

1 AN ACT relating to patient quality of life.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO  
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 3 of this Act:*

6 *(1) "Cabinet" means the Cabinet for Health and Family Services;*

7 *(2) "Council" means the Palliative Care Interdisciplinary Advisory Council*  
8 *established under Section 2 of this Act;*

9 *(3) "Health facility" has the same meaning as in KRS 216B.015;*

10 *(4) "Medical care" means services provided, requested, or supervised by a physician*  
11 *licensed pursuant to KRS Chapter 311 or advanced practice registered nurse*  
12 *licensed pursuant to KRS Chapter 314;*

13 *(5) "Palliative care" means patient- and family-centered medical care that*  
14 *anticipates, prevents, and treats suffering caused by serious illness and involves*  
15 *addressing the physical, emotional, social, and spiritual needs of a patient and*  
16 *facilitating patient autonomy, access to information, and choice. Causing or*  
17 *hastening death shall not be deemed a method for anticipating, preventing, or*  
18 *treating suffering as described in this subsection; and*

19 *(6) "Serious illness" means any medical illness, physical injury, or condition that*  
20 *causes substantial suffering for more than a short period of time, including but*  
21 *not limited to Alzheimer's disease and related dementias, lung disease, cancer, or*  
22 *heart, renal, or liver failure.*

23 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO  
24 READ AS FOLLOWS:

25 *(1) The Palliative Care Interdisciplinary Advisory Council is hereby established to*  
26 *improve the quality and delivery of patient- and family-centered care throughout*  
27 *the Commonwealth and to advise the cabinet on matters related to the*

1 establishment, maintenance, operation, and outcomes evaluation of palliative  
2 care initiatives. The council shall be attached to and administered by the cabinet.

3 (2) The Governor shall appoint the members of the council to serve three (3) year  
4 terms. The council shall consist of thirteen (13) voting members, and may include  
5 nonvoting members who are relevant cabinet representatives designated by the  
6 Governor. Voting members shall be:

7 (a) Two (2) members from interdisciplinary medical, nursing, social work,  
8 pharmacy, and spiritual professions with palliative care work experience or  
9 expertise;

10 (b) Two (2) members who are either licensed or certified hospice and palliative  
11 medicine physicians licensed pursuant to KRS Chapter 311 or licensed or  
12 certified hospice and palliative care advanced practice registered nurses  
13 licensed pursuant to KRS Chapter 314;

14 (c) One (1) member who has pediatric palliative care expertise;

15 (d) One (1) member who is a patient or family caregiver advocate;

16 (e) One (1) member recommended to the Governor by the Statewide  
17 Independent Living Council;

18 (f) One (1) member recommended to the Governor by the American Cancer  
19 Society;

20 (g) One (1) member recommended to the Governor by the Kentucky Right to  
21 Life Association;

22 (h) One (1) member recommended to the Governor by the Long-Term Care  
23 Ombudsman Program;

24 (i) One (1) member recommended to the Governor by the Kentucky Association  
25 of Hospice and Palliative Care;

26 (j) One (1) member recommended to the Governor by the Kentucky  
27 Psychological Association; and

1 (k) One (1) member recommended to the Governor by the Kentucky Association  
 2 of Health Care Facilities.

3 (3) Appointed members of the council shall serve without compensation, but shall be  
 4 reimbursed for actual expenses incurred in the performance of duties in  
 5 accordance with KRS 45.101 and administrative regulations promulgated  
 6 thereunder.

7 (4) (a) Members of the council shall elect a chair and vice chair whose duties shall  
 8 be established by the council.

9 (b) The time and place for regularly scheduled meetings shall be established by  
 10 a majority vote of the council, but there shall be at least two (2) meetings  
 11 per year.

12 (c) The chair or any three (3) voting members shall provide two (2) weeks'  
 13 notice to the members regarding an upcoming meeting.

14 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO  
 15 READ AS FOLLOWS:

16 (1) The statewide Palliative Care Consumer and Professional Information and  
 17 Education Program is hereby established within the cabinet.

18 (2) The goals of the Palliative Care Consumer and Professional Information and  
 19 Education Program shall be to maximize the effectiveness of palliative care  
 20 initiatives throughout the Commonwealth by ensuring that comprehensive and  
 21 accurate information and education about palliative care are available to the  
 22 public, health care providers, and health facilities.

23 (3) The cabinet shall publish on its Web site information and resources, including  
 24 links to external resources, about palliative care for the public, health care  
 25 providers, and health facilities. This shall include but not be limited to:

26 (a) Continuing education opportunities for health care providers;

27 (b) Information about palliative care delivery in the home, primary, secondary,

1 and tertiary environments;

2 (c) Best practices for palliative care delivery; and

3 (d) Consumer educational materials and referral information for palliative  
 4 care, including hospice.

