

## CHAPTER 56

## ( HB 219 )

AN ACT relating to the practice of pharmacy.

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

➔Section 1. KRS 217.177 is amended to read as follows:

- (1) No person engaged in sales at retail shall display hypodermic syringes or needles in any portion of the place of business which is open or accessible to the public.
- (2) *Pharmacies offering retail sale of hypodermic syringes or needles shall make available:*
  - (a) *Written or electronic educational materials on safe and proper disposal of hypodermic needles and syringes;*
  - (b) *Written or electronic educational or referral information for syringe exchange service programs and substance use disorder treatment; and*
  - (c) *A verbal, physical, or electronic offer to provide a naloxone prescription for opioid overdose.*
- (3) *Nothing in this section shall apply to the sale of hypodermic syringes or needles dispensed as a prescription or in conjunction with a prescription medication that requires reconstitution or administration with a syringe.* ~~Every person engaged in sales of hypodermic syringes or needles at retail shall maintain a bound record in which shall be kept:~~
  - ~~(a) The name of the purchaser; and~~
  - ~~(b) The address of the purchaser; and~~
  - ~~(c) The quantity of syringes or needles purchased; and~~
  - ~~(d) The date of the sale; and~~
  - ~~(e) Planned use of such syringes or needles.~~
- ~~(3) Said record shall be maintained for a period of two (2) years from the date of the sale and shall be available for inspection during business hours by any law enforcement officer, agent or employee of the Cabinet for Health and Family Services or Board of Pharmacy engaged in the enforcement of KRS Chapter 218A.~~
- ~~(4) No person shall present false identification or give a false or fictitious name or address in obtaining or attempting to obtain any hypodermic syringe or needle.~~
- ~~(5) No person engaged in the retail sale of hypodermic syringes or needles shall:~~
  - ~~(a) Fail to keep the records required by this section; or~~
  - ~~(b) Fraudulently alter any record required to be kept by this section; or~~
  - ~~(c) Destroy, before the time period required by this section has elapsed, any record required to be kept by this section; or~~
  - ~~(d) Sell, or otherwise dispose of, any hypodermic syringe to any person who does not present the identification required by this section; or~~
  - ~~(e) Disclose the names in said book except to those required by this section.~~
- ~~(6)~~(4) Any physician, other licensed medical person, hospital, or clinic disposing of hypodermic syringes or needles shall ~~crush the barrel of same or otherwise~~ render the instrument incapable of further use.

➔Section 2. KRS 218A.500 is amended to read as follows:

As used in this section and KRS 218A.510:

- (1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging,

storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes but is not limited to:

- (a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
  - (b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
  - (c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
  - (d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
  - (e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
  - (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
  - (g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
  - (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
  - (i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
  - (j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
  - (k) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body; and
  - (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material, such as marijuana cigarettes, that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.
- (2) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.
  - (3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.
  - (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
  - (5)
    - (a) This section shall not prohibit a local health department from operating a substance abuse treatment outreach program which allows participants to exchange hypodermic needles and syringes.
    - (b) To operate a substance abuse treatment outreach program under this subsection, the local health department shall have the consent, which may be revoked at any time, of the local board of health and:

1. The legislative body of the first or home rule class city in which the program would operate if located in such a city; and
  2. The legislative body of the county, urban-county government, or consolidated local government in which the program would operate.
- (c) Items exchanged at the program shall not be deemed drug paraphernalia under this section while located at the program.
- (6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace officer may inquire as to the presence of needles or other sharp objects in the areas to be searched that may cut or puncture the officer and offer to not charge a person with possession of drug paraphernalia if the person declares to the officer the presence of the needle or other sharp object. If, in response to the offer, the person admits to the presence of the needle or other sharp object prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object or for possession of a controlled substance for residual or trace drug amounts present on the needle or sharp object.
- (b) The exemption under this subsection shall not apply to any other drug paraphernalia that may be present and found during the search or to controlled substances present in other than residual or trace amounts.
- (7) (a) ***This section shall not prohibit the retail sale of hypodermic syringes and needles without a prescription in pharmacies.***
- (b) ***Hypodermic syringe and needle inventory of a pharmacy shall not be deemed drug paraphernalia under this section.***
- (8) Any person who violates any provision of this section shall be guilty of a Class A misdemeanor.

