

1 AN ACT relating to the practice of pharmacy.

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

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

4 (1) No person engaged in sales at retail shall display hypodermic syringes or needles in
5 any portion of the place of business which is open or accessible to the public.

6 (2) ***Pharmacies offering retail sale of hypodermic syringes or needles shall make***
7 ***available:***

8 ***(a) Written or electronic educational materials on safe and proper disposal of***
9 ***hypodermic needles and syringes;***

10 ***(b) Written or electronic educational or referral information for syringe***
11 ***exchange service programs and substance use disorder treatment; and***

12 ***(c) A verbal, physical, or electronic offer to provide a naloxone prescription for***
13 ***opioid overdose.***

14 ***(3) Nothing in this section shall apply to the sale of hypodermic syringes or needles***
15 ***dispensed as a prescription or in conjunction with a prescription medication that***
16 ***requires reconstitution or administration with a syringe.*** ~~Every person engaged in~~

17 ~~sales of hypodermic syringes or needles at retail shall maintain a bound record in~~
18 ~~which shall be kept:~~

19 ~~(a) The name of the purchaser; and~~

20 ~~(b) The address of the purchaser; and~~

21 ~~(c) The quantity of syringes or needles purchased; and~~

22 ~~(d) The date of the sale; and~~

23 ~~(e) Planned use of such syringes or needles.~~

24 ~~(3) Said record shall be maintained for a period of two (2) years from the date of the~~
25 ~~sale and shall be available for inspection during business hours by any law~~
26 ~~enforcement officer, agent or employee of the Cabinet for Health and Family~~
27 ~~Services or Board of Pharmacy engaged in the enforcement of KRS Chapter 218A.~~

1 ~~(4) No person shall present false identification or give a false or fictitious name or~~
 2 ~~address in obtaining or attempting to obtain any hypodermic syringe or needle.~~

3 ~~(5) No person engaged in the retail sale of hypodermic syringes or needles shall:~~

4 ~~(a) Fail to keep the records required by this section; or~~

5 ~~(b) Fraudulently alter any record required to be kept by this section; or~~

6 ~~(c) Destroy, before the time period required by this section has elapsed, any~~
 7 ~~record required to be kept by this section; or~~

8 ~~(d) Sell, or otherwise dispose of, any hypodermic syringe to any person who does~~
 9 ~~not present the identification required by this section; or~~

10 ~~(e) Disclose the names in said book except to those required by this section.~~

11 ~~(6)~~(4) Any physician, other licensed medical person, hospital, or clinic disposing of
 12 hypodermic syringes or needles shall ~~[crush the barrel of same or otherwise]~~ render
 13 the instrument incapable of further use.

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

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

16 (1) "Drug paraphernalia" means all equipment, products and materials of any kind
 17 which are used, intended for use, or designed for use in planting, propagating,
 18 cultivating, growing, harvesting, manufacturing, compounding, converting,
 19 producing, processing, preparing, testing, analyzing, packaging, repackaging,
 20 storing, containing, concealing, injecting, ingesting, inhaling, or otherwise
 21 introducing into the human body a controlled substance in violation of this chapter.

22 It includes but is not limited to:

23 (a) Kits used, intended for use, or designed for use in planting, propagating,
 24 cultivating, growing, or harvesting of any species of plant which is a
 25 controlled substance or from which a controlled substance can be derived;

26 (b) Kits used, intended for use, or designed for use in manufacturing,
 27 compounding, converting, producing, processing, or preparing controlled

