HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM

2022 REGULAR SESSION

Amend printed copy of **HB 354/HCS 1**

On page 1, line 3, to page 13, line 12, delete Sections 1 and 2 in their entirety and insert the following in lieu thereof:

"➔Section 1. KRS 314.042 is amended to read as follows:

(1) An applicant for licensure to practice as an advanced practice registered nurse shall file with the board a written application for licensure and submit evidence, verified by oath, that the applicant:

(a) Has completed an education program that prepares the registered nurse for one (1) of four (4) APRN roles that has been accredited by a national nursing accrediting body recognized by the United States Department of Education;

(b) Is certified by a nationally established organization or agency recognized by the board to certify registered nurses for advanced practice registered nursing;

(c) Is able to understandably speak and write the English language and to read the English language with comprehension; and

(d) Has passed the jurisprudence examination approved by the board as provided in subsection (12) of this section.

(2) The board may issue a license to practice advanced practice registered nursing to an applicant who holds a current active registered nurse license issued by the board or holds the privilege to practice as a registered nurse in this state and meets the qualifications of

Amendment No. HFA 3 Rep. Rep. Kimberly Poore Moser

Committee Amendment Signed:

Floor Amendment LRC Drafter:

Adopted: Date:

Rejected: Doc. ID: XXXX

subsection (1) of this section. An advanced practice registered nurse shall be:

(a) Designated by the board as a certified registered nurse anesthetist, certified nurse midwife, certified nurse practitioner, or clinical nurse specialist; and

(b) Certified in at least one (1) population focus.

(3) The applicant for licensure or renewal thereof to practice as an advanced practice registered nurse shall pay a fee to the board as set forth in regulation by the board.

(4) An advanced practice registered nurse shall maintain a current active registered nurse license issued by the board or hold the privilege to practice as a registered nurse in this state and maintain current certification by the appropriate national organization or agency recognized by the board.

(5) Any person who holds a license to practice as an advanced practice registered nurse in this state shall have the right to use the title "advanced practice registered nurse" and the abbreviation "APRN." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced practice registered nurse. No person shall practice as an advanced practice registered nurse unless licensed under this section.

(6) Any person heretofore licensed as an advanced practice registered nurse under the provisions of this chapter who has allowed the license to lapse may be reinstated on payment of the current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.

(7) The board may authorize a person to practice as an advanced practice registered nurse temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting licensure by endorsement.

(8) (a) Except as authorized by subsection (9) of this section, before an advanced practice

registered nurse engages in the prescribing or dispensing of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced practice registered nurse shall enter into a written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs" (CAPA-NS) with a physician licensed in Kentucky that defines the scope of the prescriptive authority for nonscheduled legend drugs.

(b) The advanced practice registered nurse shall notify the Kentucky Board of Nursing of the existence of the CAPA-NS and the name of the collaborating physician and shall, upon request, furnish to the board or its staff a copy of the completed CAPA-NS. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-NS exists and furnish the collaborating physician's name.

(c) The CAPA-NS shall be in writing and signed by both the advanced practice registered nurse and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced practice registered nurse is providing patient care.

(d) The CAPA-NS shall describe the arrangement for collaboration and communication between the advanced practice registered nurse and the collaborating physician regarding the prescribing of nonscheduled legend drugs by the advanced practice registered nurse.

(e) The advanced practice registered nurse who is prescribing nonscheduled legend drugs and the collaborating physician shall be qualified in the same or a similar specialty.

(f) The CAPA-NS is not intended to be a substitute for the exercise of professional judgment by the advanced practice registered nurse or by the collaborating physician.

(g) The CAPA-NS shall be reviewed and signed by both the advanced practice registered

nurse and the collaborating physician and may be rescinded by either party upon written notice to the other party and the Kentucky Board of Nursing.