➔Section 3. KRS 315.020 is amended to read as follows:

- (1) No owner of a pharmacy who is not a pharmacist shall fail to place a pharmacist in charge of his pharmacy or shall permit any person to compound or dispense prescription drugs, medicines, or pharmaceuticals in his place of business except in the presence and under the immediate supervision of a pharmacist.
- (2) No manufacturer of pharmaceuticals who is not a pharmacist shall fail to place a pharmacist in charge of his place of business or shall permit any person to compound prescription drugs, medicines, or pharmaceuticals in his place of business, except as provided by the board through the promulgation of administrative regulations pursuant to KRS Chapter 13A.
- (3) Except as provided in subsection (4) of this section, no person shall engage in the practice of pharmacy unless licensed to practice under the provisions of KRS Chapter 315.
- (4) The provisions of subsection (3) of this section shall not apply to:
  - (a) Pharmacist interns performing professional practice activities under the immediate supervision of a licensed pharmacist. The nature and scope of the activities referred to in this paragraph shall be determined by the board through administrative regulation promulgated pursuant to KRS Chapter 13A;
  - (b) Pharmacist interns and pharmacy technicians performing specifically identified pharmacy practice activities while under the supervision of a pharmacist. The nature and scope of the activities referred to in this paragraph shall be determined by the board through administrative regulation promulgated pursuant to KRS Chapter 13A;
  - (c) Other licensed health care professionals practicing within the statutory scope of their professional practices; or
  - (d) Volunteer health practitioners providing services under KRS 39A.350 to 39A.366.
- (5) (a) ***As used in this subsection:***
  1. ***"Order entry" means the process by which pharmacy personnel validate prescription data and enter that data into a pharmacy's dispensing or medication management system. Prescription data includes, but is not limited to, patient demographics, prescriber demographics, drug name, strength, dosage form, quantity, the directions for use, refill authorization, or any clarifications of the same; and***

2. *"Order entry verification" means the process by which a pharmacist verifies prescription data entered in a pharmacy's dispensing or medication management system after order entry has been completed.*
- (b) *Nothing in this chapter shall prohibit a pharmacist licensed in Kentucky, or a pharmacy technician registered in Kentucky or a pharmacy intern certified in Kentucky who is working under the supervision of the pharmacist, from accessing the electronic database of the pharmacy, from inside or outside of the pharmacy, to perform order entry, order entry verification, or drug regimen review as defined in KRS 315.010, if:*
1. *The pharmacy has established controls to protect the confidentiality and integrity of protected health information;*
  2. *No part of the pharmacy's database is duplicated, downloaded, or removed from the electronic database;*
  3. *The pharmacy is located in Kentucky and is permitted by the board; and*
  4. *All personnel who access the pharmacy's electronic database from outside of the pharmacy reside in Kentucky or within one hundred (100) miles of the pharmacy.*
- (c) *Supervision required by paragraph (b) of this subsection may include electronic supervision.*
- (d) *This subsection shall only apply to pharmacies that are not open to the public and do not dispense to walk-in patients in a retail setting.*
- (e) *Nothing in this subsection shall be construed to authorize final product verification and dispensing of a prescription from a location outside of or other than a pharmacy.*
- (f) *Nothing in this subsection permits pharmacists, pharmacy technicians, or pharmacy interns to receive hard copy prescriptions outside of the premises of a permitted pharmacy.*
- (6) Effective April 1, 2009, an owner of a pharmacy shall not employ a person to assist in the practice of pharmacy unless the person is registered as a pharmacy technician by the board or exempt under KRS 315.135.

**Signed by Governor March 22, 2021.**