5 (4) (a) The council shall have the authority to review, evaluate, and make  
 6 recommendations regarding all elements of the Palliative Care Consumer  
 7 and Professional Information and Education Program, the content of the  
 8 Web site information and resources described in subsection (3) of this  
 9 section, and best practices for palliative care delivery and any grants to  
 10 develop or implement them.

11 (b) Any evaluations or recommendations shall require the affirmative vote in  
 12 person, by electronic means, or by proxy of three-fourths (3/4) of the voting  
 13 members of the council.

14 (c) Not later than July 1, 2020, and annually thereafter, the council shall  
 15 submit a report on its findings and recommendations to the commissioner  
 16 of the Department for Public Health and to the Interim Joint Committee on  
 17 Health and Welfare.

18 ➔Section 4. KRS 218A.010 is amended to read as follows:

19 As used in this chapter:

20 (1) "Administer" means the direct application of a controlled substance, whether by  
 21 injection, inhalation, ingestion, or any other means, to the body of a patient or  
 22 research subject by:

23 (a) A practitioner or by his or her authorized agent under his or her immediate  
 24 supervision and pursuant to his or her order; or

25 (b) The patient or research subject at the direction and in the presence of the  
 26 practitioner;

27 (2) "Anabolic steroid" means any drug or hormonal substance chemically and

1 pharmacologically related to testosterone that promotes muscle growth and includes  
2 those substances classified as Schedule III controlled substances pursuant to KRS  
3 218A.020 but does not include estrogens, progestins, and anticosteroids;

4 (3) "Cabinet" means the Cabinet for Health and Family Services;

5 (4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of  
6 its salts, isomers, or salts of isomers;

7 (5) **"Certified community based palliative care program" means a palliative care**  
8 **program which has received certification from the Joint Commission;**

9 (6) "Child" means any person under the age of majority as specified in KRS 2.015;

10 ~~(7)(6)~~ "Cocaine" means a substance containing any quantity of cocaine, its salts,  
11 optical and geometric isomers, and salts of isomers;

12 ~~(8)(7)~~ "Controlled substance" means methamphetamine, or a drug, substance, or  
13 immediate precursor in Schedules I through V and includes a controlled substance  
14 analogue;

15 ~~(9)(8)~~ (a) "Controlled substance analogue," except as provided in paragraph (b) of  
16 this subsection, means a substance:

17 1. The chemical structure of which is substantially similar to the structure  
18 of a controlled substance in Schedule I or II; and

19 2. Which has a stimulant, depressant, or hallucinogenic effect on the  
20 central nervous system that is substantially similar to or greater than the  
21 stimulant, depressant, or hallucinogenic effect on the central nervous  
22 system of a controlled substance in Schedule I or II; or

23 3. With respect to a particular person, which such person represents or  
24 intends to have a stimulant, depressant, or hallucinogenic effect on the  
25 central nervous system that is substantially similar to or greater than the  
26 stimulant, depressant, or hallucinogenic effect on the central nervous  
27 system of a controlled substance in Schedule I or II.

1 (b) Such term does not include:

- 2 1. Any substance for which there is an approved new drug application;
- 3 2. With respect to a particular person, any substance if an exemption is in
- 4 effect for investigational use for that person pursuant to federal law to
- 5 the extent conduct with respect to such substance is pursuant to such
- 6 exemption; or
- 7 3. Any substance to the extent not intended for human consumption before
- 8 the exemption described in subparagraph 2. of this paragraph takes
- 9 effect with respect to that substance;

10 ~~(10)~~~~(9)~~ "Counterfeit substance" means a controlled substance which, or the container

11 or labeling of which, without authorization, bears the trademark, trade name, or

12 other identifying mark, imprint, number, or device, or any likeness thereof, of a

13 manufacturer, distributor, or dispenser other than the person who in fact

14 manufactured, distributed, or dispensed the substance;

15 ~~(11)~~~~(10)~~ "Dispense" means to deliver a controlled substance to an ultimate user or

16 research subject by or pursuant to the lawful order of a practitioner, including the

17 packaging, labeling, or compounding necessary to prepare the substance for that

18 delivery;

19 ~~(12)~~~~(11)~~ "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or

20 V controlled substance to or for the use of an ultimate user;

21 ~~(13)~~~~(12)~~ "Distribute" means to deliver other than by administering or dispensing a

22 controlled substance;

23 ~~(14)~~~~(13)~~ "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of

24 administration available as a single unit;

25 ~~(15)~~~~(14)~~ "Drug" means:

- 26 (a) Substances recognized as drugs in the official United States Pharmacopoeia,
- 27 official Homeopathic Pharmacopoeia of the United States, or official National

- 1           Formulary, or any supplement to any of them;
- 2           (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or
- 3           prevention of disease in man or animals;
- 4           (c) Substances (other than food) intended to affect the structure or any function of
- 5           the body of man or animals; and
- 6           (d) Substances intended for use as a component of any article specified in this
- 7           subsection.

