

1 AN ACT relating to long-term care facilities.

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

3 ➔Section 1. KRS 194A.700 is amended to read as follows:

4 As used in KRS 194A.700 to 194A.729:

5 (1) "Activities of daily living" means normal daily activities, including ***but not limited***
6 ***to*** bathing, dressing, grooming, transferring, toileting, and eating;

7 ***(2) "Ambulatory" means able to walk, transfer, or move from place to place with or***
8 ***without hands-on assistance of another person, and with or without an assistive***
9 ***device, including but not limited to a walker or a wheelchair;***

10 ***(3)***~~(2)~~ "Assistance with activities of daily living and instrumental activities of daily
11 living" means any assistance provided by the ***assisted living***~~assisted living~~
12 community staff with the ***resident***~~client~~ having at least minimal ability to verbally
13 direct or physically participate in the activity with which assistance is being
14 provided;

15 ***(4)***~~(3)~~ "Assistance with self-administration of medication," unless subject to more
16 restrictive provisions in an ***assisted living***~~assisted living~~ community's policies that
17 are communicated in writing to ***residents***~~clients~~ and prospective
18 ***residents***~~clients~~, means:

19 (a) Assistance with medication that is prepared or directed by the ***resident***~~client~~,
20 the ***resident's***~~client's~~ designated representative, or a licensed health care
21 professional who is not the owner, manager, or employee of the ***assisted***
22 ***living***~~assisted living~~ community. The medication shall:

- 23 1. Except for ointments, be preset in a medication organizer or be in a
24 single dose unit;
- 25 2. Include the ***resident's***~~client's~~ name on the medication organizer or
26 container in which the single dose unit is stored; and
- 27 3. Be stored in a manner requested in writing by the ***resident***~~client~~ or the

1 resident's~~[client's]~~ designated representative and permitted by the
2 assisted living~~[assisted living]~~ community's policies;

3 (b) Assistance by an assisted living~~[assisted living]~~ community staff person,
4 which includes:

- 5 1. Reminding a resident~~[client]~~ when to take medications and observing to
6 ensure that the resident~~[client]~~ takes the medication as directed;
- 7 2. Handing the resident's~~[client's]~~ medication to the resident~~[client]~~, or if
8 it is difficult for the resident~~[client]~~ or the resident~~[client]~~ requests
9 assistance, opening the unit dose or medication organizer, removing the
10 medication from a medication organizer or unit dose container, closing
11 the medication organizer for the resident~~[client]~~, placing the dose in a
12 container, and placing the medication or the container in the
13 resident's~~[clients]~~ hand;
- 14 3. Steadying or guiding a resident's~~[client's]~~ hand while the
15 resident~~[client]~~ is self-administering medications; or
- 16 4. Applying over-the-counter topical ointments and lotions;

17 (c) Making available the means of communication by telephone, facsimile,
18 computer, or other electronic device with a licensed health care professional
19 and pharmacy regarding a prescription for medication;

20 (d) At the request of the resident~~[client]~~ or the resident's~~[client's]~~ designated
21 representative, facilitating the filling of a preset medication container by a
22 designated representative or licensed health care professional who is not the
23 owner, manager, or employee of the assisted living community; and

24 (e) None of the following:

- 25 1. Instilling eye, ear, or nasal drops;
- 26 2. Mixing compounding, converting, or calculating medication doses;
- 27 3. Preparing syringes for injection or administering medications by any

- 1 injection method;
- 2 4. Administrating medications through intermittent positive pressure
- 3 breathing machines or a nebulizer;
- 4 5. Administrating medications by way of a tube inserted in a cavity of the
- 5 body;
- 6 6. Administrating parenteral preparations;
- 7 7. Administrating irrigations or debriding agents used in the treatment of a
- 8 skin condition; or
- 9 8. Administrating rectal, urethral, or vaginal preparations;

10 ~~(5)~~~~(4)~~ **"Assisted living"**~~[Assisted living]~~ community" means a **licensed facility that**
 11 **provides sleeping accommodations and assisted living services set forth in the**
 12 **assisted living community's lease and policies**~~[series of living units on the same~~
 13 ~~site certified under KRS 194A.707 to provide services]~~ for five (5) or more adult
 14 persons not related within the third degree of consanguinity to the owner or
 15 manager;

16 **(6) "Assisted living community with dementia care" means an assisted living**
 17 **community that is advertised, marketed, or otherwise promoted as providing**
 18 **specialized care for individuals with Alzheimer's disease or other dementia**
 19 **illnesses and disorders. An assisted living community with a secured dementia**
 20 **care unit shall be licensed as an assisted living community with dementia care;**

21 **(7) "Assisted living services" means one (1) or more of the following services:**
 22 **(a) Assisting with activities of daily living, including but not limited to bathing,**
 23 **dressing, grooming, transferring, toileting, and eating;**
 24 **(b) Assisting with instrumental activities of daily living that support**
 25 **independent living, including but not limited to housekeeping, shopping,**
 26 **laundry, chores, transportation, and clerical assistance;**
 27 **(c) Providing standby assistance;**

- 1 (d) Providing verbal or visual reminders to the resident to take regularly
2 scheduled medication, including bringing the resident previously set up
3 medication, medication in original containers, or liquid or food to
4 accompany the medication;
- 5 (e) Providing verbal or visual reminders to the resident to perform regularly
6 scheduled treatments and exercises;
- 7 (f) Preparing and serving three (3) meals per day consisting of regular or
8 modified diets ordered by a licensed health professional;
- 9 (g) Providing the services of an advanced practice registered nurse, registered
10 nurse, licensed practical nurse, physical therapist, respiratory therapist,
11 occupational therapist, speech pathologist, dietitian or nutritionist, or social
12 worker;
- 13 (h) Tasks delegated to unlicensed personnel by a registered nurse or assigned
14 by a licensed health professional within the person's scope of practice;
- 15 (i) Assistance with self-administration of medication;
- 16 (j) Medication management;
- 17 (k) Hands-on assistance with transfers and mobility, including use of gait belts;
- 18 (l) Treatments and therapies;
- 19 (m) Assisting residents with eating when the residents have complicated eating
20 problems such as difficulty swallowing or recurrent lung aspirations as
21 identified in the resident record or through an assessment;
- 22 (n) Scheduled daily social activities that address the general preferences of
23 residents; and
- 24 (o) Other basic health and health-related services;
- 25 (8) "Basic health and health-related services" means:
- 26 (a) Monitoring and providing for the resident's health care needs;
- 27 (b) Storage and control of medications, other than as requested by a resident or

1 *a resident's designated representative;*

2 *(c) Administration of medications; and*

3 *(d) Arranging for therapeutic services ordered by the resident's health care*
 4 *practitioner, if the services are not available in the assisted living*
 5 *community;*

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

7 ~~*(5) "Client," "resident," or "tenant" means an adult person who has entered into a lease*~~
 8 ~~*agreement with an assisted living community;*~~

9 ~~*(6) "Danger" means physical harm or threat of physical harm to one's self or others;*~~

10 ~~*(7) "Department" means the Department for Aging and Independent Living;*~~

11 ~~*(8)*~~ *(10) "Dementia" means the loss of cognitive function, including the ability to*
 12 *think, remember, problem solve, or reason, of sufficient severity to interfere with*
 13 *an individual's daily functioning;*

14 *(11) "Dementia care services" means ongoing care for behavioral and psychological*
 15 *symptoms of dementia, including but not limited to planned group and individual*
 16 *programming and person-centered care practices to support daily living activities*
 17 *for people living with dementia;*

18 *(12) "Dementia-trained staff" means any employee who has completed the minimum*
 19 *training required by Section 21 of this Act and has demonstrated knowledge and*
 20 *the ability to support individuals with dementia;*

21 *(13) "Hands-on assistance" means physical help by another person without which the*
 22 *resident is not able to perform the activity;*

23 *(14) "Health services" has the same meaning as in KRS 216B.015;*

24 ~~*(15)*~~ ~~*(9)*~~ *"Instrumental activities of daily living" means activities to support*
 25 *independent living including but not limited to housekeeping, shopping, laundry,*
 26 *chores, transportation, and clerical assistance;*

27 ~~*(16)*~~ ~~*(10)*~~ *"Living unit" means a portion of an **assisted living** ~~assisted living~~ community*

1 occupied as the living quarters of a resident~~[client]~~ under a lease agreement;

2 **(17) "Medication administration" means:**

3 **(a) Checking the resident's medication record;**

4 **(b) Preparing the medication as necessary;**

5 **(c) Administering the medication to the resident;**

6 **(d) Documenting the administration or reason for not administering the**
 7 **medication; and**

8 **(e) Reporting to a nurse or appropriate licensed health professional any**
 9 **concerns about the medication, the resident, or the resident's refusal to take**
 10 **the medication;**

11 **(18) "Medication management" means the provision of any of the following**
 12 **medication-related services to a resident:**

13 **(a) Performing medication setup;**

14 **(b) Administering medications;**

15 **(c) Storing and securing medications;**

16 **(d) Documenting medication activities;**

17 **(e) Verifying and monitoring the effectiveness of systems to ensure safe**
 18 **handling and administration;**

