

1 AN ACT relating to insurance fraud.

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

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

- 4 (1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance  
5 act" if he or she engages in any of the following, including but not limited to matters  
6 relating to workers' compensation:
- 7 (a) Knowingly and with intent to defraud or deceive presents, causes to be  
8 presented, or prepares with knowledge or belief that it will be presented to an  
9 insurer, Kentucky Claims Commission, Special Fund, or any agent thereof:
- 10 1. Any written or oral statement as part of, or in support of, a claim for  
11 payment or other benefit pursuant to an insurance policy or from a "self-  
12 insurer" as defined by KRS Chapter 342, knowing that the statement  
13 contains any false, incomplete, or misleading information concerning  
14 any fact or thing material to a claim; or
- 15 2. Any statement as part of, or in support of, an application for an  
16 insurance policy, for renewal, reinstatement, or replacement of  
17 insurance, or in support of an application to a lender for money to pay a  
18 premium, knowing that the statement contains any false, incomplete, or  
19 misleading information concerning any fact or thing material to the  
20 application;
- 21 (b) Knowingly and willfully transacts any contract, agreement, or instrument  
22 which violates this title;
- 23 (c) Knowingly and with intent to defraud or deceive:
- 24 1. Receives money for the purpose of purchasing insurance, and fails to  
25 obtain insurance;
- 26 2. Fails to make payment or disposition of money or voucher as defined in  
27 KRS 304.17A-750, as required by agreement or legal obligation, that

- 1                   comes into his or her possession while acting as a licensee under this  
2                   chapter;
- 3           3.   Presents, causes to be presented, or prepares with knowledge or belief  
4                   that it will be presented to or by an insurer, or to the commissioner, any  
5                   statement, knowing that the statement contains any false, incomplete, or  
6                   misleading information concerning any material fact or thing, as part of,  
7                   or in support of one (1) or more of the following:
- 8                   a.   The rating of an insurance policy;
- 9                   b.   The financial condition of an insurer;
- 10                  c.   The formation, acquisition, merger, reconsolidation, dissolution, or  
11                   withdrawal from one (1) or more lines of insurance in all or part of  
12                   this Commonwealth by an insurer; or
- 13                  d.   A document filed with the commissioner; or
- 14           4.   Engages in any of the following:
- 15                  a.   Solicitation or acceptance of new or renewal insurance risks on  
16                   behalf of an insolvent insurer; or
- 17                  b.   Removal, concealment, alteration, tampering, or destruction of  
18                   money, records, or any other property or assets of an insurer;
- 19           (d)   Issues or knowingly presents fake or counterfeit insurance policies, certificates  
20                   of insurance, insurance identification cards, insurance binders, or any other  
21                   documents that purport to evidence insurance;
- 22           (e)   Makes any false or fraudulent representation as to the death or disability of a  
23                   policy or certificate holder in any written statement or certificate for the  
24                   purpose of fraudulently obtaining money or benefit from an insurer;
- 25           (f)   Engages in unauthorized insurance, as set forth in KRS 304.11-030; or
- 26           (g)   Assists, abets, solicits, or conspires with another to commit a fraudulent  
27                   insurance act in violation of this subtitle.

1 (2) ~~[(a) Except as provided in paragraphs (b) and (c) of this subsection, ]~~A person  
 2 convicted of a violation of subsection (1) of this section shall be guilty of a **Class A**  
 3 misdemeanor, **unless**~~[ where]~~ the aggregate of the claim, benefit, or money referred  
 4 to in subsection (1) of this section is~~[ less than or equal to five hundred dollars~~  
 5 ~~(\$500), and shall be punished by]:~~

6 ~~(a)[1.]~~ **Five hundred dollars (\$500) or more but less than ten thousand**  
 7 **dollars (\$10,000), in which case it is a Class D felony**~~[Imprisonment for not~~  
 8 ~~more than one (1) year];~~

9 ~~(b)[2.]~~ **Ten thousand dollars (\$10,000) or more but less than one million**  
 10 **dollars (\$1,000,000), in which case it is a Class C felony**~~[A fine, per~~  
 11 ~~occurrence, of not more than one thousand dollars (\$1,000) per individual nor~~  
 12 ~~five thousand dollars (\$5,000) per corporation or twice the amount of gain~~  
 13 ~~received as a result of the violation, whichever is greater]; or~~