8           It does not include devices or their components, parts, or accessories;

9           ~~(16)~~~~(15)~~ "Fentanyl" means a substance containing any quantity of fentanyl, or any of its

10          salts, isomers, or salts of isomers;

11          ~~(17)~~~~(16)~~ "Fentanyl derivative" means a substance containing any quantity of any

12          chemical compound, except compounds specifically scheduled as controlled

13          substances by statute or by administrative regulation pursuant to this chapter, which

14          is structurally derived from 1-ethyl-4-(N-phenylamido) piperadine:

15          (a) By substitution:

- 16               1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or
- 17               ethyloxotetrazole ring system; and
- 18               2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl,
- 19               or furanyl group; and

20          (b) Which may be further modified in one (1) or more of the following ways:

- 21               1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy,
- 22               haloalkyl, hydroxyl, or halide substituents;
- 23               2. By substitution on the piperadine ring to any extent with alkyl, allyl,
- 24               alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-
- 25               positions;
- 26               3. By substitution on the piperadine ring to any extent with a phenyl,
- 27               alkoxy, or carboxylate ester substituent at the 4- position; or

1           4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or  
2           hydroxy substituents;

3 ~~(18)~~~~(17)~~ "Good faith prior examination," as used in KRS Chapter 218A and for  
4 criminal prosecution only, means an in-person medical examination of the patient  
5 conducted by the prescribing practitioner or other health-care professional routinely  
6 relied upon in the ordinary course of his or her practice, at which time the patient is  
7 physically examined and a medical history of the patient is obtained. "In-person"  
8 includes telehealth examinations. This subsection shall not be applicable to hospice  
9 providers licensed pursuant to KRS Chapter 216B;

10 ~~(19)~~~~(18)~~ "Hazardous chemical substance" includes any chemical substance used or  
11 intended for use in the illegal manufacture of a controlled substance as defined in  
12 this section or the illegal manufacture of methamphetamine as defined in KRS  
13 218A.1431, which:

- 14           (a) Poses an explosion hazard;  
15           (b) Poses a fire hazard; or  
16           (c) Is poisonous or injurious if handled, swallowed, or inhaled;

17 ~~(20)~~~~(19)~~ "Heroin" means a substance containing any quantity of heroin, or any of its  
18 salts, isomers, or salts of isomers;

19 ~~(21)~~~~(20)~~ "Hydrocodone combination product" means a drug with:

- 20           (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of  
21 its salts, per one hundred (100) milliliters or not more than fifteen (15)  
22 milligrams per dosage unit, with a fourfold or greater quantity of an  
23 isoquinoline alkaloid of opium; or  
24           (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of  
25 its salts, per one hundred (100) milliliters or not more than fifteen (15)  
26 milligrams per dosage unit, with one (1) or more active, nonnarcotic  
27 ingredients in recognized therapeutic amounts;



1 ~~(22)~~~~(21)~~ "Immediate precursor" means a substance which is the principal compound  
2 commonly used or produced primarily for use, and which is an immediate chemical  
3 intermediary used or likely to be used in the manufacture of a controlled substance  
4 or methamphetamine, the control of which is necessary to prevent, curtail, or limit  
5 manufacture;

6 ~~(23)~~~~(22)~~ "Industrial hemp" has the same meaning as in KRS 260.850;

7 ~~(24)~~~~(23)~~ "Industrial hemp products" has the same meaning as in KRS 260.850;

8 ~~(25)~~~~(24)~~ "Intent to manufacture" means any evidence which demonstrates a person's  
9 conscious objective to manufacture a controlled substance or methamphetamine.  
10 Such evidence includes but is not limited to statements and a chemical substance's  
11 usage, quantity, manner of storage, or proximity to other chemical substances or  
12 equipment used to manufacture a controlled substance or methamphetamine;

13 ~~(26)~~~~(25)~~ "Isomer" means the optical isomer, except the Cabinet for Health and Family  
14 Services may include the optical, positional, or geometric isomer to classify any  
15 substance pursuant to KRS 218A.020;