19 **(f) Coordinating refills;**

20 **(g) Handling and implementing changes to prescriptions;**

21 **(h) Communicating with the pharmacy about the resident's medications; and**

22 **(i) Coordinating and communicating with the prescriber;**

23 **(19) "Medication setup" means arranging medications by a nurse, pharmacy, or**
 24 **authorized prescriber for later administration by the resident or by facility staff;**

25 ~~[(11) "Mobile nonambulatory" means unable to walk without assistance, but able to move~~
 26 ~~from place to place with the use of a device including but not limited to a walker,~~
 27 ~~crutches, or wheelchair;~~

- 1 ~~(12) "Plan of correction" means a written response from the assisted living community~~
2 ~~addressing an instance cited in the statement of noncompliance;~~
- 3 ~~(13) "Statement of danger" means a written statement issued by the department detailing~~
4 ~~an instance where a client is a danger; and~~
- 5 ~~(14) "Statement of noncompliance" means a written statement issued by the department~~
6 ~~detailing an instance when the department considers the assisted living community~~
7 ~~to have been in violation of a statutory or regulatory requirement.]~~
- 8 **(20) "Nonambulatory" means unable to walk, transfer, or move from place to place**
9 **with or without hands-on assistance of another person, and with or without an**
10 **assistive device, including but not limited to a walker or a wheelchair;**
- 11 **(21) "Person-centered care" means respecting and valuing the individual, providing**
12 **individualized care that reflects the individual's changing needs, understanding**
13 **the perspective of the person, and providing supportive opportunities for social**
14 **engagement;**
- 15 **(22) "Resident" means an adult person who has entered into a lease agreement with**
16 **an assisted living community;**
- 17 **(23) "Secured dementia care unit" means a designated area or setting designed for**
18 **individuals with dementia that is secured in compliance with the applicable life**
19 **safety code to prevent or to limit a resident's ability to exit the secured area or**
20 **setting. A secured dementia care unit is not solely an individual resident's living**
21 **area;**
- 22 **(24) "Service plan" means the written plan agreement between the resident and the**
23 **licensee about services that will be provided to the resident;**
- 24 **(25) "Standby assistance" means minimizing the risk of injury to a resident who is**
25 **performing daily activities by a person who is within arm's reach providing**
26 **physical intervention, cueing, or oversight;**
- 27 **(26) "Temporary condition" means a condition that affects a resident as follows:**

1 (a) The resident is not ambulatory before or after entering a lease agreement
 2 with the assisted living community but is expected to regain ambulatory
 3 ability within six (6) months of loss of ambulation, as documented by a
 4 licensed health care professional, and the assisted living community has a
 5 written plan in place to mitigate risk; or

6 (b) The resident is not ambulatory after entering a lease agreement with the
 7 assisted living community but is not expected to regain ambulatory ability,
 8 hospice services are provided by a hospice program licensed under KRS
 9 Chapter 216B or other end-of-life services are provided by a licensed health
 10 care provider in accordance with Section 3 of this Act, as documented by a
 11 licensed hospice program or other licensed health care professional, and the
 12 assisted living community has a written plan in place to mitigate risk; and

13 (27) "Unlicensed personnel" means individuals not otherwise licensed or certified by
 14 a governmental health board or agency who provide services to a resident.

15 ➔Section 2. KRS 194A.703 is amended to read as follows:

- 16 (1) Each living unit in an assisted living~~[assisted living]~~ community shall:
- 17 (a) Be at least two hundred (200) square feet for single occupancy, or for double
 18 occupancy if the room is shared with a spouse or another individual by mutual
 19 agreement;
- 20 (b) Include at least one (1) unfurnished room, ~~[with]~~ a lockable entry door~~[-]~~,
 21 unless in a secured dementia care unit, a private bathroom with a tub or
 22 shower, provisions for emergency response, a window to the outdoors, and a
 23 telephone jack;
- 24 (c) Unless living units are in a secured dementia care unit, have an individual
 25 thermostat control if the assisted living~~[assisted living]~~ community has more
 26 than twenty (20) units; and
- 27 (d) Have temperatures that are not under a resident's~~[client's]~~ direct control at a

1 minimum of seventy-one (71) degrees Fahrenheit in winter conditions and a
 2 maximum of eighty-one (81) degrees Fahrenheit in summer conditions if the
 3 **assisted living**~~[assisted living]~~ community has twenty (20) or fewer units, **or**
 4 **the living units are in a secured dementia care unit.**

5 (2) Each **resident**~~[client]~~ shall be provided access to central dining, a laundry facility,
 6 and a central living room.

7 (3) Each **assisted living**~~[assisted living]~~ community shall comply with applicable
 8 building and life safety codes as determined by the building code or life safety code
 9 enforcement authority with jurisdiction.

10 ➔Section 3. KRS 194A.705 is amended to read as follows:

11 (1) The **assisted living**~~[assisted living]~~ community shall provide each **resident**~~[client]~~
 12 with access to the following services according to the lease agreement:

13 (a) Assistance with activities of daily living and instrumental activities of daily
 14 living;

15 (b) Three (3) meals and snacks made available each day, **with flexibility in a**
 16 **secured dementia care unit to meet the needs of residents with cognitive**
 17 **impairments who may eat outside of scheduled dining hours;**

18 (c) Scheduled daily social activities that address the general preferences of
 19 **residents**~~[clients];~~~~[and]~~

20 (d) Assistance with self-administration of medication; **and**

21 **(e) Housing.**

22 (2) **(a) The assisted living community may provide residents with access to basic**
 23 **health and health-related services.**

24 **(b) If an assisted living community chooses to provide basic health and health-**
 25 **related services, the assisted living community shall supervise the residents.**

26 **(3) (a) Residents**~~[Clients]~~ of an **assisted living**~~[assisted living]~~ community may
 27 arrange for additional services under direct contract or arrangement with an

1 outside agent, professional, provider, or other individual designated by the
 2 resident^[client] if permitted by the policies of the assisted living^{[assisted-}
 3 living] community.

4 **(b) Permitted services for which a resident may arrange or contract include but**
 5 **are not limited to health services, hospice services provided by a hospice**
 6 **program licensed under KRS Chapter 216B, and other end-of-life services.**

7 ~~(4)~~⁽³⁾ Upon entering into a lease agreement, an assisted living^[assisted-living]
 8 community shall inform the resident^[client] in writing about policies relating to the
 9 provision of services by the assisted living community and the contracting or
 10 arranging for additional services.

11 ~~(5)~~⁽⁴⁾ A resident^[client] issued a move-out notice shall receive the notice in writing
 12 and the assisted living^[assisted-living] community shall assist each resident^[client]
 13 upon a move-out notice to find appropriate living arrangements. Each assisted
 14 living^[assisted-living] community shall share information provided from the
 15 cabinet^[department] regarding options for alternative living arrangements at the
 16 time a move-out notice is given to the resident^[client].

17 ~~(6)~~⁽⁵⁾ An assisted living^[assisted-living] community shall complete and provide to
 18 the resident^[client]:

19 (a) Upon move-in, a copy of a functional needs assessment pertaining to the
 20 resident's^[client's] ability to perform activities of daily living and instrumental
 21 activities of daily living and any other topics the assisted living community
 22 determines to be necessary; and

23 (b) After move-in, a copy of an updated functional needs assessment pertaining to
 24 the resident's^[client's] ability to perform activities of daily living and
 25 instrumental activities of daily living, the service plan designed to meet
 26 identified needs, and any other topics the assisted living community
 27 determines to be necessary.

1 ➔Section 4. KRS 194A.707 is amended to read as follows:

- 2 (1) The Cabinet for Health and Family Services shall establish by the promulgation of
 3 administrative regulation under KRS Chapter 13A, an initial and ~~annual~~ **re-**
 4 **licensure**~~certification~~ review process for **assisted living**~~assisted living~~
 5 communities. This administrative regulation shall establish procedures related to
 6 applying for, reviewing, and approving, denying, or revoking
 7 **licensure**~~certification~~, as well as the conduct of hearings upon appeals as
 8 governed by KRS Chapter **216B**~~13B~~.
- 9 (2) **Notwithstanding the timeframe in Section 27 of this Act,** an on-site visit of an
 10 **assisted living**~~assisted living~~ community shall be conducted by the cabinet:
- 11 (a) As part of the initial **licensure**~~certification~~ review process;
- 12 (b) **Twenty-four (24) months following the date of the previous licensure**
 13 **review, if during the previous licensure review an assisted living community**
 14 **was not found to have violated an administrative regulation set forth by the**
 15 **cabinet that presented imminent danger to a resident that created**
 16 **substantial risk of death or serious mental or physical harm; and**
- 17 (c) **Twelve (12) months following the date of the previous licensure review, if**
 18 **during the previous licensure review an assisted living community was**
 19 **found to have violated an administrative regulation set forth by the cabinet**
 20 **that presented imminent danger to a resident that created substantial risk of**
 21 **death or serious mental or physical harm**~~On a biennial basis as part of the~~
 22 ~~certification review process if during or since the previous certification review~~
 23 ~~an assisted living community has not received:~~
- 24 1. ~~Any statement of danger, unless withdrawn by the cabinet; or~~
- 25 2. ~~A finding substantiated by the cabinet that the assisted living community~~
 26 ~~delivered a health service; and~~
- 27 ~~(e) Within one (1) year of the date of the previous certification review if during or~~

1 since the last certification review an assisted living community has received:

2 1.— Any statement of danger that was not withdrawn by the cabinet; or

3 2.— A finding substantiated by the cabinet that the assisted living community
4 delivered a health service].