14 ~~(c)[3.]~~ **One million dollars (\$1,000,000) or more, in which case it is a Class B**  
 15 **felony**~~[Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of~~  
 16 ~~this paragraph].~~

17 ~~(3)[(b)]~~ **A**~~[Except as provided in paragraph (c) of this subsection, where the claim,~~  
 18 ~~benefit, or money referred to in subsection (1) of this section exceeds an aggregate~~  
 19 ~~of five hundred dollars (\$500), a person convicted of a violation of subsection (1) of~~  
 20 ~~this section shall be guilty of a felony and shall be punished by:~~

21 1.— Imprisonment for not less than one (1) nor more than five (5) years;

22 2.— A fine, per occurrence, of not more than ten thousand dollars (\$10,000)  
 23 per individual nor one hundred thousand dollars (\$100,000) per  
 24 corporation or twice the amount of gain received as a result of the  
 25 violation, whichever is greater; or

26 3.— Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of  
 27 this paragraph.

1       ~~(e) Any~~ person, with the purpose to establish or maintain a criminal syndicate~~[,]~~  
 2           or to facilitate any of its activities,~~[as set forth in KRS 506.120(1),]~~ shall be  
 3           guilty of engaging in organized crime, a Class B felony, **if he or she engages**  
 4           **in any of the activities set forth in KRS 506.120(1).**

5       **(4) A person convicted of a crime established in this section** ~~and~~ shall be punished  
 6       by:

- 7       **(a)**~~[1.]~~     Imprisonment for **a term:**
- 8           **1. Not to exceed the period set forth in KRS 532.090 if the crime is a**  
 9           **Class A misdemeanor; or**
- 10          **2. Within the periods set forth in KRS 532.060 if the crime is a Class D,**  
 11          **C, or B felony**~~[not less than ten (10) years nor more than twenty (20)~~  
 12          years];

- 13       **(b)**~~[2.]~~     A fine, per occurrence, of:
- 14           **1. For a misdemeanor, not more than one thousand dollars (\$1,000) per**  
 15           **individual nor five thousand dollars (\$5,000) per corporation or twice**  
 16           **the amount of gain received as a result of the violation, whichever is**  
 17           **greater; or**
- 18           **2. For a felony,** not more than ten thousand dollars (\$10,000) per  
 19           individual nor one hundred thousand dollars (\$100,000) per corporation,  
 20           or twice the amount of gain received as a result of the violation;  
 21           whichever is greater; or

22       **(c)**~~[3.]~~     Both imprisonment and a fine, as set forth in subparagraphs 1. and 2. of  
 23       this paragraph.

24       **(5)**~~[(d)]~~     In addition to imprisonment, the assessment of a fine, or both, a person  
 25       convicted of a **crime established in**~~[violation of paragraph (a), (b), or (c) of~~  
 26       subsection ~~(2) of]~~ this section may be ordered to make restitution to any victim who  
 27       suffered a monetary loss due to any actions by that person which resulted in the

1 adjudication of guilt, and to the division for the cost of any investigation. The  
 2 amount of restitution shall equal the monetary value of the actual loss or twice the  
 3 amount of gain received as a result of the violation, whichever is greater.

4 ~~(6)~~~~(3)~~ Any person damaged as a result of a violation of any provision of this section  
 5 shall have a cause of action to recover compensatory damages, plus all reasonable  
 6 investigation and litigation expenses, including attorneys' fees, at the trial and  
 7 appellate courts.

8 ~~(7)~~~~(4)~~ The provisions of this section shall also apply to any agent, unauthorized  
 9 insurer or its agents or representatives, or surplus lines carrier who, with intent,  
 10 injures, defrauds, or deceives any claimant with regard to any claim. The claimant  
 11 shall have the right to recover the damages provided in subsection ~~(6)~~~~(3)~~ of this  
 12 section.