(9) (a) Before an advanced practice registered nurse may discontinue or be exempt from a CAPA-NS required under subsection (8) of this section, the advanced practice registered nurse shall have completed four (4) years of prescribing as a ***certified*** nurse practitioner, clinical nurse specialist, ***certified*** nurse midwife, or as a ***certified registered*** nurse anesthetist. For ***certified*** nurse practitioners and clinical nurse specialists, the four (4) years of prescribing shall be in a population focus as defined in KRS 314.011.

(b) After four (4) years of prescribing with a CAPA-NS in collaboration with a physician:

1. An advanced practice registered nurse whose license is in good standing at that time with the Kentucky Board of Nursing and who will be prescribing nonscheduled legend drugs without a CAPA-NS shall notify that board that the four (4) year requirement has been met and that he or she will be prescribing nonscheduled legend drugs without a CAPA-NS;
2. The advanced practice registered nurse will no longer be required to maintain a CAPA-NS and shall not be compelled to maintain a CAPA-NS as a condition to prescribe after the four (4) years have expired, but an advanced practice registered nurse may choose to maintain a CAPA-NS indefinitely after the four (4) years have expired; and
3. If the advanced practice registered nurse's license is not in good standing, the CAPA-NS requirement shall not be removed until the license is restored to good standing.

(c) An advanced practice registered nurse wishing to practice in Kentucky through

licensure by endorsement is exempt from the CAPA-NS requirement if the advanced practice registered nurse:

1. Has met the prescribing requirements in a state that grants independent prescribing to advanced practice registered nurses; and
2. Has been prescribing for at least four (4) years.

(d) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement who had a collaborative prescribing agreement with a physician in another state for at least four (4) years is exempt from the CAPA-NS requirement.

(10) (a) ***Except as provided in subsections (13) and (14) of this section,*** before an advanced practice registered nurse engages in the prescribing of Schedules II through V controlled substances as authorized by KRS 314.011(8), the advanced practice registered nurse shall enter into a ***standardized*** written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances" (CAPA-CS) with a physician licensed in Kentucky ***who is in good standing with the Kentucky Board of Medical Licensure,*** that defines the scope of the prescriptive authority for controlled substances.

(b) ***The standardized written CAPA-CS shall be developed by the Kentucky Board of Medical Licensure.***

(c) The advanced practice registered nurse shall notify the Kentucky Board of Nursing of the existence of the CAPA-CS and the name of the collaborating physician and shall~~[, upon request,]~~ furnish to the board or its staff a copy of the completed CAPA-CS. ***The Board of Nursing shall make available a standardized CAPA-CS agreement form based on the requirements developed under paragraph (b) of this subsection.***

The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-CS exists and furnish ***a copy of the completed CAPA-CS to the Kentucky Board of Medical Licensure*** ~~[the collaborating physician's name]~~.

(d) ~~[(c)]~~ The CAPA-CS shall be in writing and signed by both the advanced practice registered nurse and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced practice registered nurse is providing patient care.

(e) ~~[(d)]~~ The CAPA-CS shall describe the arrangement for collaboration and communication between the advanced practice registered nurse and the collaborating physician regarding the prescribing of controlled substances by the advanced practice registered nurse ***and shall include but not be limited to:***

1. Standards for medical chart reviews by the collaborating physician;

2. A requirement for an in-person evaluation of the patient by the collaborating physician at least annually;

3. Standards for the review of reports from the electronic monitoring system established under KRS 218A.202 for each patient receiving controlled substances under the collaborative agreement; and

4. A schedule for at least quarterly meetings between the collaborating physician and the advanced practice registered nurse to review and discuss:

a. The status of the CAPA-CS;

b. A list of any controlled substances that shall not be covered by the collaborative agreement;

c. Any restrictions on quantities of controlled substances to be prescribed pursuant to the CAPA-CS; and

d. Specific instances when an advanced practice registered nurse shall communicate with the physician prior to prescribing a controlled substance.

(f) ~~[(e)]~~ The advanced practice registered nurse who is prescribing controlled substances and the collaborating physician shall be qualified in the same or a similar specialty.