5 (3) No business shall market its service as an assisted living[assisted living]
6 community unless it has:

7 (a) Filed a current application for the business to be licensed[certified] by the
8 cabinet[department] as an assisted living[assisted living] community; or

9 (b) Received licensure[certification] by the cabinet[department] as an assisted
10 living[assisted living] community.

11 (4) No business that has been denied or had its license[certification] revoked shall
12 operate or market its service as an assisted living[assisted living] community unless
13 it has:

14 (a) Filed a current application for the business to be licensed[certified] by the
15 cabinet[department] as an assisted living[assisted living] community; and

16 (b) Received licensure[certification] as an assisted living[assisted living]
17 community from the cabinet[department]. Revocation of
18 licensure[certification] may be grounds for the cabinet[department] to not
19 reissue a license for that property[certification] for seven (7) years[one (1)
20 year] if ownership remains substantially the same.

21 (5) No business shall operate as an assisted living[assisted living] community unless its
22 owner or manager has:

23 (a) Filed a current application for the business to be licensed[certified] as an
24 assisted living[assisted living] community by the cabinet[department]; and

25 (b) Received licensure[certification] as an assisted living[assisted living]
26 community from the cabinet[department].

27 (6) By September 1 of each year, each assisted living[assisted living] community

- 1 licensed~~[certified]~~ pursuant to this chapter may provide residents with educational
2 information or education opportunities on influenza disease.
- 3 (7) The cabinet~~[department]~~ shall determine the feasibility of recognizing accreditation
4 by other organizations in lieu of licensure~~[certification]~~ review by~~[from]~~ the
5 cabinet~~[department]~~.
- 6 (8) Individuals designated by the cabinet~~[department]~~ to conduct
7 licensure~~[certification]~~ reviews shall have the skills, training, experience, and
8 ongoing education, including understanding that assisted living is not subject to
9 the rules and regulations of the Centers for Medicare and Medicaid Services, to
10 perform assisted living community and assisted living community with dementia
11 care licensure~~[certification]~~ reviews.
- 12 (9) The cabinet may promulgate administrative regulations to establish an assisted
13 living~~[assisted living]~~ community and assisted living community with dementia
14 care licensure~~[certification]~~ fee that shall not exceed costs of the program to the
15 cabinet, to be assessed upon receipt of an application for licensure~~[certification]~~.
16 The cabinet~~[department]~~ shall provide~~[submit]~~ a breakdown of fees assessed and
17 costs incurred for conducting licensure~~[certification]~~ reviews upon request of any
18 interested person.
- 19 (10) The cabinet~~[department]~~ shall make findings from the most recent
20 licensure~~[certification]~~ review~~[reviews conducted during the prior twelve (12)~~
21 ~~months]~~ available to the public~~[any interested person]~~.
- 22 (11) Notwithstanding any provision of law to the contrary, the cabinet~~[department]~~ may
23 request ~~[any]~~ additional relevant information from an assisted living~~[assisted-~~
24 ~~living]~~ community or conduct additional on-site visits to ensure compliance with
25 the provisions of KRS 194A.700 to 194A.729 if the cabinet has reasonable cause
26 to believe that the assisted living community is not in compliance.
- 27 (12) Failure to follow an assisted living~~[assisted living]~~ community's policies, practices,

1 and procedures shall not result in a finding of noncompliance unless the **assisted**
 2 **living**~~[assisted living]~~ community is out of compliance with a related requirement
 3 under KRS 194A.700 to 194A.729.

4 ➔Section 5. KRS 194A.709 is amended to read as follows:

5 (1) ~~[The department shall report to the Division of Health Care any alleged or actual~~
 6 ~~cases of health services being delivered by the staff of an assisted living~~
 7 ~~community.~~

8 ~~(2)~~ An **assisted living**~~[assisted living]~~ community shall have written policies on
 9 reporting and recordkeeping of alleged or actual cases of abuse, neglect, or
 10 exploitation of an adult under KRS 209.030. The only requisite components of a
 11 recordkeeping policy are the date and time of the report, the reporting method, and a
 12 brief summary of the alleged incident.

13 ~~(2)~~~~(3)~~ Any **assisted living**~~[assisted living]~~ community staff member who has
 14 reasonable cause to suspect that a **resident**~~[client]~~ has suffered abuse, neglect, or
 15 exploitation shall report the abuse, neglect, or exploitation under KRS 209.030.

16 ➔Section 6. KRS 194A.711 is amended to read as follows:

17 A **resident**~~[client]~~ shall ~~[meet the following criteria:~~

18 ~~(1)~~ be ambulatory~~[or mobile nonambulatory]~~, unless due to a temporary condition~~;~~

19 and

20 ~~(2)~~ Not be a danger~~].~~

21 ➔Section 7. KRS 194A.713 is amended to read as follows:

22 A lease agreement, in no smaller type than twelve (12) point font, shall be executed by
 23 the **resident**~~[client]~~ and the **assisted living**~~[assisted living]~~ community and shall include
 24 but not be limited to:

25 (1) **Resident**~~[Client]~~ data, for the purpose of providing service, to include:

26 (a) Emergency contact person's name;

27 (b) Name of responsible party or legal guardian, if applicable;

- 1 (c) Attending physician's name;
- 2 (d) Information regarding personal preferences and social factors; and
- 3 (e) Advance directive under KRS 311.621 to 311.643, if desired by the
- 4 resident; ~~client~~;
- 5 (2) Assisted living ~~Assisted living~~ community's policy regarding termination of the
- 6 lease agreement;
- 7 (3) Terms of occupancy;
- 8 (4) General services and fee structure;
- 9 (5) Information regarding specific services provided, description of the living unit, and
- 10 associated fees;
- 11 (6) Provisions for modifying resident ~~client~~ services and fees;
- 12 (7) Minimum thirty (30) day notice provision for a change in the community's fee
- 13 structure;
- 14 (8) Minimum thirty (30) day move-out notice provision for resident ~~client~~
- 15 nonpayment, subject to applicable landlord or tenant laws;
- 16 (9) Provisions for assisting any resident ~~client~~ that has received a move-out notice to
- 17 find appropriate living arrangements prior to the actual move-out date;
- 18 (10) Refund and cancellation policies;
- 19 (11) Description of any special programming, staffing, or training if an assisted
- 20 living ~~assisted living~~ community is marketed as providing special programming,
- 21 staffing, or training on behalf of residents ~~clients~~ with particular needs or
- 22 conditions;
- 23 (12) Other community rights, policies, practices, and procedures;
- 24 (13) Other resident ~~client~~ rights and responsibilities, including compliance with
- 25 subsections (3) and (4) of Section 3 of this Act ~~[KRS 194A.705(2) and (3)]~~; and
- 26 (14) Grievance policies that minimally address issues related to confidentiality of
- 27 complaints and the process for resolving grievances between the resident ~~client~~

1 and the *assisted living*~~[assisted living]~~ community.

2 ➔Section 8. KRS 194A.715 is amended to read as follows:

3 An *assisted living*~~[assisted living]~~ community shall provide any interested person with a
4 copy of KRS 194A.700 to 194A.729 and relevant administrative regulations.

5 ➔Section 9. KRS 194A.717 is amended to read as follows:

6 (1) Staffing in an *assisted living*~~[assisted living]~~ community shall be sufficient in
7 number and qualification to meet the twenty-four (24) hour scheduled needs of each
8 *resident*~~[client]~~ pursuant to the lease agreement, ~~[and]~~ functional needs assessment,
9 *and service plan.*

10 (2) One (1) awake staff member shall be on site at *each licensed entity at* all times.

11 (3) An *assisted living*~~[assisted living]~~ community shall have a designated manager who
12 is at least twenty-one (21) years of age, has at least a high school diploma or a High
13 School Equivalency Diploma, and has demonstrated management or administrative
14 ability to maintain the daily operations.

15 (4) No employee who has an active communicable disease reportable to the Department
16 for Public Health shall be permitted to work in an *assisted living*~~[assisted living]~~
17 community if the employee is a danger to the *residents*~~[clients]~~ or other employees.