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

14 (1) Any person, other than those specified in subsection (2) of this section, having  
 15 knowledge or believing that a fraudulent insurance act or any other act or practice  
 16 which, upon conviction, constitutes a felony or misdemeanor under the subtitle is  
 17 being or has been committed may send to the division a report of information  
 18 pertinent to this knowledge of or belief and any additional relevant information the  
 19 commissioner may request.

20 (2) The following persons~~, [individuals]~~ having knowledge or believing that a  
 21 fraudulent insurance act or any other act or practice which may constitute a felony  
 22 or misdemeanor under this subtitle is being or has been committed, shall send to the  
 23 division a report or information pertinent to the knowledge or belief and additional  
 24 relevant information that the commissioner or the commissioner's employees or  
 25 agents may require:

26 (a) Any professional practitioner licensed or regulated by the Commonwealth,  
 27 except as provided by law;

- 1 (b) Any private medical review committee;
- 2 (c) Any insurer, agent, or other person licensed under this chapter;~~and~~
- 3 (d) **The following Kentucky Boards:**
- 4 **1. Board of Medical Licensure;**
- 5 **2. Board of Chiropractic Examiners;**
- 6 **3. Board of Nursing;**
- 7 **4. Board of Physical Therapy;**
- 8 **5. Board of Occupational Therapy; and**
- 9 **6. Board for Massage Therapy; and**
- 10 **(e)** Any employee of the persons named in paragraphs (a) to ~~(d)~~~~(e)~~ of this
- 11 subsection.
- 12 (3) The division or its employees or agents shall review this information or these
- 13 reports and select the information or reports that, in the judgment of the division,
- 14 may require further investigation. The division shall then cause an investigation of
- 15 the facts surrounding the information or report to be made to determine the extent,
- 16 if any, to which a fraudulent insurance act or any other act or practice which, upon
- 17 conviction, constitutes a felony or misdemeanor under this subtitle is being
- 18 committed.
- 19 (4) The ~~following~~~~Department of Workers' Claims~~ shall provide the division access to
- 20 all relevant information the commissioner may request:
- 21 **(a) The Department of Workers' Claims; and**
- 22 **(b) The boards named in subsection (2)(d) of this section.**
- 23 (5) The division shall report any alleged violations of law which the investigations
- 24 disclose to the appropriate licensing agency and the Commonwealth's attorney,
- 25 Attorney General, or other prosecuting agency having jurisdiction with respect to a
- 26 violation. If prosecution by the Commonwealth's attorney, Attorney General, or
- 27 other prosecuting agency is not begun within sixty (60) days of the report, the

1 prosecuting attorney shall inform the division of the reasons for the lack of  
2 prosecution. In addition to filing a report with the appropriate prosecuting agency,  
3 the commissioner may, through the Attorney General, prosecute violations of this  
4 subtitle in the Circuit Court of the county in which the alleged wrongdoer resides or  
5 has his or her principal place of business, in the Circuit Court of the county in  
6 which the fraudulent insurance act has been committed, or, with consent of the  
7 parties, in the Franklin Circuit Court.

8 (6) Notwithstanding the provisions of subsections (1) to (5) of this section, any person  
9 having knowledge or believing that a fraudulent insurance act or any other act that  
10 may be prohibited under this subtitle is being or has been committed, may notify  
11 any law enforcement agency of his or her knowledge or belief and provide  
12 information relevant to the act, as may be requested by that agency, including, but  
13 not limited to, insurance policy information including the application for insurance,  
14 policy premium payment records, history of previous claims made by the insured,  
15 and other information relating to the investigation of the claim, including statements  
16 of any person, proofs of loss, and notice of loss. Reporting to any other agency does  
17 not relieve those listed in subsection (2) of this section of their mandatory duty to  
18 report to the division.

19 (7) If the information referred to in this section is specifically requested by the division,  
20 any other law enforcement agency, or a prosecuting attorney, the insurer shall  
21 provide certified copies of the requested information within ten (10) business days  
22 of the request or as soon thereafter as reasonable.

