AN ACT relating to pharmacists.

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

➔Section 1. KRS 217.182 is amended to read as follows:

(1) A duly licensed manufacturer, distributor, or wholesaler may sell or distribute a legend drug to any of the following:

(a) A manufacturer, wholesaler, or distributor;

(b) A pharmacy;

(c) A practitioner;

(d) The administrator in charge of a hospital, but only for use by or in that hospital; and

(e) A person in charge of a laboratory, but only for use in that laboratory for scientific and medical research purposes.

(2) A pharmacist may sell or distribute a legend drug:

(a) Pursuant to a prescription that conforms to the requirements of this chapter;~~[or]~~

(b) ***Without a prescription that conforms to the requirements of this chapter if all of the following conditions are met:***

1. The pharmacy at which the pharmacist works has a record of a prescription that conforms to the requirements of this chapter for the drug in the name of the patient who is requesting it, but the original prescription does not provide for a refill or the time permitted by the Kentucky Board of Pharmacy for providing refills has elapsed;

2. The pharmacist is unable to obtain authorization to refill the prescription from the practitioner who issued the original prescription or another practitioner responsible for the patient's care;

3. In the exercise of the pharmacist's professional judgment:

a. The drug is essential to sustain the life of the patient or continue

therapy for a chronic condition of the patient; and

b. Failure to dispense or sell the drug to the patient could result in harm to the health of the patient;

4. The drug that is dispensed or sold pursuant to this paragraph is subject to the following:

a. The patient has been on a consistent drug therapy with the drug being requested, as demonstrated by records maintained by a pharmacy; and

b. The amount of the drug dispensed or sold does not exceed:

i. A thirty (30) day supply; or

ii. The standard unit of dispensing if the standard unit of dispensing for the drug exceeds a thirty (30) day supply; and

5. The pharmacist shall not dispense or sell the same drug to the same patient as provided for in this paragraph more than once in any twelve (12) month period; or

(c) To a person licensed to administer, dispense, distribute, or possess a legend drug.

(3) A practitioner may:

(a) Administer, dispense, or prescribe a legend drug for a legitimate medical purpose and in the course of professional practice; or

(b) Distribute a legend drug to a person licensed to administer, dispense, distribute, or possess a legend drug.

(4) Possession or control of legend drugs obtained as authorized by this section shall be lawful if it occurred in the regular course of business, occupation, profession, employment, or duty of the possessor.

(5) No person shall traffic in any legend drug except as authorized by this section.

(6) No person shall dispense, prescribe, distribute, or administer any legend drug except as authorized by this section.

(7) No person shall possess any legend drug except as authorized by this section.

(8) Unless another specific penalty is provided in KRS 217.005 to 217.215, any person who violates any provision of subsections (1) to (6) of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

(9) Unless another specific penalty is provided in KRS 217.005 to 217.215, any person who violates the provision of subsection (7) of this section shall be guilty of a Class B misdemeanor.

(10) A person to whom or for whose use a legend drug has been prescribed or dispensed may lawfully possess it.

(11) A pharmacist who dispenses or sells a drug pursuant to subsection (2)(b) of this section shall:

(a) For one (1) year after the date of dispensing or sale, maintain a record of the drug dispensed or sold, including the name and address of the patient and the individual receiving the drug, if the individual receiving the drug is not the patient, the amount dispensed or sold, and the original prescription number;

(b) Notify the practitioner who issued the original prescription or another practitioner responsible for the patient's care not later than seventy-two (72) hours after the drug is dispensed or sold; and

(c) If applicable, obtain authorization for additional dispensing or selling from one (1) of the practitioners described in paragraph(b) of this subsection.

➔Section 2. KRS 218A.170 is amended to read as follows:

(1) A duly licensed manufacturer, distributor, or wholesaler may sell or distribute controlled substances, other than samples, to any of the following persons:

(a) To a manufacturer, wholesaler, or pharmacy;

(b) To a practitioner;

(c) To the administrator in charge of a hospital, but only for use by or in that hospital;

(d) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical research purposes;

(e) To a person registered pursuant to the federal controlled substances laws.

(2) A pharmacist may sell or distribute a controlled substance:

(a) Pursuant to a prescription that conforms to the requirements of this chapter;~~[or]~~

(b) ***Without a prescription that conforms to the requirements of this chapter, except for Schedule I and Schedule II controlled substances, if all of the following conditions are met:***

1. The pharmacy at which the pharmacist works has a record of a prescription that conforms to the requirements of this chapter for the drug in the name of the patient who is requesting it, but the original prescription does not provide for a refill or the time permitted by the Kentucky Board of Pharmacy for providing refills has elapsed;

2. The pharmacist is unable to obtain authorization to refill the prescription from the practitioner who issued the original prescription or another practitioner responsible for the patient's care;

3. In the exercise of the pharmacist's professional judgment:

a. The drug is essential to sustain the life of the patient or continue therapy for a chronic condition of the patient; and

b. Failure to dispense or sell the drug to the patient could result in harm to the health of the patient;

4. The amount of the drug that is dispensed or sold pursuant to this

paragraph does not exceed a seventy-two (72) hour supply; and

5. The pharmacist shall not dispense or sell the same drug to the same patient as provided for in this paragraph more than once in any twelve (12) month period; or

(c) To a person registered pursuant to the federal controlled substances laws.

(3) A practitioner may:

(a) Administer, dispense, or prescribe a controlled substance only for a legitimate medical purpose and in the course of professional practice; or

(b) Distribute a controlled substance to a person registered pursuant to the federal controlled substance laws.

(4) All sales and distributions shall be in accordance with KRS 218A.200 and the federal controlled substances laws, including the requirements governing the use of order forms.

(5) Possession of or control of controlled substances obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

(6) A pharmacist who dispenses or sells a drug pursuant to subsection (2)(b) of this section shall:

(a) For one (1) year after the date of dispensing or sale, maintain a record of the drug dispensed or sold, including the name and address of the patient and the individual receiving the drug, if the individual receiving the drug is not the patient, the amount dispensed or sold, and the original prescription number;

(b) Notify the practitioner who issued the original prescription or another practitioner responsible for the patient's care not later than seventy-two (72) hours after the drug is dispensed or sold; and

(c) If applicable, obtain authorization for additional dispensing or selling from

one (1) of the practitioners described in paragraph(b) of this subsection.