18 *(5) When a resident requires hands-on assistance of another person to walk,*
19 *transfer, or move from place to place with or without an assistive device, the*
20 *assisted living community shall have a policy that describes how priority will be*
21 *given by staff sufficient to assist that resident during times of emergency when*
22 *evacuation may be necessary.*

23 ➔Section 10. KRS 194A.719 is amended to read as follows:

24 (1) *Prior to independently working with residents, assisted living*~~[Assisted living]~~
25 community staff and management shall receive orientation education
26 *addressing*~~[on]~~ the following topics, *with emphasis on those most* ~~[as]~~ applicable
27 to the employee's assigned duties:

- 1 (a) **Resident**~~[Client]~~ rights;
- 2 (b) Community policies;
- 3 (c) Adult first aid;
- 4 (d) Cardiopulmonary resuscitation unless the policies of the **assisted**
 5 **living**~~[assisted living]~~ community state that this procedure is not initiated by
 6 its staff, and that **residents**~~[clients]~~ and prospective **residents**~~[clients]~~ are
 7 informed of the policies;
- 8 (e) Adult abuse and neglect;
- 9 (f) Alzheimer's disease and other types of dementia;
- 10 (g) Emergency procedures;
- 11 (h) Aging process;
- 12 (i) Assistance with activities of daily living and instrumental activities of daily
 13 living;
- 14 (j) Particular needs or conditions if the **assisted living**~~[assisted living]~~
 15 community markets itself as providing special programming, staffing, or
 16 training on behalf of **residents**~~[clients]~~ with particular needs or conditions;
 17 and
- 18 (k) Assistance with self-administration of medication.
- 19 (2) **Assisted living**~~[Assisted living]~~ community staff and management shall receive
 20 annual in-service education applicable to their assigned duties that addresses no
 21 fewer than four (4) of the topics listed in subsection (1) of this section, **one (1) of**
 22 **which shall be Alzheimer's disease and other types of dementia.**
- 23 ➔Section 11. KRS 194A.721 is amended to read as follows:
- 24 (1) Any **assisted living**~~[assisted living]~~ community that was open or under construction
 25 on or before July 14, 2000, shall be exempt from the requirement that each living
 26 unit have a bathtub or shower.
- 27 (2) Any **assisted living**~~[assisted living]~~ community that was open or under construction

1 on or before July 14, 2000, shall have a minimum of one (1) bathtub or shower for
2 each five (5) residents~~[clients]~~.

3 (3) Any assisted living~~[assisted living]~~ community that was open or under construction
4 on or before July 14, 2000, shall be exempt from the requirement that each living
5 unit shall be at least two hundred (200) square feet for single occupancy, or for
6 double occupancy if the room is shared with a spouse or another individual by
7 mutual agreement.

8 ➔Section 12. KRS 194A.727 is amended to read as follows:

9 Any business, not licensed or certified in another capacity, that complies with some
10 provisions of KRS 194A.700 to 194A.729 but does not provide assisted living services
11 shall not be eligible for licensure as an assisted living community~~[assistance with any~~
12 ~~activities of daily living or assistance with self-administration of medication shall not be~~
13 ~~eligible for certification as an assisted living community]~~ under KRS 194A.700 to
14 194A.729.

15 ➔Section 13. KRS 194A.729 is amended to read as follows:

16 If a person or business seeks financing for an assisted living~~[assisted living]~~ community
17 project, the cabinet~~[department]~~ shall provide written correspondence to the lender, upon
18 request, to denote whether the architectural drawings and lease agreement conditionally
19 comply with the provisions of KRS 194A.700 to 194A.729. The cabinet~~[department]~~
20 may promulgate administrative regulations to establish a fee that shall not exceed costs of
21 the program to the cabinet, to be charged for the written correspondence to the lender.

22 ➔SECTION 14. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS
23 CREATED TO READ AS FOLLOWS:

24 (1) An applicant for licensure as an assisted living community with dementia care
25 shall have the ability to provide services in a manner that is consistent with the
26 requirements in this section. The cabinet shall consider the following criteria for
27 licensure, including but not limited to:

- 1 (a) The education and experience of the applicant or its principals in managing
2 residents with dementia or other dementia illnesses and disorders; and
- 3 (b) The compliance history of the applicant in the operation of any care facility
4 licensed, certified, or registered under federal or state law.
- 5 (2) If the applicant or its principals do not have experience in managing residents
6 with dementia, the applicant shall employ or contract with a consultant pursuant
7 to terms determined by the applicant and consultant for at least the first six (6)
8 months of operation. The consultant shall make recommendations on providing
9 dementia care services consistent with the requirements of this chapter. The
10 consultant shall:
- 11 (a) Possess two (2) years of work experience related to dementia, health care,
12 gerontology, or an associated field; and
- 13 (b) Have completed at least the core training required by Section 21 of this Act.
- 14 (3) The applicant shall document an acceptable plan to address the consultant's
15 identified concerns and shall either implement the recommendations or
16 document in the plan any consultant recommendations that the applicant chooses
17 not to implement. The cabinet shall review the applicant's plan upon request.
- 18 (4) Subsections (1), (2), and (3) of this section apply only to the initial licensure of
19 assisted living communities with dementia care and do not apply to existing
20 dementia units in operation as of the effective date of this Act.
- 21 (5) The cabinet shall conduct an on-site inspection prior to the issuance of an
22 assisted living community with dementia care license. An on-site inspection of an
23 existing secured dementia care unit licensed as part of a certified assisted living
24 community or a licensed personal care home that is conducted prior to the initial
25 issuance of an assisted living community with dementia care license shall be for
26 the purpose of ensuring compliance with the physical environment requirements.
- 27 (6) The license shall be inscribed as an "Assisted Living Community with Dementia

1 Care."

2 ➔SECTION 15. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS
3 CREATED TO READ AS FOLLOWS:

4 A licensee shall notify the cabinet in writing at least sixty (60) calendar days prior to
5 the voluntary relinquishment of an assisted living community with dementia care
6 license. For voluntary relinquishment, the facility shall:

7 (1) Give all residents and their designated and legal representatives sixty (60)
8 calendar days' notice. The notice shall include:

9 (a) The proposed effective date of the relinquishment;

10 (b) Changes in staffing;

11 (c) Changes in services, including the elimination or addition of services; and

12 (d) Changes in staff training when the relinquishment becomes effective;

13 (2) Submit a transitional plan to the cabinet demonstrating how the current residents
14 shall be evaluated and assessed to reside in other housing settings that are not an
15 assisted living community with dementia care, that are physically unsecured, or
16 that would require move-out or transfer to other settings;

17 (3) Change service or care plans as appropriate to address any needs the residents
18 may have with the transition;

19 (4) Notify the cabinet when the relinquishment process has been completed; and

20 (5) Revise advertising materials and disclosure information to remove any reference
21 that the facility is an assisted living community with dementia care.

22 ➔SECTION 16. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS
23 CREATED TO READ AS FOLLOWS:

24 (1) A licensee of an assisted living community with dementia care is responsible for:

25 (a) The care and housing of persons with dementia;

26 (b) The provision of person-centered care that promotes each resident's dignity,
27 independence, and comfort; and

1 (c) The supervision, training, and overall conduct of the staff.

2 (2) A licensee shall follow the assisted living license requirements and the criteria in
 3 KRS 194A.700 to 194A.729.

4 ➔SECTION 17. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS
 5 CREATED TO READ AS FOLLOWS:

6 (1) The assisted living manager of an assisted living community with dementia care
 7 shall complete at least ten (10) hours of annual continuing education that relate
 8 to the care of individuals with dementia.

9 (2) Annual continuing education topics shall include:

10 (a) Medical management of dementia;

11 (b) Creating and maintaining supportive and therapeutic environments for
 12 residents with dementia; and

13 (c) Transitioning and coordinating services for residents with dementia.

14 (3) The continuing education requirements may be fulfilled by the following:

15 (a) College courses;

16 (b) Preceptor credits;

17 (c) Self-directed activities;

18 (d) Course instructor credits;

19 (e) Corporate training;

20 (f) In-service training;

21 (g) Professional association training;

22 (h) Web-based training;

23 (i) Correspondence courses;

24 (j) Telecourses;

25 (k) Seminars; and

26 (l) Workshops.

27 ➔SECTION 18. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS

1 CREATED TO READ AS FOLLOWS:

- 2 **(1) In addition to the policies and procedures required in the licensing of all assisted**
 3 **living communities, an assisted living community with dementia care licensee**
 4 **shall develop and implement policies and procedures that address the following:**
 5 **(a) Philosophy of how services are provided and implemented based upon the**
 6 **assisted living community licensee's values, mission, and promotion of**
 7 **person-centered care;**
 8 **(b) Evaluation of behavioral symptoms and design of supports for intervention**
 9 **plans, including but not limited to nonpharmacological practices that are**
 10 **person-centered and evidence-informed;**
 11 **(c) Exit seeking and egress prevention;**
 12 **(d) Medication management pursuant to orders from a resident's health care**
 13 **practitioner;**
 14 **(e) Staff training specific to dementia care;**
 15 **(f) Description of life enrichment and activity programs;**
 16 **(g) Description of family support and engagement programs;**
 17 **(h) Incontinence care;**
 18 **(i) Limit the use of public address and intercom systems to emergencies;**
 19 **(j) Transportation to and from off-site medical appointments; and**
 20 **(k) Safekeeping of residents' possessions.**
 21 **(2) The policies and procedures shall be provided to residents and their legal and**
 22 **designated representatives at the time of move-in.**

23 ➔SECTION 19. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS
 24 CREATED TO READ AS FOLLOWS:

- 25 **(1) An assisted living community with dementia care shall assign dementia-trained**
 26 **staff who have been instructed in the person-centered care approach for all**
 27 **residents. All direct care staff assigned to care for residents with dementia shall**

- 1 be trained to work with residents with Alzheimer's disease and other related
2 dementia illnesses and disorders.
- 3 (2) Only staff trained as required by Section 21 of this Act shall be assigned to care
4 for dementia residents.
- 5 (3) Staffing levels shall be sufficient to meet the scheduled needs of residents. During
6 nighttime hours, staffing levels shall be based on the sleep patterns and needs of
7 residents.
- 8 (4) In an emergency and when trained staff are not available, the assisted living
9 community may assign staff who have not completed the required training. The
10 emergency situation shall be documented and shall address:
- 11 (a) The nature of the emergency;
12 (b) The duration of the emergency; and
13 (c) The names and positions of staff who provided coverage and assistance.
- 14 (5) The licensee shall ensure that staff who provide support for residents with
15 dementia demonstrate a basic understanding and ability to apply dementia
16 training to the residents' emotional and unique health care needs using person-
17 centered planning delivery.
- 18 (6) Persons in charge of staff training shall have the following experience and
19 credentials:
- 20 (a) Two (2) years of combined education and work experience related to
21 Alzheimer's disease or other dementia illnesses and disorders, or in health
22 care, gerontology, or another related field;
- 23 (b) Completion of training equivalent to the requirements in Section 21 of this
24 Act; and
- 25 (c) A passing score on a skills competency or knowledge test the licensee
26 selected or developed.
- 27 (7) Orientation and in-service training may include various methods of instruction,

1 including but not limited to classroom style, Web-based training, video, or one-to-
 2 one training. The licensee shall use a method for determining and documenting
 3 each staff person's knowledge and understanding of the training provided. All
 4 training shall be documented.

5 ➔SECTION 20. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS
 6 CREATED TO READ AS FOLLOWS:

7 (1) In addition to the minimum services required in Section 3 of this Act, an assisted
 8 living community with dementia care shall also provide:

9 (a) Assistance with activities of daily living that address the needs of each
 10 resident with dementia;

11 (b) Nonpharmacological practices that are person-centered and evidence-
 12 informed;

13 (c) Informational services educating persons living with dementia and their
 14 legal and designated representatives about transitions in care and
 15 expectations of residents while in care;

16 (d) Social activities offered on or off the premises of the licensed assisted living
 17 community with dementia care that provide residents with opportunities to
 18 engage with other residents and the broader community; and

19 (e) Basic health and health-related services.

20 (2) Each resident shall be evaluated for engagement in activities. The evaluation
 21 shall address:

22 (a) Past and current interests;

23 (b) Current abilities and skills;

24 (c) Emotional and social needs and patterns;

25 (d) Physical abilities and limitations;

26 (e) Adaptations necessary for residents to participate; and

27 (f) Identification of activities for behavioral interventions.

- 1 (3) An individualized activity plan shall be developed for each resident based on his
2 or her activity evaluation. The plan shall reflect the resident's activity preferences
3 and needs.
- 4 (4) A selection of daily structured and non-structured activities shall be provided and
5 included on the resident's activity service or care plan as appropriate. Daily
6 activity options based on the resident evaluation may include but are not limited
7 to:
- 8 (a) Occupation or chore related tasks;
9 (b) Scheduled and planned events;
10 (c) Spontaneous activities for enjoyment or to help defuse a behavior;
11 (d) One-to-one activities that promote personal interactions between residents
12 and staff;
13 (e) Spiritual, creative, and intellectual activities;
14 (f) Sensory stimulation activities;
15 (g) Physical activities; and
16 (h) Outdoor activities.
- 17 (5) Behavioral symptoms that negatively impact the resident and others in the
18 assisted living community with dementia care shall be evaluated and included on
19 the service plan. The staff shall initiate and coordinate outside consultation or
20 acute care when indicated.
- 21 (6) Support services shall be offered to family and others with significant
22 relationships on a regularly scheduled basis but not less than every six (6)
23 months.
- 24 (7) Subject to appropriate weather, time of day, and other environmental or resident-
25 specific considerations as determined by staff, access to secured outdoor space
26 and walkways allowing residents to enter the secured outdoor space and return to
27 the building without staff assistance shall be provided. This subsection shall only

1 apply to secured dementia care units constructed after the effective date of this
2 Act.

3 ➔SECTION 21. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS
4 CREATED TO READ AS FOLLOWS:

5 In addition to the training required for all assisted living communities, an assisted
6 living community with dementia care shall meet the following training requirements
7 for staff who work on its secured dementia care unit:

8 (1) All staff shall receive at least eight (8) hours of dementia-specific orientation
9 within the first thirty (30) days of working in the secured dementia care unit.
10 Until this initial training is complete, an employee shall not provide direct care
11 unless there is another employee on site who has completed the initial eight (8)
12 hours of training on topics related to dementia care and who can act as a
13 resource and assist as needed. The orientation shall include:

14 (a) Information about the nature, progression, and management of Alzheimer's
15 and other dementia illnesses and disorders;

16 (b) Methods for creating an environment that minimizes challenging behavior
17 from residents with Alzheimer's and other dementia illnesses and disorders;

18 (c) Methods for identifying and minimizing safety risks to residents with
19 Alzheimer's and other dementia illnesses and disorders; and

20 (d) Methods for communicating with individuals with Alzheimer's and other
21 dementia illnesses and disorders;

22 (2) All direct care staff members shall also receive orientation training within the
23 first thirty (30) days of caring for residents that includes at a minimum:

24 (a) General training, including:

25 1. Development and implementation of comprehensive and individual
26 service plans;

27 2. Skills for recognizing physical and cognitive changes in residents;

- 1 3. General infection control principles; and
 2 4. Emergency preparedness training; and
 3 **(b) Specialized training in dementia care, including:**
 4 1. The nature of Alzheimer's and other dementia illnesses and disorders;
 5 2. The unit's philosophy related to the care of residents with Alzheimer's
 6 and other dementia illnesses and disorders;
 7 3. The unit's policies and procedures related to the care of residents with
 8 Alzheimer's and other dementia illnesses and disorders;
 9 4. Behavioral problems commonly found in residents with Alzheimer's
 10 and other dementia illnesses and disorders;
 11 5. Positive therapeutic interventions and activities;
 12 6. Skills for maintaining the safety of the residents; and
 13 7. The role of family in caring for residents with Alzheimer's and other
 14 dementia illnesses and disorders;
 15 **(3) Direct care staff shall complete a minimum of sixteen (16) hours of specialized**
 16 **training in dementia care within the first thirty (30) days of working**
 17 **independently with residents with Alzheimer's or other dementia illnesses and**
 18 **disorders, and a minimum of eight (8) hours of specialized training in dementia**
 19 **care annually thereafter;**
 20 **(4) The secured dementia care unit shall maintain documentation reflecting course**
 21 **content, instructor qualifications, agenda, and attendance rosters for all training**
 22 **sessions provided; and**
 23 **(5) Completion of orientation and training required pursuant to this section and**
 24 **Section 10 of this Act shall be deemed to satisfy the requirements of KRS**
 25 **216B.072.**

26 ➔SECTION 22. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS
 27 CREATED TO READ AS FOLLOWS:

- 1 (1) An assisted living community shall not operate unless it is licensed under this
 2 chapter. A licensee shall be legally responsible for the management, control, and
 3 operations of the facility.
- 4 (2) The following categories are established for assisted living community licensure:
 5 (a) An assisted living community license for any assisted living community
 6 without a secured dementia care unit; and
 7 (b) An assisted living community with dementia care license for an assisted
 8 living community that provides assisted living services and dementia care
 9 services in a secured dementia care unit.
- 10 (3) On or after the effective date of this Act, no assisted living community shall
 11 operate a secured dementia care unit without first obtaining an assisted living
 12 community with dementia care license from the cabinet. A license issued
 13 pursuant to this section shall not be assignable or transferable.

14 ➔SECTION 23. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS
 15 CREATED TO READ AS FOLLOWS:

- 16 (1) A licensed personal care home in substantial compliance with Section 2 of this
 17 Act shall be licensed as an assisted living community as of the effective date of
 18 this Act. The cabinet shall issue an assisted living community license to the
 19 facility to replace its personal care license. If the personal care home has a
 20 secured dementia care unit, the replacement license shall be an assisted living
 21 community with dementia care license.
- 22 (2) A licensed personal care home that does not comply with Section 2 of this Act on
 23 the effective date of this Act may file an application with the cabinet to change its
 24 license from personal care home to assisted living community or assisted living
 25 community with dementia care:
 26 (a) Within twelve (12) months after the effective date of this Act once it
 27 complies with the physical plant requirements of an assisted living

1 community as of the effective date of this Act; or
2 (b) After twelve (12) months of the effective date of this Act once it complies
3 with the physical plant requirements of an assisted living community in
4 effect at the time of its application.