23 (8) In the absence of malice, fraud, or gross negligence, the following ~~no insurer or~~  
24 ~~agent authorized by an insurer to act on its behalf, law enforcement agency, the~~  
25 ~~Department of Workers' Claims, their respective employees, or an insured]~~ shall ***not***  
26 be subject to any civil liability for libel, slander, or related cause of action by virtue  
27 of filing reports or for releasing or receiving any information pursuant to this

1 subsection;

2 (a) An insurer;

3 (b) An agent authorized by an insurer to act on its behalf;

4 (c) A law enforcement agency;

5 (d) The Department of Workers' Claims;

6 (e) The boards named in subsection (2)(d) of this section;

7 (f) Employees of the persons named in paragraphs (d) and (e) of this  
8 subsection; or

9 (g) An insured.

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

11 (1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall  
12 be responsible for maintaining a reporting system for all vehicle accidents which  
13 occur within the Commonwealth. Such accident reports shall be utilized for such  
14 purposes as will improve the traffic safety program in the Commonwealth involving  
15 the collection, processing, storing, and dissemination of such data and the  
16 establishment of procedures by administrative regulations to ensure that uniform  
17 definitions, classifications, and other federal requirements are in compliance.

18 (2) Any person operating a vehicle on the highways of this state who is involved in an  
19 accident resulting in fatal or nonfatal personal injury to any person or damage to the  
20 vehicle rendering the vehicle inoperable shall be required to immediately notify a  
21 law enforcement officer having jurisdiction. In the event the operator fails to notify  
22 or is incapable of notifying a law enforcement officer having jurisdiction, such  
23 responsibility shall rest with the owner of the vehicle or any occupant of the vehicle  
24 at the time of the accident. A law enforcement officer having jurisdiction shall  
25 investigate the accident and file a written report of the accident with his or her law  
26 enforcement agency.

27 (3) Every law enforcement agency whose officers investigate a vehicle accident of

1 which a report must be made as required in this chapter shall file a report of the  
2 accident with the Department of Kentucky State Police within ten (10) days after  
3 investigation of the accident upon forms supplied by the department.

4 (4) Any person operating a vehicle on the highways of this state who is involved in an  
5 accident resulting in any property damage exceeding five hundred dollars (\$500) in  
6 which an investigation is not conducted by a law enforcement officer shall file a  
7 written report of the accident with the Department of Kentucky State Police within  
8 ten (10) days of occurrence of the accident upon forms provided by the department.

9 (5) (a) All accident reports filed with the Department of Kentucky State Police in  
10 compliance with subsection (4) above shall not be considered open records  
11 under KRS ~~61.870~~~~[61.872]~~ to 61.884 and shall remain confidential, except  
12 that the department may:

13 1. Disclose the identity of a person involved in an accident when his or her  
14 identity is not otherwise known or when he or she denies his or her  
15 presence at an accident; and

16 2. *Make the reports available to the persons named in paragraph (c) of*  
17 *this subsection.*

18 (b) ~~{Except as provided in subsection (9) of this section,}~~ All other accident  
19 reports required by this section, and the information contained in the reports,  
20 shall be confidential and exempt from public disclosure *under KRS 61.870 to*  
21 *61.884,* except *when:*

22 1. ~~{when}~~ Produced pursuant to a properly executed subpoena or court  
23 order; or ~~{, or except pursuant to}~~

24 2. *Disclosed as provided in* ~~{subsection (8) of}~~ this section.

25 (c) *Accident* ~~{These}~~ reports shall be made available ~~{only}~~ to:

26 1. The parties to the accident; ~~{,}~~

27 2. The parents or guardians of a minor who is party to the accident; ~~{, and}~~

- 1           **3.** Insurers or their written designee for insurance business purposes of any  
 2           party who is the subject of the report;~~[- or to -]~~
- 3           **4.** The attorneys of the parties **to the accident;**
- 4           **5. Any party to litigation who files with the department a request for the**  
 5           **report and includes a copy of the first page of a District or Circuit**  
 6           **Court clerk-stamped complaint naming all parties; and**
- 7           **6. The Department of Workplace Standards in the Labor Cabinet if the**  
 8           **accident report is pertinent to an occupational safety and health**  
 9           **investigation.**

10 (6) Except as provided for in this subsection, the department shall not release accident  
 11 reports for a commercial purpose. The department may, as a matter of public safety,  
 12 contract with an outside entity and release vehicle damage data extracted from  
 13 accident reports to ~~the~~~~[such an]~~ entity if the data is used solely for the purpose of  
 14 providing the public a means of determining a vehicle's accident history. The  
 15 department may further contract with a third party to provide electronic access to  
 16 reports for persons and entities who are entitled to ~~the~~~~[such]~~ reports under  
 17 **subsection**~~[subsections]~~ (5)~~[- and (9)]~~ of this section.