- 1 substances;
- 2 (c) Isomerization devices used, intended for use, or designed for use in increasing
3 the potency of any species of plant which is a controlled substance;
- 4 (d) Testing equipment used, intended for use, or designed for use in identifying,
5 or in analyzing the strength, effectiveness or purity of controlled substances;
- 6 (e) Scales and balances used, intended for use, or designed for use in weighing or
7 measuring controlled substances;
- 8 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite,
9 dextrose and lactose, used, intended for use, or designed for use in cutting
10 controlled substances;
- 11 (g) Separation gins and sifters used, intended for use, or designed for use in
12 removing twigs and seeds from, or in otherwise cleaning or refining
13 marijuana;
- 14 (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for
15 use, or designed for use in compounding controlled substances;
- 16 (i) Capsules, balloons, envelopes, and other containers used, intended for use, or
17 designed for use in packaging small quantities of controlled substances;
- 18 (j) Containers and other objects used, intended for use, or designed for use in
19 storing or concealing controlled substances;
- 20 (k) Hypodermic syringes, needles, and other objects used, intended for use, or
21 designed for use in parenterally injecting controlled substances into the human
22 body; and
- 23 (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or
24 otherwise introducing marijuana, cocaine, hashish, or hashish oil into the
25 human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic
26 pipes with or without screens, permanent screens, hashish heads, or punctured
27 metal bowls; water pipes; carburetion tubes and devices; smoking and

1 carburetion masks; roach clips which mean objects used to hold burning
2 material, such as marijuana cigarettes, that have become too small or too short
3 to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber
4 pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice
5 pipes or chillers.

6 (2) It is unlawful for any person to use, or to possess with intent to use, drug
7 paraphernalia for the purpose of planting, propagating, cultivating, growing,
8 harvesting, manufacturing, compounding, converting, producing, processing,
9 preparing, testing, analyzing, packing, repacking, storing, containing, concealing,
10 injecting, ingesting, inhaling, or otherwise introducing into the human body a
11 controlled substance in violation of this chapter.

12 (3) It is unlawful for any person to deliver, possess with intent to deliver, or
13 manufacture with intent to deliver, drug paraphernalia, knowing, or under
14 circumstances where one reasonably should know, that it will be used to plant,
15 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
16 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
17 inhale, or otherwise introduce into the human body a controlled substance in
18 violation of this chapter.

19 (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other
20 publication any advertisement, knowing, or under circumstances where one
21 reasonably should know, that the purpose of the advertisement, in whole or in part,
22 is to promote the sale of objects designed or intended for use as drug paraphernalia.

23 (5) (a) This section shall not prohibit a local health department from operating a
24 substance abuse treatment outreach program which allows participants to
25 exchange hypodermic needles and syringes.

26 (b) To operate a substance abuse treatment outreach program under this
27 subsection, the local health department shall have the consent, which may be

1 revoked at any time, of the local board of health and:

2 1. The legislative body of the first or home rule class city in which the
3 program would operate if located in such a city; and

4 2. The legislative body of the county, urban-county government, or
5 consolidated local government in which the program would operate.

6 (c) Items exchanged at the program shall not be deemed drug paraphernalia under
7 this section while located at the program.

8 (6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace
9 officer may inquire as to the presence of needles or other sharp objects in the
10 areas to be searched that may cut or puncture the officer and offer to not
11 charge a person with possession of drug paraphernalia if the person declares to
12 the officer the presence of the needle or other sharp object. If, in response to
13 the offer, the person admits to the presence of the needle or other sharp object
14 prior to the search, the person shall not be charged with or prosecuted for
15 possession of drug paraphernalia for the needle or sharp object or for
16 possession of a controlled substance for residual or trace drug amounts present
17 on the needle or sharp object.

18 (b) The exemption under this subsection shall not apply to any other drug
19 paraphernalia that may be present and found during the search or to controlled
20 substances present in other than residual or trace amounts.

21 (7) (a) *This section shall not prohibit the retail sale of hypodermic syringes and*
22 *needles without a prescription in pharmacies.*

23 (b) *Hypodermic syringe and needle inventory of a pharmacy shall not be*
24 *deemed drug paraphernalia under this section.*

25 (8) Any person who violates any provision of this section shall be guilty of a Class A
26 misdemeanor.