5 ➔SECTION 24. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS
6 CREATED TO READ AS FOLLOWS:

7 (1) Violations of the administrative regulations, standards, and requirements set
8 forth by the cabinet pursuant to Section 4 of this Act, the applicable provisions of
9 KRS 216.515 to 216.525, 216.537 to 216.555, 216.567 and 216.590, and Sections
10 29, 30, 31, 32, 33, and 34 of this Act shall be cited and referred to as citations or
11 deficiencies and shall not be subject to or be categorized as Type A or Type B
12 violations.

13 (2) When an assisted living community self-reports to the cabinet facts or an event
14 that constitute a violation of the administrative regulations, standards, and
15 requirements set forth by the cabinet pursuant to Section 4 of this Act, the
16 applicable provisions of KRS 216.515 to 216.525, 216.537 to 216.555, 216.567
17 and 216.590, and Sections 29, 30, 31, 32, 33, and 34 of this Act, the violation
18 shall be shown on all related documents as having been reported to the cabinet by
19 the assisted living community, and shall not be deemed a complaint.

20 (3) Violations of the administrative regulations, standards, and requirements set
21 forth by the cabinet shall present a direct or immediate relationship to the health,
22 safety, or security of any resident.

23 (4) A citation for a violation shall specify the time within which the violation is
24 required to be corrected as approved or determined by the cabinet. If a violation is
25 corrected within the time specified, no civil penalty shall be imposed.

26 (5) Civil monetary penalties for violations of the administrative regulations,
27 standards, and requirements set forth by the cabinet shall not be assessed in

1 excess of five hundred dollars (\$500) for each distinct violation. Civil monetary
 2 penalties shall not be assessed unless imminent danger to a resident is present
 3 that creates substantial risk of death or serious mental or physical harm.

4 (6) In determining the amount of any civil monetary penalty to be imposed under this
 5 subsection, the cabinet shall consider at least the following:

6 (a) The gravity of the violation, the severity of the actual harm, and the extent
 7 to which the provisions of the applicable statutes or administrative
 8 regulations were violated;

9 (b) The reasonable diligence exercised by the licensee and efforts to correct
 10 violations;

11 (c) The number and type of previous violations committed by the licensee; and

12 (d) The amount of the imposed penalty necessary to ensure immediate and
 13 continued compliance.

14 (7) An assisted living community that is assessed a civil monetary penalty shall have
 15 the amount of the penalty reduced by the dollar amount that the facility can
 16 verify was used to correct the deficiency if the condition resulting in the
 17 deficiency citation existed for less than thirty (30) days prior to the date of the
 18 citation.

19 (8) All administrative fines collected by the cabinet pursuant to KRS 194A.700 to
 20 194A.729 shall be deposited in the Kentucky nursing incentive scholarship fund
 21 created pursuant to KRS 314.025.

22 ➔Section 25. KRS 216.510 is amended to read as follows:

23 As used in KRS 216.515 to 216.530:

24 (1) "Long-term-care facilities" means those health-care facilities in the Commonwealth
 25 which are defined by the Cabinet for Health and Family Services to be family-care
 26 homes, personal-care homes, intermediate-care facilities, nursing facilities, nursing
 27 homes, ~~and~~ intermediate care facilities for individuals with intellectual

1 disabilities, and assisted living communities as defined in Section 1 of this Act;

2 (2) "Resident" means any person who is admitted to a long-term-care facility as defined
3 in KRS 216.515 to 216.530 for the purpose of receiving personal care and
4 assistance; and

5 (3) "Cabinet" means the Cabinet for Health and Family Services.

6 ➔Section 26. KRS 216.515 is amended to read as follows:

7 Every resident in a long-term-care facility shall have at least the following rights:

8 (1) Before admission to a long-term-care facility, the resident and the responsible party
9 or his responsible family member or his guardian shall be fully informed in writing,
10 as evidenced by the resident's written acknowledgment and that of the responsible
11 party or his responsible family member or his guardian, of all services available at
12 the long-term-care facility. Every long-term-care facility shall keep the original
13 document of each written acknowledgment in the resident's personal file.

14 (2) Before admission to a long-term-care facility, the resident and the responsible party
15 or his responsible family member or his guardian shall be fully informed in writing,
16 as evidenced by the resident's written acknowledgment and that of the responsible
17 party or his responsible family member or his guardian, of all resident's
18 responsibilities and rights as defined in this section and KRS 216.520 to 216.530.
19 Every long-term-care facility shall keep the original document of each written
20 acknowledgment in the resident's personal file.

21 (3) The resident and the responsible party or his responsible family member or his
22 guardian shall be fully informed in writing, as evidenced by the resident's written
23 acknowledgment and that of the responsible party or his responsible family
24 member, or his guardian, prior to or at the time of admission and quarterly during
25 the resident's stay at the facility, of all service charges for which the resident or his
26 responsible family member or his guardian is responsible for paying. The resident
27 and the responsible party or his responsible family member or his guardian shall

1 have the right to file complaints concerning charges which they deem unjustified to
2 appropriate local and state consumer protection agencies. Every long-term-care
3 facility shall keep the original document of each written acknowledgment in the
4 resident's personal file.

5 (4) The resident shall be transferred or discharged only for medical reasons, or his own
6 welfare, or that of the other residents, or for nonpayment, except where prohibited
7 by law or administrative regulation. Reasonable notice of such action shall be given
8 to the resident and the responsible party or his responsible family member or his
9 guardian.

10 (5) All residents shall be encouraged and assisted throughout their periods of stay in
11 long-term care facilities to exercise their rights as a resident and a citizen, and to
12 this end may voice grievances and recommend changes in policies and services to
13 facility staff and to outside representatives of their choice, free from restraint,
14 interference, coercion, discrimination, or reprisal.

15 (6) All residents shall be free from mental and physical abuse, and free from chemical
16 and physical restraints except in emergencies or except as thoroughly justified in
17 writing by a physician for a specified and limited period of time and documented in
18 the resident's medical record.

19 (7) All residents shall have confidential treatment of their medical and personal records.
20 Each resident or his responsible family member or his guardian shall approve or
21 refuse the release of such records to any individuals outside the facility, except as
22 otherwise specified by statute or administrative regulation.

23 (8) Each resident may manage the use of his personal funds. If the facility accepts the
24 responsibility for managing the resident's personal funds as evidenced by the
25 facility's written acknowledgment, proper accounting and monitoring of such funds
26 shall be made. This shall include each facility giving quarterly itemized statements
27 to the resident and the responsible party or his responsible family member or his

1 guardian which detail the status of the resident's personal funds and any transactions
2 in which such funds have been received or disbursed. The facility shall return to the
3 resident his valuables, personal possessions, and any unused balance of moneys
4 from his account at the time of his transfer or discharge from the facility. In case of
5 death or for valid reasons when he is transferred or discharged the resident's
6 valuables, personal possessions, and funds that the facility is not liable for shall be
7 promptly returned to the resident's responsible party or family member, or his
8 guardian, or his executor.

9 (9) If a resident is married, privacy shall be assured for the spouse's visits and if they
10 are both residents in the facility, they may share the same room unless they are in
11 different levels of care or unless medically contraindicated and documented by a
12 physician in the resident's medical record.

13 (10) Residents shall not be required to perform services for the facility that are not
14 included for therapeutic purposes in their plan of care.

15 (11) Residents may associate and communicate privately with persons of their choice
16 and send and receive personal mail unopened.

17 (12) Residents may retain the use of their personal clothing unless it would infringe upon
18 the rights of others.

19 (13) No responsible resident shall be detained against his will. Residents shall be
20 permitted and encouraged to go outdoors and leave the premises as they wish unless
21 a legitimate reason can be shown and documented for refusing such activity.

22 (14) Residents shall be permitted to participate in activities of social, religious, and
23 community groups at their discretion.

24 (15) Residents shall be assured of at least visual privacy in multibed rooms and in tub,
25 shower, and toilet rooms.

26 (16) The resident and the responsible party or his responsible family member or his
27 guardian shall be permitted the choice of a physician.

- 1 (17) If the resident is adjudicated mentally disabled in accordance with state law, the
2 resident's guardian shall act on the resident's behalf in order that his rights be
3 implemented.
- 4 (18) Each resident shall be treated with consideration, respect, and full recognition of his
5 dignity and individuality, including privacy in treatment and in care for his personal
6 needs.
- 7 (19) Every resident and the responsible party or his responsible family member or his
8 guardian has the right to be fully informed of the resident's medical condition unless
9 medically contraindicated and documented by a physician in the resident's medical
10 record.
- 11 (20) Residents have the right to be suitably dressed at all times and given assistance
12 when needed in maintaining body hygiene and good grooming.
- 13 (21) Residents shall have access to a telephone at a convenient location within the
14 facility for making and receiving telephone calls.
- 15 (22) The resident's responsible party or family member or his guardian shall be notified
16 immediately of any accident, sudden illness, disease, unexplained absence, or
17 anything unusual involving the resident.
- 18 (23) Residents have the right to have private meetings with the appropriate long-term
19 care facility inspectors from the Cabinet for Health and Family Services.
- 20 (24) Each resident and the responsible party or his responsible family member or his
21 guardian has the right to have access to all inspection reports on the facility.
- 22 (25) The above-stated rights shall apply in all cases unless medically contraindicated and
23 documented by a physician in writing in the resident's medical record.
- 24 (26) Any resident **of a long-term care facility licensed under KRS Chapter 216B** whose
25 rights as specified in this section are deprived or infringed upon shall have a cause
26 of action against any facility responsible for the violation. The action may be
27 brought by the resident or his guardian. The action may be brought in any court of

1 competent jurisdiction to enforce such rights and to recover actual and punitive
2 damages for any deprivation or infringement on the rights of a resident. Any
3 plaintiff who prevails in such action against the facility may be entitled to recover
4 reasonable attorney's fees, costs of the action, and damages, unless the court finds
5 the plaintiff has acted in bad faith, with malicious purpose, or that there was a
6 complete absence of justifiable issue of either law or fact. Prevailing defendants
7 may be entitled to recover reasonable attorney's fees. The remedies provided in this
8 section are in addition to and cumulative with other legal and administrative
9 remedies available to a resident and to the cabinet.