16 ~~(27)~~~~(26)~~ "Manufacture," except as provided in KRS 218A.1431, means the production,  
17 preparation, propagation, compounding, conversion, or processing of a controlled  
18 substance, either directly or indirectly by extraction from substances of natural  
19 origin or independently by means of chemical synthesis, or by a combination of  
20 extraction and chemical synthesis, and includes any packaging or repackaging of the  
21 substance or labeling or relabeling of its container except that this term does not  
22 include activities:

23 (a) By a practitioner as an incident to his or her administering or dispensing of a  
24 controlled substance in the course of his or her professional practice;

25 (b) By a practitioner, or by his or her authorized agent under his supervision, for  
26 the purpose of, or as an incident to, research, teaching, or chemical analysis  
27 and not for sale; or

1 (c) By a pharmacist as an incident to his or her dispensing of a controlled  
2 substance in the course of his or her professional practice;

3 ~~(28)~~~~(27)~~ "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or  
4 not; the seeds thereof; the resin extracted from any part of the plant; and every  
5 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its  
6 seeds or resin or any compound, mixture, or preparation which contains any  
7 quantity of these substances. The term "marijuana" does not include:

8 (a) Industrial hemp that is in the possession, custody, or control of a person who  
9 holds a license issued by the Department of Agriculture permitting that person  
10 to cultivate, handle, or process industrial hemp;

11 (b) Industrial hemp products that do not include any living plants, viable seeds,  
12 leaf materials, or floral materials;

13 (c) The substance cannabidiol, when transferred, dispensed, or administered  
14 pursuant to the written order of a physician practicing at a hospital or  
15 associated clinic affiliated with a Kentucky public university having a college  
16 or school of medicine;

17 (d) For persons participating in a clinical trial or in an expanded access program,  
18 a drug or substance approved for the use of those participants by the United  
19 States Food and Drug Administration;

20 (e) A cannabidiol product derived from industrial hemp, as defined in KRS  
21 260.850; or

22 (f) A cannabidiol product approved as a prescription medication by the United  
23 States Food and Drug Administration;

24 ~~(29)~~~~(28)~~ "Medical history," as used in KRS Chapter 218A and for criminal prosecution  
25 only, means an accounting of a patient's medical background, including but not  
26 limited to prior medical conditions, prescriptions, and family background;

27 ~~(30)~~~~(29)~~ "Medical order," as used in KRS Chapter 218A and for criminal prosecution

1           only, means a lawful order of a specifically identified practitioner for a specifically  
2           identified patient for the patient's health-care needs. "Medical order" may or may  
3           not include a prescription drug order;

4           (31)~~[(30)]~~ "Medical record," as used in KRS Chapter 218A and for criminal prosecution  
5           only, means a record, other than for financial or billing purposes, relating to a  
6           patient, kept by a practitioner as a result of the practitioner-patient relationship;

7           (32)~~[(31)]~~ "Methamphetamine" means any substance that contains any quantity of  
8           methamphetamine, or any of its salts, isomers, or salts of isomers;

9           (33)~~[(32)]~~ "Narcotic drug" means any of the following, whether produced directly or  
10          indirectly by extraction from substances of vegetable origin, or independently by  
11          means of chemical synthesis, or by a combination of extraction and chemical  
12          synthesis:

13          (a) Opium and opiate, and any salt, compound, derivative, or preparation of  
14          opium or opiate;

15          (b) Any salt, compound, isomer, derivative, or preparation thereof which is  
16          chemically equivalent or identical with any of the substances referred to in  
17          paragraph (a) of this subsection, but not including the isoquinoline alkaloids  
18          of opium;

19          (c) Opium poppy and poppy straw;

20          (d) Coca leaves, except coca leaves and extracts of coca leaves from which  
21          cocaine, ecgonine, and derivatives of ecgonine or their salts have been  
22          removed;

23          (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

24          (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

25          (g) Any compound, mixture, or preparation which contains any quantity of any of  
26          the substances referred to in paragraphs (a) to (f) of this subsection;

27          (34)~~[(33)]~~ "Opiate" means any substance having an addiction-forming or addiction-

1       sustaining liability similar to morphine or being capable of conversion into a drug  
2       having addiction-forming or addiction-sustaining liability. It does not include,  
3       unless specifically designated as controlled under KRS 218A.020, the  
4       dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts  
5       (dextromethorphan). It does include its racemic and levorotatory forms;

6       (35)~~[(34)]~~ "Opium poppy" means the plant of the species *papaver somniferum* L., except  
7       its seeds;

8       (36)~~[(35)]~~ "Person" means individual, corporation, government or governmental  
9       subdivision or agency, business trust, estate, trust, partnership or association, or any  
10       other legal entity;

11       (37)~~[(36)]~~ "Physical injury" has the same meaning it has in KRS 500.080;