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

- 1 (1) No owner of a pharmacy who is not a pharmacist shall fail to place a pharmacist in
2 charge of his pharmacy or shall permit any person to compound or dispense
3 prescription drugs, medicines, or pharmaceuticals in his place of business except in
4 the presence and under the immediate supervision of a pharmacist.
- 5 (2) No manufacturer of pharmaceuticals who is not a pharmacist shall fail to place a
6 pharmacist in charge of his place of business or shall permit any person to
7 compound prescription drugs, medicines, or pharmaceuticals in his place of
8 business, except as provided by the board through the promulgation of
9 administrative regulations pursuant to KRS Chapter 13A.
- 10 (3) Except as provided in subsection (4) of this section, no person shall engage in the
11 practice of pharmacy unless licensed to practice under the provisions of KRS
12 Chapter 315.
- 13 (4) The provisions of subsection (3) of this section shall not apply to:
- 14 (a) Pharmacist interns performing professional practice activities under the
15 immediate supervision of a licensed pharmacist. The nature and scope of the
16 activities referred to in this paragraph shall be determined by the board
17 through administrative regulation promulgated pursuant to KRS Chapter 13A;
- 18 (b) Pharmacist interns and pharmacy technicians performing specifically
19 identified pharmacy practice activities while under the supervision of a
20 pharmacist. The nature and scope of the activities referred to in this paragraph
21 shall be determined by the board through administrative regulation
22 promulgated pursuant to KRS Chapter 13A;
- 23 (c) Other licensed health care professionals practicing within the statutory scope
24 of their professional practices; or
- 25 (d) Volunteer health practitioners providing services under KRS 39A.350 to
26 39A.366.
- 27 (5) (a) As used in this subsection:

- 1 1. "Order entry" means the process by which pharmacy personnel
2 validate prescription data and enter that data into a pharmacy's
3 dispensing or medication management system. Prescription data
4 includes, but is not limited to, patient demographics, prescriber
5 demographics, drug name, strength, dosage form, quantity, the
6 directions for use, refill authorization, or any clarifications of the
7 same; and
- 8 2. "Order entry verification" means the process by which a pharmacist
9 verifies prescription data entered in a pharmacy's dispensing or
10 medication management system after order entry has been completed.
- 11 (b) Nothing in this chapter shall prohibit a pharmacist licensed in Kentucky, or
12 a pharmacy technician registered in Kentucky or a pharmacy intern
13 certified in Kentucky who is working under the supervision of the
14 pharmacist, from accessing the electronic database of the pharmacy, from
15 inside or outside of the pharmacy, to perform order entry, order entry
16 verification, or drug regimen review as defined in KRS 315.010, if:
- 17 1. The pharmacy has established controls to protect the confidentiality
18 and integrity of protected health information;
- 19 2. No part of the pharmacy's database is duplicated, downloaded, or
20 removed from the electronic database;
- 21 3. The pharmacy is located in Kentucky and is permitted by the board;
22 and
- 23 4. All personnel who access the pharmacy's electronic database from
24 outside of the pharmacy reside in Kentucky or within one hundred
25 (100) miles of the pharmacy.
- 26 (c) Supervision required by paragraph (b) of this subsection may include
27 electronic supervision.

1 (d) This subsection shall only apply to pharmacies that are not open to the
2 public and do not dispense to walk-in patients in a retail setting.

3 (e) Nothing in this subsection shall be construed to authorize final product
4 verification and dispensing of a prescription from a location outside of or
5 other than a pharmacy.

6 (f) Nothing in this subsection permits pharmacists, pharmacy technicians, or
7 pharmacy interns to receive hard copy prescriptions outside of the premises
8 of a permitted pharmacy.

9 (6) Effective April 1, 2009, an owner of a pharmacy shall not employ a person to assist
10 in the practice of pharmacy unless the person is registered as a pharmacy technician
11 by the board or exempt under KRS 315.135.