18 (7) The department shall promulgate administrative regulations in accordance with  
 19 KRS Chapter 13A to set out a fee schedule for accident reports made available  
 20 pursuant to subsections (5)~~[- (8),]~~ and **(8)**~~[- (9)]~~ of this section. These fees shall be in  
 21 addition to those charged to the public for records produced under KRS Chapter 61.

22 (8) (a) The report shall be made available to a news-gathering organization, solely for  
 23 the purpose of publishing or broadcasting the news. The news-gathering  
 24 organization shall not use or distribute the report, or knowingly allow its use  
 25 or distribution, for a commercial purpose other than the news-gathering  
 26 organization's publication or broadcasting of the information in the report.

27 (b) A newspaper or periodical shall be considered a news-gathering organization

1 if it:

- 2 1. Is published at least fifty (50) of fifty-two (52) weeks during a calendar  
3 year;
- 4 2. Contains at least twenty-five percent (25%) news content in each issue  
5 or no more than seventy-five percent (75%) advertising content in any  
6 issue in the calendar year; and
- 7 3. Contains news of general interest to its readers that can include news  
8 stories, editorials, sports, weddings, births, and death notices.

9 (c) A newspaper, periodical, or radio or television station shall not be held to  
10 have used or knowingly allowed the use of the report for a commercial  
11 purpose merely because of its publication or broadcast.

12 (d) For the purposes of this section, the meaning of "news-gathering organization"  
13 does not include any product or publication:

- 14 1. Which is intended primarily for members of a particular profession or  
15 occupational group; or
- 16 2. With the primary purpose of distributing advertising or of publishing  
17 names and other personal identifying information concerning parties to  
18 motor vehicle accidents which may be used to solicit for services  
19 covered under Subtitle 39 of KRS Chapter 304.

20 (e) A request under this section shall be completed using a form promulgated by  
21 the department through administrative regulations in accordance with KRS  
22 Chapter 13A. The form under this paragraph shall include:

- 23 1. The name and address of the requestor and the news-gathering  
24 organization the requestor represents;
- 25 2. A statement that the requestor is a news-gathering organization under  
26 this subsection;
- 27 3. A statement that the request is in compliance with the criteria contained

1 in this section; and

2 4. A declaration of the requestor as to the accuracy and truthfulness of the  
3 information provided in the request.

4 **(f) 1. The department shall redact all personal information from a report**  
5 **prior to making it available under this subsection, except, upon**  
6 **request, up to three (3) reports per day may be provided under this**  
7 **subsection to a news-gathering organization without redaction.**

8 **2. For the purposes of this paragraph, "personal information" has the**  
9 **same meaning as in 18 U.S.C. sec. 2725.**

10 ~~(9) [The report shall be made available without subpoena to any party to litigation who~~  
11 ~~files with the department a request for the report and includes a copy of the first~~  
12 ~~page of a District or Circuit Court clerk stamped complaint naming all parties.~~

13 ~~(10) The report shall be made available without subpoena to the Department of~~  
14 ~~Workplace Standards in the Labor Cabinet if the accident report is pertinent to an~~  
15 ~~occupational safety and health investigation.~~

16 ~~(11) [The motor vehicle insurers of any train engineer or other train crew member~~  
17 ~~involved in an accident on a railroad while functioning in their professional capacity~~  
18 ~~shall be prohibited from obtaining a copy of any accident report filed on the~~  
19 ~~accident under this section without written consent from the individual the company~~  
20 ~~insures. Insurance companies issuing motor vehicle policies in the Commonwealth~~  
21 ~~shall be prohibited from raising a policyholder's rates solely because the~~  
22 ~~policyholder, in his or her professional capacity, is a train engineer or other train~~  
23 ~~crew member involved in an accident on a railroad.~~

24 **(10)[(12)]** For reporting and statistical purposes, an autocycle as defined in KRS 186.010  
25 shall be listed as its own distinct category and shall not be considered to be a motor  
26 vehicle or a motorcycle for reports issued under this section.