10 ➔Section 27. KRS 216.530 is amended to read as follows:

11 (1) All inspections of long-term care facilities performed by the cabinet shall be
12 unannounced. All inspections of long-term care facilities shall be conducted in
13 accordance with the rules and regulations promulgated by the cabinet in accordance
14 with KRS Chapter 13A setting forth the parameters of such inspections. Except for
15 complaint investigations, and except for assisted living communities, personal
16 care homes, and specialized personal care homes, inspections shall be performed
17 no later than seven (7) to fifteen (15) months after the previous inspection.

18 (2) A person having knowledge of or conducting inspections of long-term care facilities
19 shall not, with intent to violate subsection (1) of this section, notify or cause notice
20 to be made to an owner, operator, licensee, or representative of a licensee of any
21 scheduled or contemplated inspection. A violation of this subsection by a state
22 employee shall be considered cause for dismissal under KRS Chapter 18A.

23 ➔Section 28. KRS 216.535 is amended to read as follows:

24 (1) As used in KRS 216.537 to 216.590:

25 (a) "Long-term care facilities" means those health care facilities in the
26 Commonwealth which are defined by the Cabinet for Health and Family
27 Services to be family care homes, personal care homes, intermediate care

1 facilities, nursing facilities, nursing homes, ~~and~~ intermediate care facilities
2 for individuals with intellectual disabilities, and assisted living communities
3 as defined in Section 1 of this Act;

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

5 (c) "Resident" means any person admitted to a long-term care facility as defined
6 by this section;

7 (d) "Licensee" in the case of a licensee who is an individual means the individual,
8 and in the case of a licensee who is a corporation, partnership, or association
9 means the corporation, partnership, or association;

10 (e) "Secretary" means the secretary of the Cabinet for Health and Family
11 Services;

12 (f) "Long-term care ombudsman" means the person responsible for the operation
13 of a long-term care ombudsman program which investigates and resolves
14 complaints made by or on behalf of residents of long-term care facilities; and

15 (g) "Willful interference" means an intentional, knowing, or purposeful act or
16 omission which hinders or impedes the lawful performance of the duties and
17 responsibilities of the ombudsman as set forth in this chapter.

18 (2) The following information shall be available upon request of the affected Medicaid
19 recipient or responsible party:

20 (a) Business names, business addresses, and business telephone numbers of
21 operators and administrators of the facility; and

22 (b) Business names, business addresses, and business telephone numbers of staff
23 physicians and the directors of nursing.

24 (3) The following information shall be provided to the nursing facility patient upon
25 admission:

26 (a) Admission and discharge policies of the facility;

27 (b) Payment policies relevant to patients for all payor types; and

- 1 (c) Information developed and distributed to the nursing facility by the
 2 Department for Medicaid Services, including but not limited to:
- 3 1. Procedures for implementation of all peer review organizations' reviews
 4 and appeals processes;
 - 5 2. Eligibility criteria for the state's Medical Assistance Program, including
 6 circumstances when eligibility may be denied; and
 - 7 3. Names and telephone numbers for case managers and all state long term
 8 care ombudsmen.

9 ➔Section 29. KRS 216.765 is amended to read as follows:

10 (1) Prior to admission to a personal-care home *or assisted living community as defined*
 11 *in Section 1 of this Act*, an individual shall have a medical examination that
 12 includes a medical history, physical examination, and diagnosis. If completed
 13 within fourteen (14) days prior to admission, the medical evaluation may include a
 14 copy of the individual's discharge summary or health and physical report from a
 15 physician, hospital, or other health care facility.

16 (2) No person under the age of eighteen (18) years shall be admitted to a personal-care
 17 home *or assisted living community*.

18 ➔Section 30. KRS 216.557 is amended to read as follows:

19 Citations issued pursuant to KRS 216.537 to 216.590 shall be classified according to the
 20 nature of the violation as follows:

21 (1) Type "A" violation means a violation by a long-term care facility of the regulation,
 22 standards, and requirements as set forth by the cabinet pursuant to KRS 216.563 or
 23 the provisions of KRS 216.510 to 216.525, or applicable federal laws and
 24 regulations governing the certification of a long-term care facility under Title 18 or
 25 19 of the Social Security Act, which presents an imminent danger to any resident of
 26 a long-term care facility and creates substantial risk that death or serious mental or
 27 physical harm to a resident will occur. A Type A violation shall be abated or

1 eliminated immediately, unless a fixed period of time not to exceed ten (10) days, as
2 determined by the cabinet, is required for correction. A Type A violation is subject
3 to a civil penalty in an amount not less than one thousand dollars (\$1,000) nor more
4 than five thousand dollars (\$5,000) for each and every violation. A facility that is
5 assessed a civil monetary penalty in accordance with applicable federal laws and
6 regulations under Title 18 or 19 of the Federal Social Security Act shall not be
7 subject to the civil monetary penalty established in this subsection for the same
8 violation; ~~and~~[-]

- 9 (2) Type "B" violation means a violation by a long-term care facility of the regulations,
10 standards, and requirements as set forth by the cabinet pursuant to KRS 216.563 or
11 the provisions of KRS 216.510 to 216.525, or applicable federal laws and
12 regulations governing the certification of a long-term care facility under Title 18 or
13 19 of the Social Security Act, which presents a direct or immediate relationship to
14 the health, safety, or security of any resident, but which does not create an imminent
15 danger. A Type B violation is subject to a civil penalty in an amount not less than
16 one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each and
17 every violation. A citation for a Type B violation shall specify the time within
18 which the violation is required to be corrected as approved or determined by the
19 cabinet. If a Type B violation is corrected within the time specified, no civil penalty
20 shall be imposed. A facility that is assessed a civil monetary penalty in accordance
21 with applicable federal laws and regulations under Title 18 or 19 of the Federal
22 Social Security Act shall not be subject to the civil monetary penalty established in
23 this subsection for the same violation.

24 **This section shall not apply to assisted living communities licensed pursuant to KRS**
25 **194A.700 to 194A.729.**

26 ➔Section 31. KRS 216.560 is amended to read as follows:

- 27 (1) If a licensee has failed to correct a Type A violation within the time specified for

1 correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the
2 amount of five hundred dollars (\$500) for each day that the deficiency continues
3 beyond the date specified for correction. Application for an extension of time, not to
4 exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee
5 that adequate arrangements have been made to protect the health and safety of the
6 residents. A facility that is assessed a civil monetary penalty in accordance with
7 applicable federal laws and regulations under Title 18 or 19 of the Federal Social
8 Security Act shall not be subject to the civil monetary penalty established in this
9 subsection for the same violation.

10 (2) If a licensee has failed to correct a Type B violation within the time specified for
11 correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the
12 amount of two hundred dollars (\$200) for each day that the deficiency continues
13 beyond the date specified for correction. Application for an extension of time, not to
14 exceed (10) days, may be granted by the cabinet upon a showing by the licensee that
15 adequate arrangements have been made to protect the health and safety of the
16 residents. A facility that is assessed a civil monetary penalty in accordance with
17 applicable federal laws and regulations under Title 18 or 19 of the Federal Social
18 Security Act shall not be subject to the civil monetary penalty established in this
19 subsection for the same violation.

20 (3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a
21 licensee has received a citation for violating a statute or regulation for which it has
22 received a citation during the previous twelve (12) months.

23 (4) Payment of penalties shall not be made from moneys used for direct patient care nor
24 shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.

25 (5) KRS 216B.990(3) shall not apply to the offenses defined herein.

26 (6) A personal care home that is assessed a civil monetary penalty for a Type A or Type
27 B citation shall have the amount of the penalty reduced by the dollar amount that

1 the facility can verify was used to correct the deficiency, if:

2 (a) The condition resulting in the deficiency citation existed for less than thirty
3 (30) days prior to the date of the citation; or

4 (b) The facility has not intentionally delayed correcting the deficiency to secure a
5 reduction in a penalty that might subsequently be assessed.

6 (7) All administrative fines collected by the cabinet pursuant to KRS 216.537 to
7 216.590 shall be deposited in the Kentucky nursing incentive scholarship fund,
8 which is hereby created, and the balance of that fund shall not lapse at the end of the
9 fiscal year to the general fund.