12       (38)~~[(37)]~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after  
13       mowing;

14       (39)~~[(38)]~~ "Pharmacist" means a natural person licensed by this state to engage in the  
15       practice of the profession of pharmacy;

16       (40)~~[(39)]~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific  
17       investigator, optometrist as authorized in KRS 320.240, advanced practice  
18       registered nurse as authorized under KRS 314.011, or other person licensed,  
19       registered, or otherwise permitted by state or federal law to acquire, distribute,  
20       dispense, conduct research with respect to, or to administer a controlled substance  
21       in the course of professional practice or research in this state. "Practitioner" also  
22       includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered  
23       nurse authorized under KRS 314.011 who is a resident of and actively practicing in  
24       a state other than Kentucky and who is licensed and has prescriptive authority for  
25       controlled substances under the professional licensing laws of another state, unless  
26       the person's Kentucky license has been revoked, suspended, restricted, or probated,  
27       in which case the terms of the Kentucky license shall prevail;

1 ~~(41)~~~~((40))~~ "Practitioner-patient relationship," as used in KRS Chapter 218A and for  
2 criminal prosecution only, means a medical relationship that exists between a  
3 patient and a practitioner or the practitioner's designee, after the practitioner or his  
4 or her designee has conducted at least one (1) good faith prior examination;

5 ~~(42)~~~~((41))~~ "Prescription" means a written, electronic, or oral order for a drug or  
6 medicine, or combination or mixture of drugs or medicines, or proprietary  
7 preparation, signed or given or authorized by a medical, dental, chiropractic,  
8 veterinarian, optometric practitioner, or advanced practice registered nurse, and  
9 intended for use in the diagnosis, cure, mitigation, treatment, or prevention of  
10 disease in man or other animals;

11 ~~(43)~~~~((42))~~ "Prescription blank," with reference to a controlled substance, means a  
12 document that meets the requirements of KRS 218A.204 and 217.216;

13 ~~(44)~~~~((43))~~ "Presumptive probation" means a sentence of probation not to exceed the  
14 maximum term specified for the offense, subject to conditions otherwise authorized  
15 by law, that is presumed to be the appropriate sentence for certain offenses  
16 designated in this chapter, notwithstanding contrary provisions of KRS Chapter  
17 533. That presumption shall only be overcome by a finding on the record by the  
18 sentencing court of substantial and compelling reasons why the defendant cannot be  
19 safely and effectively supervised in the community, is not amenable to community-  
20 based treatment, or poses a significant risk to public safety;

21 ~~(45)~~~~((44))~~ "Production" includes the manufacture, planting, cultivation, growing, or  
22 harvesting of a controlled substance;

23 ~~(46)~~~~((45))~~ "Recovery program" means an evidence-based, nonclinical service that assists  
24 individuals and families working toward sustained recovery from substance use and  
25 other criminal risk factors. This can be done through an array of support programs  
26 and services that are delivered through residential and nonresidential means;

27 ~~(47)~~~~((46))~~ "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the

1 plant presently classified botanically as *Salvia divinorum*, whether growing or not,  
2 the seeds thereof, any extract from any part of that plant, and every compound,  
3 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its  
4 extracts, including salts, isomers, and salts of isomers whenever the existence of  
5 such salts, isomers, and salts of isomers is possible within the specific chemical  
6 designation of that plant, its seeds, or extracts. The term shall not include any other  
7 species in the genus *salvia*;

8 ~~(48)~~~~((47))~~ "Second or subsequent offense" means that for the purposes of this chapter an  
9 offense is considered as a second or subsequent offense, if, prior to his or her  
10 conviction of the offense, the offender has at any time been convicted under this  
11 chapter, or under any statute of the United States, or of any state relating to  
12 substances classified as controlled substances or counterfeit substances, except that  
13 a prior conviction for a nontrafficking offense shall be treated as a prior offense  
14 only when the subsequent offense is a nontrafficking offense. For the purposes of  
15 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not  
16 constitute a conviction under this chapter;

17 ~~(49)~~~~((48))~~ "Sell" means to dispose of a controlled substance to another person for  
18 consideration or in furtherance of commercial distribution;

19 ~~(50)~~~~((49))~~ "Serious physical injury" has the same meaning it has in KRS 500.080;

20 ~~(51)~~~~((50))~~ "Synthetic cannabinoids or piperazines" means any chemical compound which  
21 is not approved by the United States Food and Drug Administration or, if approved,  
22 which is not dispensed or possessed in accordance with state and federal law, that  
23 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-  
24 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-  
25 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any  
26 compound in the following structural classes:

27 (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole

- 1 structure with substitution at the nitrogen atom of the indole ring by an alkyl,  
2 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
3 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further  
4 substituted in the indole ring to any extent and whether or not substituted in  
5 the naphthyl ring to any extent. Examples of this structural class include but  
6 are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081,  
7 JWH-122, JWH-200, and AM-2201;
- 8 (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole  
9 structure with substitution at the nitrogen atom of the indole ring by an alkyl,  
10 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
11 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further  
12 substituted in the indole ring to any extent and whether or not substituted in  
13 the phenyl ring to any extent. Examples of this structural class include but are  
14 not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
- 15 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with  
16 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,  
17 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,  
18 or 2-(4-morpholinyl)ethyl group whether or not further substituted in the  
19 indole ring to any extent and whether or not substituted in the phenyl ring to  
20 any extent. Examples of this structural class include but are not limited to  
21 AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
- 22 (d) Cyclohexylphenols: Any compound containing a 2-(3-  
23 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the  
24 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,  
25 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl  
26 group whether or not substituted in the cyclohexyl ring to any extent.  
27 Examples of this structural class include but are not limited to CP 47,497 and

- 1 its C8 homologue (cannabicyclohexanol);
- 2 (e) Naphthylmethyloindoles: Any compound containing a 1H-indol-3-yl-(1-  
3 naphthyl)methane structure with substitution at the nitrogen atom of the indole  
4 ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-  
5 methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not  
6 further substituted in the indole ring to any extent and whether or not  
7 substituted in the naphthyl ring to any extent. Examples of this structural class  
8 include but are not limited to JWH-175, JWH-184, and JWH-185;
- 9 (f) Naphthoypyrroles: Any compound containing a 3-(1-naphthoypyrrole  
10 structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl,  
11 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
12 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further  
13 substituted in the pyrrole ring to any extent and whether or not substituted in  
14 the naphthyl ring to any extent. Examples of this structural class include but  
15 are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- 16 (g) Naphthylmethyloindenes: Any compound containing a 1-(1-  
17 naphthylmethyl)indene structure with substitution at the 3-position of the  
18 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
19 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether  
20 or not further substituted in the indene ring to any extent and whether or not  
21 substituted in the naphthyl ring to any extent. Examples of this structural class  
22 include but are not limited to JWH-176;
- 23 (h) Tetramethylcyclopropanoyloindoles: Any compound containing a 3-(1-  
24 tetramethylcyclopropoyl)indole structure with substitution at the nitrogen  
25 atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl,  
26 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl  
27 group, whether or not further substituted in the indole ring to any extent and



1 whether or not further substituted in the tetramethylcyclopropyl ring to any  
2 extent. Examples of this structural class include but are not limited to UR-144  
3 and XLR-11;

4 (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole  
5 structure with substitution at the nitrogen atom of the indole ring by an alkyl,  
6 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
7 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further  
8 substituted in the indole ring to any extent and whether or not substituted in  
9 the adamantyl ring system to any extent. Examples of this structural class  
10 include but are not limited to AB-001 and AM-1248; or

11 (j) Any other synthetic cannabinoid or piperazine which is not approved by the  
12 United States Food and Drug Administration or, if approved, which is not  
13 dispensed or possessed in accordance with state and federal law;

14 ~~(52)~~~~(54)~~ "Synthetic cathinones" means any chemical compound which is not approved  
15 by the United States Food and Drug Administration or, if approved, which is not  
16 dispensed or possessed in accordance with state and federal law (not including  
17 bupropion or compounds listed under a different schedule) structurally derived from  
18 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl,  
19 or thiophene ring systems, whether or not the compound is further modified in one  
20 (1) or more of the following ways:

21 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,  
22 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further  
23 substituted in the ring system by one (1) or more other univalent substituents.  
24 Examples of this class include but are not limited to 3,4-  
25 Methylenedioxcathinone (bk-MDA);

26 (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of  
27 this class include but are not limited to 2-methylamino-1-phenylbutan-1-one

1 (buphedrone);

2 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or  
3 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a  
4 cyclic structure. Examples of this class include but are not limited to  
5 Dimethylcathinone, Ethcathinone, and  $\alpha$ -Pyrrolidinopropiophenone ( $\alpha$ -PPP);  
6 or

7 (d) Any other synthetic cathinone which is not approved by the United States  
8 Food and Drug Administration or, if approved, is not dispensed or possessed  
9 in accordance with state or federal law;

10 ~~(53)~~~~(52)~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any  
11 synthetic cathinones;

12 ~~(54)~~~~(53)~~ "Telehealth" has the same meaning it has in KRS 311.550;

13 ~~(55)~~~~(54)~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances  
14 contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or  
15 synthetic substances, derivatives, and their isomers with similar chemical structure  
16 and pharmacological activity such as the following:

17 (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;

18 (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and

19 (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

20 ~~(56)~~~~(55)~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture,  
21 distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute,  
22 dispense, or sell a controlled substance;

23 ~~(57)~~~~(56)~~ "Transfer" means to dispose of a controlled substance to another person  
24 without consideration and not in furtherance of commercial distribution; and

25 ~~(58)~~~~(57)~~ "Ultimate user" means a person who lawfully possesses a controlled substance  
26 for his or her own use or for the use of a member of his or her household or for  
27 administering to an animal owned by him or her or by a member of his or her

1 household.