27 ➔SECTION 4. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304

1 IS CREATED TO READ AS FOLLOWS:

2 (1) As used in this section, "compensation arrangement" has the same meaning as  
 3 in 42 U.S.C. sec. 1395nn, as amended.

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

5 (a) If a physician licensed under KRS Chapter 311, or an immediate family  
 6 member of the physician, has either of the following financial relationships  
 7 with a person, the physician shall not make a referral to the person for the  
 8 furnishing of health care services for which payment may be made from  
 9 basic reparation benefits provided under this subtitle:

10 1. An ownership or investment interest in the person, whether through  
 11 debt, equity, or other means; or

12 2. A compensation arrangement between the physician, or an immediate  
 13 family member of the physician, and the person; and

14 (b) No person shall present, cause to be presented, or collect payment on a  
 15 claim or bill for health care services referred to the person in violation of  
 16 paragraph (a) of this subsection.

17 (3) Subsection (2) of this section shall not apply if any of the exceptions provided in  
 18 42 U.S.C. sec. 1395nn, as amended, or a regulation adopted under that section, as  
 19 amended, are applicable to the referral.

20 (4) (a) No patient, insurer, or third-party payor shall be required to pay a person  
 21 for health care services referred to that person in violation of this section.

22 (b) If a person collects any amount in violation of this section, the person shall  
 23 refund, on a timely basis, the amount collected.

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

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

27 1. Be fined not less than five hundred dollars (\$500) nor more than one

- 1           thousand dollars (\$1,000), or sentenced to not more than ninety (90)  
2           days in jail, or both;
- 3           2. Have the registration of the motor vehicle revoked and the license plates  
4           of the vehicle suspended for a period of one (1) year or until such time  
5           as proof, in a form satisfactory to the commissioner, is furnished that the  
6           security is then and will remain in effect; and
- 7           3. For the second and each subsequent offense within any five (5) year  
8           period, have his or her operator's license revoked in accordance with  
9           KRS 186.560, and may be sentenced to one hundred and eighty (180)  
10          days in jail, or fined not less than one thousand dollars (\$1,000) nor  
11          more than two thousand five hundred dollars (\$2,500), or both.
- 12          (b) Penalties under paragraph (a) of this subsection for the first offense are subject  
13          to conditional discharge, suspension, or other forms of reduction of penalty by  
14          judicial discretion upon production of proof of security.
- 15          (c) For the second and each subsequent offense, minimum fines, suspensions, and  
16          penalties under paragraph (a) of this subsection are subject to conditional  
17          discharge, suspension, or other forms of reduction of penalty, by judicial  
18          discretion only upon production of proof of security and a receipt showing that  
19          a premium for a minimum policy period of six (6) months has been paid.
- 20          (d) Upon expiration of the minimum six (6) month policy period, the court shall  
21          order the vehicle owner to appear before it to verify renewal of the security  
22          required by Subtitle 39 of this chapter by production of proof of security and a  
23          receipt showing that a premium for a minimum six (6) month policy period  
24          has been paid.
- 25          (e) Failure to appear shall result in the suspension of the vehicle owner's  
26          operator's license pursuant to KRS 186.570.
- 27          (f) Unless uninterrupted coverage is maintained, cancellation or expiration of the

1           procured security before the end of the minimum six (6) month policy period  
2           shall be a Class B misdemeanor.

3           (g) Unless the requirement of paragraph (d) of this subsection is satisfied, the  
4           court shall revoke any conditional discharge, suspension, or other form of  
5           reduction of penalty granted under paragraph (c) of this subsection.

6       (2) A person who operates a motor vehicle without security on the motor vehicle as  
7       required by Subtitle 39 of this chapter shall:

8           (a) Be fined not less than five hundred dollars (\$500) nor more than one thousand  
9           dollars (\$1,000) or sentenced to not more than ninety (90) days in jail, or both;  
10          and

11          (b) For the second and each subsequent offense within any five (5) year period,  
12          have his or her operator's license revoked in accordance with KRS 186.560,  
13          and may be sentenced to not more than one hundred eighty (180) days in jail  
14          or fined not less than one thousand dollars (\$1,000) nor more than two  
15          thousand five hundred dollars (\$2,500), or both.