(g) ~~[(f)]~~ The CAPA-CS is not intended to be a substitute for the exercise of professional judgment by the advanced practice registered nurse or by the collaborating physician.

(h) ~~[(g)]~~ Before engaging in the prescribing of controlled substances, the advanced practice registered nurse shall:

1. Have been licensed to practice as an advanced practice registered nurse for ***two (2) years*** ~~[one (1) year]~~ with the Kentucky Board of Nursing; or
2. Be nationally certified as an advanced practice registered nurse and be registered, certified, or licensed in good standing as an advanced practice registered nurse in another state for ***two (2) years*** ~~[one (1) year]~~ prior to applying for licensure by endorsement in Kentucky.

(i) ~~[(h)]~~ Prior to prescribing controlled substances, the advanced practice registered nurse shall obtain a Controlled Substance Registration Certificate through the ***United States*** ~~[U.S.]~~ Drug Enforcement ***Administration*** ~~[Agency]~~.

(j) ~~[(i)]~~ The CAPA-CS shall be reviewed and signed by both the advanced practice registered nurse and the collaborating physician and may be rescinded by either party upon written notice to the other party and the Kentucky Board of Nursing.

(k) ~~[(j)]~~ The CAPA-CS shall state the limits on controlled substances which may be prescribed by the advanced practice registered nurse, as agreed to by the advanced practice registered nurse and the collaborating physician. ***The CAPA-CS agreement***

may be individualized to accommodate variations in practice. The limits so imposed may be more stringent than either the schedule limits on controlled substances established in KRS 314.011(8) or the limits imposed in regulations promulgated by the Kentucky Board of Nursing thereunder.

(l) ~~[(k)]~~ Within thirty (30) days of obtaining a Controlled Substance Registration Certificate from the United States Drug Enforcement Administration, and prior to prescribing controlled substances, the advanced practice registered nurse shall register with the electronic system for monitoring controlled substances established by KRS 218A.202 and shall provide a copy of the registration certificate to the board.

(m) Each advanced practice registered nurse prescribing under a CAPA-CS shall at least annually report the following information to a central data system created and maintained by the Kentucky Board of Nursing:

1. Financial arrangements for each CAPA-CS agreement, even if there is no cost involved;

2. The number of collaborators and collaborative agreements; and

3. Each address where services are being provided by the advanced practice registered nurse.

(11) Nothing in this chapter shall be construed as requiring an advanced practice registered nurse designated by the board as a certified registered nurse anesthetist to enter into a collaborative agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

(12) The jurisprudence examination shall be prescribed by the board and be conducted on the licensing requirements under this chapter and board regulations and requirements applicable to advanced practice registered nursing in this Commonwealth. The board shall

promulgate administrative regulations in accordance with KRS Chapter 13A, establishing the provisions to meet this requirement.

(13) (a) Except as provided in subsection (14) of this section, before an advanced practice registered nurse who wishes to continue to prescribe controlled substances may discontinue or be exempt from a CAPA-CS required under subsection (10) of this section, the advanced practice registered nurse shall have completed eight (8) years of prescribing authority for controlled substances, while maintaining a CAPA-CS, United States Drug Enforcement Administration registration, and a master account with the electronic system for monitoring controlled substances established by KRS 218A.202.

(b) On or after the effective date of this Act:

1. An advanced practice registered nurse who has had eight (8) years of prescribing authority with a CAPA-CS and who wishes to prescribe controlled substances without a CAPA-CS shall submit, via the APRN update portal, a request for review from the Kentucky Board of Nursing that the advanced practice registered nurse's license is in good standing;

2. The advanced practice registered nurse shall not prescribe controlled substances without a CAPA-CS until the board has completed its review and has notified the advanced practice registered nurse in writing that the advanced practice registered nurse is exempt from the CAPA-CS requirement; and

3. The review request shall include the payment of a fee set by the board through the promulgation of an administrative regulation.

