision of this chapter or the rules or regulations promulgated hereunder.
- (9) Failing to submit to the cabinet any report required by the provisions of this chapter or the reasonable rules and regulations promulgated hereunder.
- (10) *Violating Section 4 of this Act.***
- (11) *Engaging in conduct that is subject to the penalties under subsection (4) or (5) of Section 5 of this Act.***

Signed by Governor March 26, 2019.