2 ➔Section 5. KRS 218A.205 is amended to read as follows:

3 (1) As used in this section:

4 (a) "Reporting agency" includes:

- 5 1. The Department of Kentucky State Police;
- 6 2. The Office of the Attorney General;
- 7 3. The Cabinet for Health and Family Services; and
- 8 4. The applicable state licensing board; and

9 (b) "State licensing board" means:

- 10 1. The Kentucky Board of Medical Licensure;
- 11 2. The Kentucky Board of Nursing;
- 12 3. The Kentucky Board of Dentistry;
- 13 4. The Kentucky Board of Optometric Examiners;
- 14 5. The State Board of Podiatry; and
- 15 6. Any other board that licenses or regulates a person who is entitled to
- 16 prescribe or dispense controlled substances to humans.

17 (2) (a) When a reporting agency or a law enforcement agency receives a report of  
18 improper, inappropriate, or illegal prescribing or dispensing of a controlled  
19 substance it may, to the extent otherwise allowed by law, send a copy of the  
20 report within three (3) business days to every other reporting agency.

21 (b) A county attorney or Commonwealth's attorney shall notify the Office of the  
22 Attorney General and the appropriate state licensing board within three (3)  
23 business days of an indictment or a waiver of indictment becoming public in  
24 his or her jurisdiction charging a licensed person with a felony offense relating  
25 to the manufacture of, trafficking in, prescribing, dispensing, or possession of  
26 a controlled substance.

27 (3) Each state licensing board shall, in consultation with the Kentucky Office of Drug

1 Control Policy, establish the following by administrative regulation for those  
2 licensees authorized to prescribe or dispense controlled substances:

3 (a) Mandatory prescribing and dispensing standards related to controlled  
4 substances, the requirements of which shall include the diagnostic, treatment,  
5 review, and other protocols and standards established for Schedule II  
6 controlled substances and Schedule III controlled substances containing  
7 hydrocodone under KRS 218A.172 and which may include the exemptions  
8 authorized by KRS 218A.172(4);

9 (b) In accord with the CDC Guideline for Prescribing Opioids for Chronic Pain  
10 published in 2016, a prohibition on a practitioner issuing a prescription for a  
11 Schedule II controlled substance for more than a three (3) day supply of a  
12 Schedule II controlled substance if the prescription is intended to treat pain as  
13 an acute medical condition, with the following exceptions:

14 1. The practitioner, in his or her professional judgment, believes that more  
15 than a three (3) day supply of a Schedule II controlled substance is  
16 medically necessary to treat the patient's pain as an acute medical  
17 condition and the practitioner adequately documents the acute medical  
18 condition and lack of alternative treatment options which justifies  
19 deviation from the three (3) day supply limit established in this  
20 subsection in the patient's medical records;

21 2. The prescription for a Schedule II controlled substance is prescribed to  
22 treat chronic pain;

23 3. The prescription for a Schedule II controlled substance is prescribed to  
24 treat pain associated with a valid cancer diagnosis;

25 4. The prescription for a Schedule II controlled substance is prescribed to  
26 treat pain while the patient is receiving hospice or end-of-life treatment  
27 *or is receiving care from a certified community based palliative care*

1                    program;

2                    5. The prescription for a Schedule II controlled substance is prescribed as  
3                    part of a narcotic treatment program licensed by the Cabinet for Health  
4                    and Family Services;

5                    6. The prescription for a Schedule II controlled substance is prescribed to  
6                    treat pain following a major surgery or the treatment of significant  
7                    trauma, as defined by the state licensing board in consultation with the  
8                    Kentucky Office of Drug Control Policy;

9                    7. The Schedule II controlled substance is dispensed or administered  
10                    directly to an ultimate user in an inpatient setting; or

11                    8. Any additional treatment scenario deemed medically necessary by the  
12                    state licensing board in consultation with the Kentucky Office of Drug  
13                    Control Policy.