(c) Upon receipt of a request pursuant to this subsection, the Kentucky Board of

Nursing shall perform a review to determine whether the license of the advanced practice registered nurse is in good standing based upon an evaluation of the criteria specified in this subsection and in the administrative regulation promulgated by the board pursuant to this subsection, including but not limited to:

1. Verification that a current United States Drug Enforcement Administration registration certificate for the advanced practice registered nurse is on file with the board;

2. Verification that a current CAPA-CS notification for the advanced practice registered nurse is on file with the board;

3. Verification that the advanced practice registered nurse has an active master account with the electronic system for monitoring controlled substances pursuant to KRS 218A.202;

4. Verification through a criminal background check of the absence of any unreported misdemeanor or felony convictions in Kentucky; and

5. Verification through a check of the coordinated licensure information system specified in KRS 314.475 of the absence of any unreported disciplinary actions in another state.

(d) Based on the findings of these actions, the Kentucky Board of Nursing shall determine whether or not the advanced practice registered nurse's license is in good standing for the purpose of removing the requirement for the advanced practice registered nurse to have a CAPA-CS in order to prescribe controlled substances.

(e) If the advanced practice registered nurse's license is found to be in good standing, the advanced practice registered nurse shall be notified by the board in writing that

a CAPA-CS is no longer required. The advanced practice registered nurse shall not be required to maintain a CAPA-CS as a condition to prescribe controlled substances unless the board later imposes such a requirement as part of an action instituted under KRS 314.091(1). An advanced practice registered nurse may choose to maintain a CAPA-CS indefinitely after the determination of good standing has been made. An advanced practice registered nurse who chooses to practice without a CAPA-CS shall be held to the same standard of care as all other providers with prescriptive authority.

(f) If the advanced practice registered nurse's license is found not to be in good standing, the CAPA-CS requirement shall not be removed until the license is restored to good standing, as directed by the board.

(g) The Kentucky Board of Nursing may conduct random audits of the prescribing practices of advanced practice registered nurses, including those who are no longer required to have a CAPA-CS in order to prescribe, through a review of data obtained from the electronic system for monitoring controlled substances pursuant to KRS 218A.202 and may take disciplinary action under KRS 314.091(1) if a violation has occurred.

(14) (a) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement is exempt from the CAPA-CS requirement if the advanced practice registered nurse:

1. Has met the prescribing requirements for controlled substances in a state that grants such prescribing authority to advanced practice registered nurses;

2. Has had authority to prescribe controlled substances for at least eight (8) years; and

3. Has a license in good standing as described in subsection (13) of this section and in the administrative regulation promulgated by the board pursuant to subsection (13) of this section.

(b) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement who has had the authority to prescribe controlled substances for less than eight (8) years and wishes to continue to prescribe controlled substances shall enter into a CAPA-CS with a physician licensed in Kentucky until the cumulative eight (8) year requirement is met, after which the advanced practice registered nurse who wishes to prescribe controlled substances without a CAPA-CS shall follow the process identified in subsection (13) of this section and in the administrative regulation promulgated by the board pursuant to subsection (13) of this section.

(15) An advanced practice registered nurse shall not prescribe controlled substances without a CAPA-CS until the board has completed its review and has notified the advanced practice registered nurse in writing that the advanced practice registered nurse is exempt from the CAPA-CS requirement.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Controlled Substance Prescribing Review and Enforcement Advisory Council to provide advice, guidance, and recommendations to state licensing boards charged with enforcing and reviewing prescribing practices.