16       (3) If the person who operates a motor vehicle without security on the motor vehicle as  
17       required by Subtitle 39 of this chapter is also the owner of the motor vehicle, the  
18       person shall be subject to penalties under both subsection (1) and subsection (2) of  
19       this section.

20       **(4) The following shall be subject to a civil penalty of not less than one thousand**  
21       **dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each violation:**

22           **(a) Any person that presents, causes to be presented, or collects payment on a**  
23           **bill or claim for health care services that the person knows or should know**  
24           **were referred in violation of Section 4 of this Act; and**

25           **(b) Any person that knowingly fails to make a timely refund required by Section**  
26           **4 of this Act.**

27       **(5) A physician or other person that enters into an arrangement or scheme that the**

1        *physician or person knows or should know has a principal purpose of assuring*  
2        *referrals by the physician that, if made directly by the physician, would be in*  
3        *violation of Section 4 of this Act shall be subject to a civil penalty of not less than*  
4        *five thousand dollars (\$5,000) nor more than twenty-five thousand dollars*  
5        *(\$25,000) per arrangement or scheme.*

6        ➔Section 6. KRS 311.597 is amended to read as follows:

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

10       (1) Prescribes or dispenses any medication:

11           (a) With the intent or knowledge that a medication will be used or is likely to be  
12           used other than medicinally or for an accepted therapeutic purpose;

13           (b) With the intent to evade any law with respect to sale, use, or disposition of the  
14           medication;

15           (c) For the licensee's personal use or for the use of his immediate family when the  
16           licensee knows or has reason to know that an abuse of a controlled substance  
17           is occurring, or may result from such a practice;

18           (d) In such amounts that the licensee knows or has reason to know, under the  
19           attendant circumstances, that said amounts so prescribed or dispensed are  
20           excessive under accepted and prevailing medical practice standards; or

21           (e) In response to any communication transmitted or received by computer or  
22           other electronic means, when the licensee fails to take the following actions to  
23           establish and maintain a proper physician-patient relationship:

24           1. Verification that the person requesting medication is in fact who the  
25           patient claims to be;

26           2. Establishment of a documented diagnosis through the use of accepted  
27           medical practices; and

1           3. Maintenance of a current medical record.

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

5 (2) Issues, publishes, or makes oral or written representations in which grossly  
6           improbable or extravagant statements are made which have a tendency to deceive or  
7           defraud the public, or a member thereof, including but not limited to:

8           (a) Any representation in which the licensee claims that he can cure or treat  
9           diseases, ailments, or infirmities by any method, procedure, treatment, or  
10          medicine which the licensee knows or has reason to know has little or no  
11          therapeutic value;

12          (b) Represents or professes or holds himself out as being able and willing to treat  
13          diseases, ailments, or infirmities under a system or school of practice:

14           1. Other than that for which he holds a certificate or license granted by the  
15           board, or

16           2. Other than that for which he holds a degree or diploma from a school  
17           otherwise recognized as accredited by the board, or

18           3. Under a school or system which he professes to be self-taught.

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

20 (3) A serious act, or a pattern of acts committed during the course of his medical  
21          practice which, under the attendant circumstances, would be deemed to be gross  
22          incompetence, gross ignorance, gross negligence, or malpractice.

23 (4) Conduct which is calculated or has the effect of bringing the medical profession  
24          into disrepute, including but not limited to any departure from, or failure to conform  
25          to the standards of acceptable and prevailing medical practice within the  
26          Commonwealth of Kentucky, and any departure from, or failure to conform to the  
27          principles of medical ethics of the American Medical Association or the code of

1 ethics of the American Osteopathic Association. For the purposes of this subsection,  
2 actual injury to a patient need not be established.

3 (5) Failure by a licensee to report a known or observed violation of KRS Chapter 311  
4 by another licensee as described in KRS 311.606.

5 **(6) Violation by a licensee of Section 4 or 5 of this Act.**