14                    Nothing in this paragraph shall authorize a state licensing board to promulgate  
15                    regulations which expand any practitioner's prescriptive authority beyond that  
16                    which existed prior to June 29, 2017;

17                    (c) A prohibition on a practitioner dispensing greater than a forty-eight (48) hour  
18                    supply of any Schedule II controlled substance or a Schedule III controlled  
19                    substance containing hydrocodone unless the dispensing is done as part of a  
20                    narcotic treatment program licensed by the Cabinet for Health and Family  
21                    Services;

22                    (d) A procedure for temporarily suspending, limiting, or restricting a license held  
23                    by a named licensee where a substantial likelihood exists to believe that the  
24                    continued unrestricted practice by the named licensee would constitute a  
25                    danger to the health, welfare, or safety of the licensee's patients or of the  
26                    general public;

27                    (e) A procedure for the expedited review of complaints filed against their

1 licensees pertaining to the improper, inappropriate, or illegal prescribing or  
2 dispensing of controlled substances that is designed to commence an  
3 investigation within seven (7) days of a complaint being filed and produce a  
4 charging decision by the board on the complaint within one hundred twenty  
5 (120) days of the receipt of the complaint, unless an extension for a definite  
6 period of time is requested by a law enforcement agency due to an ongoing  
7 criminal investigation;

8 (f) The establishment and enforcement of licensure standards that conform to the  
9 following:

- 10 1. A permanent ban on licensees and applicants convicted after July 20,  
11 2012, in this state or any other state of any felony offense relating to  
12 controlled substances from prescribing or dispensing a controlled  
13 substance;
- 14 2. Restrictions short of a permanent ban on licensees and applicants  
15 convicted in this state or any other state of any misdemeanor offense  
16 relating to prescribing or dispensing a controlled substance;
- 17 3. Restrictions mirroring in time and scope any disciplinary limitation  
18 placed on a licensee or applicant by a licensing board of another state if  
19 the disciplinary action results from improper, inappropriate, or illegal  
20 prescribing or dispensing of controlled substances; and
- 21 4. A requirement that licensees and applicants report to the board any  
22 conviction or disciplinary action covered by this subsection with  
23 appropriate sanctions for any failure to make this required report;

24 (g) A procedure for the continuous submission of all disciplinary and other  
25 reportable information to the National Practitioner Data Bank of the United  
26 States Department of Health and Human Services;

27 (h) If not otherwise required by other law, a process for submitting a query on

- 1 each applicant for licensure to the National Practitioner Data Bank of the  
2 United States Department of Health and Human Services to retrieve any  
3 relevant data on the applicant; and
- 4 (i) Continuing education requirements beginning with the first full educational  
5 year occurring after July 1, 2012, that specify that at least seven and one-half  
6 percent (7.5%) of the continuing education required of the licensed  
7 practitioner relate to the use of the electronic monitoring system established in  
8 KRS 218A.202, pain management, or addiction disorders.
- 9 (4) For the purposes of pharmacy dispensing, the medical necessity for a Schedule II  
10 controlled substance as documented by the practitioner in the patient's medical  
11 record and the prescription for more than a three (3) day supply of that controlled  
12 substance are presumed to be valid.
- 13 (5) A state licensing board shall employ or obtain the services of a specialist in the  
14 treatment of pain and a specialist in drug addiction to evaluate information received  
15 regarding a licensee's prescribing or dispensing practices related to controlled  
16 substances if the board or its staff does not possess such expertise, to ascertain if the  
17 licensee under investigation is engaging in improper, inappropriate, or illegal  
18 practices.
- 19 (6) Any statute to the contrary notwithstanding, no state licensing board shall require  
20 that a grievance or complaint against a licensee relating to controlled substances be  
21 sworn to or notarized, but the grievance or complaint shall identify the name and  
22 address of the grievant or complainant, unless the board by administrative  
23 regulation authorizes the filing of anonymous complaints. Any such authorizing  
24 administrative regulation shall require that an anonymous complaint or grievance be  
25 accompanied by sufficient corroborating evidence as would allow the board to  
26 believe, based upon a totality of the circumstances, that a reasonable probability  
27 exists that the complaint or grievance is meritorious.

1 (7) Every state licensing board shall cooperate to the maximum extent permitted by law  
2 with all state, local, and federal law enforcement agencies, and all professional  
3 licensing boards and agencies, state and federal, in the United States or its territories  
4 in the coordination of actions to deter the improper, inappropriate, or illegal  
5 prescribing or dispensing of a controlled substance.

6 (8) Each state licensing board shall require a fingerprint-supported criminal record  
7 check by the Department of Kentucky State Police and the Federal Bureau of  
8 Investigation of any applicant for initial licensure to practice any profession  
9 authorized to prescribe or dispense controlled substances.