(2) The council shall consist of the following members to be appointed by the Governor:

(a) Five (5) physicians who are licensed in Kentucky, one (1) who is a family physician or internist, one (1) who is a surgeon, one (1) who is a specialist in pain medicine,

one (1) who is an oncologist, and one (1) who is a psychiatrist, to be appointed from lists provided by the Kentucky Board of Medical Licensure containing the names of three (3) physicians for each of the five (5) areas of practice;

(b) Two (2) advanced practice registered nurses who are licensed in Kentucky to be appointed from lists provided by the Kentucky Board of Nursing containing the names of three (3) advanced practice registered nurses for each board appointment;

(c) One (1) substance abuse and mental health professional who is licensed in Kentucky to be appointed from a list of three (3) professionals provided by the Cabinet for Health and Family Services;

(d) One (1) community mental health center representative to be appointed from a list of three (3) individuals provided by the Cabinet for Health and Family Services;

(e) Two (2) pharmacists who are licensed in Kentucky, each of whom shall be appointed from one (1) of two (2) separate lists provided by the Kentucky Board of Pharmacy containing the names of three (3) pharmacists from each the following general geographic areas in Kentucky:

1. The area west of Interstate 75; and

2. The area east of Interstate 75;

(f) Two (2) dentists who are licensed in Kentucky to be appointed from a list of three (3) dentists provided by the Kentucky Board of Dentistry for each board appointment;

(g) One (1) representative of the Office of Drug Control Policy; and

(h) One (1) representative from the Office of Inspector General, who shall also serve as chair of the council.

The lists of recommendations for initial appointments to the council shall be delivered to the Governor no later than August 1, 2022.

(3) Initial appointments to the council shall be for staggered terms, and thereafter members shall serve four (4) year terms.

(4) The duties of the council shall include but not be limited to:

(a) Providing advice, guidance, and recommendations to assist state licensing boards in expanding their enforcement activities of identifying and eliminating drug abuse, misuse, diversion, and illegal prescription and sale of prescription drugs by their respective licensees; and

(b) Developing guidelines for utilizing the electronic system for monitoring Schedules II, III, IV, and V controlled substances established under KRS 218A.202 to identify potential problem areas and proactively generate information useful to the particular prescriber and dispenser licensing boards.

(5) The council shall work in cooperation with the affected professional licensing boards of practitioners and pharmacists, law enforcement, substance abuse and mental health treatment professionals, and other stakeholders.

(6) The council shall meet at regular intervals, and no less than quarterly and at the call of the chair.

(7) Support staff, facilities, and resources for the meetings of the council shall be provided as directed by the secretary of the Cabinet for Health and Family Services.

(8) Members of the council shall serve at the pleasure of the Governor and without compensation, but shall be reimbursed for actual expenses incurred in the connection with the discharge of their official duties.

(9) All cabinets, departments, commissions, boards, agencies, and officers of the state, or

any political subdivision thereof, are hereby authorized and directed to cooperate with the council in implementing this section.

(10) The council shall provide an annual report to the Governor and to the co-chairs of the Interim Joint Committee on Health, Welfare, and Family Services by December 1, 2022, and by December 1 of each year thereafter.

➔Section 3. KRS 218A.205 is amended to read as follows:

(1) As used in this section:

(a) "Reporting agency" includes:

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

(b) "State licensing board" means:

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

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

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

(3) Each state licensing board shall, in consultation with the Kentucky Office of Drug Control Policy, establish the following by administrative regulation for those licensees authorized to prescribe or dispense controlled substances:

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

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

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

2. The prescription for a Schedule II controlled substance is prescribed to treat chronic pain;
3. The prescription for a Schedule II controlled substance is prescribed to treat pain associated with a valid cancer diagnosis;
4. The prescription for a Schedule II controlled substance is prescribed to treat pain while the patient is receiving hospice or end-of-life treatment or is receiving care from a certified community based palliative care program;
5. The prescription for a Schedule II controlled substance is prescribed as part of a narcotic treatment program licensed by the Cabinet for Health and Family Services;
6. The prescription for a Schedule II controlled substance is prescribed to treat pain following a major surgery or the treatment of significant trauma, as defined by the state licensing board in consultation with the Kentucky Office of Drug Control Policy;
7. The Schedule II controlled substance is dispensed or administered directly to an ultimate user in an inpatient setting; or
8. Any additional treatment scenario deemed medically necessary by the state licensing board in consultation with the Kentucky Office of Drug Control Policy.

