

201 KAR 9:230. Required registration in the KASPER system; legal requirements for prescribing controlled substances in the Commonwealth of Kentucky; enforcement.

RELATES TO: KRS 13B.125, 218A.202, 311.565(1)(a), 311.592, 311.595(9), (12), 311.597, 311.842, 311.850(1), 311.852

STATUTORY AUTHORITY: KRS 311.565(1)(a), 311.842(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565(1)(a) and 311.842(1) authorize the board to promulgate administrative regulations to regulate the conduct of its licensees. KRS 311.595(9) and (12) and 311.597 and 311.850(1) authorize disciplinary action against licensees for specified offenses. This administrative regulation establishes requirements for registration in the KASPER system, prescribing controlled substances in the Commonwealth of Kentucky, and enforcement.

Section 1. (1) In order to lawfully prescribe or dispense or administer a controlled substance within the Commonwealth of Kentucky, a licensee shall:

(a) Hold a valid DEA permit to do so; and

(b) Be registered to use the KASPER system as required by KRS 218A.202.

(2) Prescribing, dispensing, or administering a controlled substance without a valid DEA permit or KASPER registration, as required by subsection (1) of this section, shall constitute a violation of KRS 311.595(9) and (12) or 311.850 that constitutes an immediate danger to the public health, safety, or welfare, for the purposes of KRS 311.592, 311.852, and 13B.125.

(3)(a) If the board receives documentation from the Cabinet for Health and Family Services that a licensee holds a valid DEA permit to prescribe, dispense, or administer controlled substances to humans within the Commonwealth of Kentucky, but is not currently registered with the cabinet to use the KASPER system as required by KRS 218A.202, the board shall immediately send written notice, by certified mail return receipt requested, to the licensee that the licensee is required to register with the Cabinet for Health and Family Services to use the KASPER system within seven (7) days of receipt of the written notice.

(b) At the end of the seven (7) day period, the board shall confirm with the Cabinet for Health and Family Services that the licensee registered with the cabinet to use the KASPER system.

(c) If the licensee failed to register with the Cabinet for Health and Family Services to use the KASPER system within the seven (7) days following receipt of the written notice, the appropriate inquiry panel or its chair shall promptly issue an emergency order restricting that licensee from prescribing, dispensing, or administering controlled substances within the Commonwealth of Kentucky until the licensee has registered with the cabinet to use the KASPER system.

(4)(a) An emergency order restricting a licensee from prescribing, dispensing, or administering controlled substances within the Commonwealth of Kentucky issued pursuant to subsection (3)(c) of this section shall remain valid and in effect until the board has received written verification from the cabinet that the licensee has registered with the cabinet to use the KASPER system.

(b) Upon receipt of the written verification, the panel or its chair shall immediately issue an order terminating the emergency order issued pursuant to subsection (3)(c) of this section.

(5) If a licensee who is affected by an emergency order issued pursuant to subsection (3)(c) of this section requests an emergency hearing pursuant to KRS 13B.125(3), the hearing officer conducting the emergency hearing shall affirm the emergency order of restriction if presented with a written notification on cabinet letterhead stating that the affected licensee holds a valid DEA permit but is not registered with the cabinet to use the KASPER system as required by

KRS 218A.202.

Section 2. If a licensee prescribes, dispenses, or administers a controlled substance within the Commonwealth of Kentucky during any period when the licensee is not registered with the cabinet to use the KASPER system, each instance of prescribing or dispensing or administering shall:

- (1) Constitute a separate violation of:
 - (a) KRS 311.595(12) and (9), as illustrated by KRS 311.597(1)(b); or
 - (b) 311.850(1); and
- (2) Serve as the basis for disciplinary sanctions pursuant to KRS 311.595 or 311.850. (39 Ky.R. 663; Am. 1661; eff. 3-4-2013; Crt eff. 1-15-2020; 47 Ky.R. 369; eff. 11-19-2020.)