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

(c) A prohibition on a practitioner dispensing greater than a forty-eight (48) hour supply of any Schedule II controlled substance or a Schedule III controlled substance

containing hydrocodone unless the dispensing is done as part of a narcotic treatment program licensed by the Cabinet for Health and Family Services;

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

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

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

1. A permanent ban on licensees and applicants convicted after July 20, 2012, in this state or any other state of any felony offense relating to controlled substances from prescribing or dispensing a controlled substance;
2. Restrictions short of a permanent ban on licensees and applicants convicted in this state or any other state of any misdemeanor offense relating to prescribing or dispensing a controlled substance;
3. Restrictions mirroring in time and scope any disciplinary limitation placed on a licensee or applicant by a licensing board of another state if the disciplinary action results from improper, inappropriate, or illegal prescribing or dispensing

of controlled substances; and

4. A requirement that licensees and applicants report to the board any conviction or disciplinary action covered by this subsection with appropriate sanctions for any failure to make this required report;

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

(h) If not otherwise required by other law, a process for submitting a query on each applicant for licensure to the National Practitioner Data Bank of the United States Department of Health and Human Services to retrieve any relevant data on the applicant; and

(i) Continuing education requirements beginning with the first full educational year occurring after July 1, 2012, that specify that at least seven and one-half percent (7.5%) of the continuing education required of the licensed practitioner relate to the use of the electronic monitoring system established in KRS 218A.202, pain management, or addiction disorders.

(4) For the purposes of pharmacy dispensing, the medical necessity for a Schedule II controlled substance as documented by the practitioner in the patient's medical record and the prescription for more than a three (3) day supply of that controlled substance are presumed to be valid.

(5) A state licensing board shall ***consult with a licensed physician and*** employ or obtain the services of a specialist in ***prescribing controlled substances***~~[the treatment of pain and a specialist in drug addiction]~~ to evaluate information received regarding a licensee's prescribing or dispensing practices related to controlled substances~~[if the board or its staff~~

~~does not possess such expertise,]~~ to ascertain if the licensee under investigation is engaging in improper, inappropriate, or illegal practices.

(6) Any statute to the contrary notwithstanding, no state licensing board shall require that a grievance or complaint against a licensee relating to controlled substances be sworn to or notarized, but the grievance or complaint shall identify the name and address of the grievant or complainant, unless the board by administrative regulation authorizes the filing of anonymous complaints. Any such authorizing administrative regulation shall require that an anonymous complaint or grievance be accompanied by sufficient corroborating evidence as would allow the board to believe, based upon a totality of the circumstances, that a reasonable probability exists that the complaint or grievance is meritorious.

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

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

(9) Every state licensing board shall promulgate administrative regulations that require the board to:

(a) Review, investigate, and enforce violations of prescribing practices;

(b) Request that the Office of Inspector General conduct a review using the electronic system for monitoring Schedules II, III, IV, and V controlled substances

established under KRS 218A.202, in order to generate a broad sampling of at least fifteen (15) patient charts to be reviewed when a prescribing case is referred to the licensing board by a source other than Office of Inspector General within the Cabinet for Health and Family Services;

(c) Employ investigators with law enforcement or drug task force backgrounds for any prescribing investigation;

(d) Require a review of a prescriber be performed by physicians practicing within or similar to the prescriber's self-defined or practice-defined specialty;

(e) Form specific or separate disciplinary panels made up of clinicians who are authorized to prescribe controlled substances to review cases involving controlled substances;

(f) Focus reviews of prescribers on whether the prescriber's clinical judgment and reasoning supported the necessity for the prescription, for that treatment purpose, at that strength, and for that period of time; and

(g) Require each reviewer of a prescriber to submit the reviewer's opinion on whether the prescribing practices of a prescriber increase the risk for dependence, abuse, or diversion, or present a harm to patients or the public. If the opinion is affirmative, the board shall take immediate action to restrict the prescriber's prescribing authority.

(10) Nothing in this section shall prohibit an employer from instituting or implementing stricter standards for medical practice or prescribing than those required by state law.".