10 **(8) This section shall not apply to assisted living communities licensed under KRS**
11 **194A.700 to 194A.729.**

12 ➔Section 32. KRS 216.563 is amended to read as follows:

13 **(1)** The cabinet shall promulgate administrative regulations setting forth the criteria
14 and, where feasible, the specific acts that constitute Type A and B violations as
15 specified by KRS 216.537 to 216.590. No violation or civil penalty for violations of
16 KRS 216.537 to 216.590 shall be assessed until the initial regulations are effective
17 pursuant to KRS Chapter 13A.

18 **(2) This section shall not apply to assisted living communities licensed under KRS**
19 **194A.700 to 194A.729.**

20 ➔Section 33. KRS 216.565 is amended to read as follows:

21 **(1)** In determining the amount of the initial penalty to be imposed under KRS 216.537
22 to 216.590, the cabinet shall consider at least the following factors:

23 **(a)** ~~[(1)]~~ The gravity of the violation, including the probability that death or
24 serious physical or mental harm to a resident will result or has resulted; the
25 severity of the actual or potential harm, and the extent to which the provisions
26 of the applicable statutes or regulations were violated;

27 **(b)** ~~[(2)]~~ The reasonable diligence exercised by the licensee and efforts to correct

1 violations;

2 (c) ~~[(3)]~~The number and type of previous violations committed by the licensee;

3 and

4 (d) ~~[(4)]~~The amount of assessment necessary to insure immediate and continued
5 compliance.

6 **(2) This section shall not apply to assisted living communities licensed under KRS**
7 **194A.700 to 194A.729.**

8 ➔Section 34. KRS 216.573 is amended to read as follows:

9 (1) The cabinet may institute injunctive proceedings in Circuit Court to enforce the
10 provisions of KRS 216.537 to 216.590 or to terminate the operation of a long-term
11 care facility where any of the following exists:

12 (a) ~~[(1)]~~Failure of the licensee to take appropriate action to correct a Type A or
13 B violation; or

14 (b) ~~[(2)]~~Failure of the licensee to abide by any final order of the cabinet once it
15 has become effective and binding.

16 (2) Such injunctive relief may include temporary and permanent injunction.

17 **(3) The cabinet may institute injunctive proceedings to enforce KRS 194A.700 to**
18 **194A.729 only under subsection (1)(b) of this section.**

19 ➔Section 35. KRS 216.577 is amended to read as follows:

20 (1) Upon a finding that conditions in a long-term care facility constitute a Type A
21 violation, and the licensee fails to correct the violation within the time specified for
22 correction by the cabinet, the secretary shall take at least one (1) of the following
23 actions with respect to the facility in addition to the issuance of a citation, or the
24 assessment of a civil penalty therefor:

25 (a) ~~[(1)]~~Institute proceedings to obtain an order compelling compliance with the
26 regulations, standards, or requirements as set forth by the Cabinet for Health
27 and Family Services, the provisions of KRS 216.510 to 216.525, or applicable

1 federal laws and regulations governing the certification of a long-term care
2 facility under Title 18 or 19 of the Social Security Act;

3 **(b)** ~~[(2)]~~Institute injunctive proceedings in Circuit Court to terminate the
4 operation of the facility; or

5 **(c)** ~~[(3)]~~Selectively transfer residents whose care needs are not being adequately
6 met by the long-term care facility.

7 **(2) This section shall not apply to assisted living communities licensed under KRS**
8 **194A.700 to 194A.729.**

9 ➔Section 36. KRS 216.595 is amended to read as follows:

10 (1) (a) Any **assisted living**~~[assisted living]~~ community as defined by KRS 194A.700
11 or long-term care facility as defined in KRS 216.535 that claims to provide
12 special care for persons with a medical diagnosis of Alzheimer's disease or
13 other brain disorders shall maintain a written and current manual that contains
14 the information specified in subsection (2) of this section. This manual shall
15 be maintained in the office of the community's or facility's director and shall
16 be made available for inspection upon request of any person. The community
17 or facility shall make a copy of any program or service information contained
18 in the manual for a person who requests information about programs or
19 services, at no cost to the person making the request.

20 (b) Any advertisement of the community or facility shall contain the following
21 statement: "Written information relating to this community's or facility's
22 services and policies is available upon request."

23 (c) The community or facility shall post a statement in its entrance or lobby as
24 follows: "Written information relating to this community's or facility's
25 services and policies is available upon request."

26 (2) The community or facility shall maintain and update written information on the
27 following:

- 1 (a) The *assisted living*~~[assisted living]~~ community's or long-term care facility's
2 mission or philosophy statement concerning the needs of residents with
3 Alzheimer's disease or other brain disorders;
- 4 (b) The process and criteria the *assisted living*~~[assisted living]~~ community or
5 long-term care facility uses to determine placement into services for persons
6 with Alzheimer's disease or other brain disorders;
- 7 (c) The process and criteria the *assisted living*~~[assisted living]~~ community or
8 long-term care facility uses to transfer or discharge persons from special
9 services for Alzheimer's or other brain disorders;
- 10 (d) The supervision provided for residents with a medical diagnosis of
11 Alzheimer's disease or other brain disorders;
- 12 (e) The family's role in care;
- 13 (f) The process for assessing, planning, implementing, and evaluating the plan of
14 care for persons with Alzheimer's disease or other brain disorders;
- 15 (g) A description of any special care services for persons with Alzheimer's disease
16 or other brain disorders;
- 17 (h) Any costs associated with specialized services for Alzheimer's disease or other
18 brain disorders; and
- 19 (i) A description of dementia or other brain disorder-specific staff training that is
20 provided, including but not limited to the content of the training, the number
21 of offered and required hours of training, the schedule for training, and the
22 staff who are required to complete the training.
- 23 (3) An *assisted living*~~[assisted living]~~ community may request a waiver from the
24 Cabinet for Health and Family Services regarding building requirements to address
25 the specialized needs of individuals with Alzheimer's disease or other brain
26 disorders.

27 ➔SECTION 37. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) As used in this section:

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

4 (b) "Personal care home" or "PCH" means an establishment located in a
5 permanent building that does not comply with the physical plant
6 requirements of Section 2 of this Act, has resident beds, and provides:

7 1. Supervision of residents;

8 2. Basic health and health-related services;

9 3. Personal care services;

10 4. Residential care services; and

11 5. Social and recreational activities; and

12 (c) "Specialized personal care home" or "SPCH" means a personal care home
13 that:

14 1. Participates in the mental illness or intellectual disability supplement
15 program pursuant to administrative regulations promulgated by the
16 cabinet; or

17 2. Serves residents with thirty-five percent (35%) or more having a
18 serious mental illness as defined by administrative regulations
19 promulgated by the cabinet.

20 (2) A resident in a PCH or SPCH shall:

21 (a) Be admitted in accordance with Section 29 of this Act;

22 (b) Be ambulatory as defined by Section 1 of this Act;

23 (c) Be able to manage most of the activities of daily living; and

24 (d) Have care needs that do not exceed the capability of the PCH or SPCH.

25 (3) An individual who is nonambulatory as defined in Section 1 of this Act shall not
26 be eligible for residence in a PCH or SPCH.

27 (4) A PCH or SPCH may provide services to a resident who is deemed to have a

1 temporary condition as defined in Section 1 of this Act.

2 (5) (a) Residents of a PCH or SPCH may arrange for additional services under
3 direct contract or arrangement with an outside agent, professional,
4 provider, or other individual designated by the resident if permitted by the
5 policies of the PCH or SPCH.

6 (b) Permitted services for which a resident may arrange or contract include but
7 are not limited to health services, hospice services provided by a hospice
8 program licensed under KRS Chapter 216B, and other end-of-life services.

9 (6) (a) Staffing in a PCH or SPCH shall be sufficient in number and qualification
10 to meet the twenty-four (24) hour scheduled needs of each resident.

11 (b) One (1) awake staff member shall be on site at each licensed entity at all
12 times.

13 (c) When a resident requires hands-on assistance of another person to walk,
14 transfer, or move from place to place with or without an assistive device, the
15 PCH or SPCH shall have a policy that describes how priority will be given
16 by staff sufficient to assist that resident during times of emergency when
17 evacuation may be necessary.

18 (7) (a) The cabinet shall promulgate administrative regulations in accordance with
19 KRS Chapter 13A to establish an initial and re-licensure review process for
20 personal care homes or specialized personal care homes. Administrative
21 regulations shall establish procedures related to applying for, reviewing,
22 and approving, denying, or revoking licensure, as well as the conduct of
23 hearings upon appeals as governed by KRS Chapter 216B.

24 (b) Notwithstanding any provision of law to the contrary, the cabinet may
25 request additional relevant information from a personal care home or
26 specialized personal care home or conduct additional on-site visits to ensure
27 compliance with the provisions of this chapter and other applicable statutes

1 and administrative regulations, if the cabinet has reasonable cause to
 2 believe that the personal care home or specialized personal care home is not
 3 in compliance.

4 (c) Notwithstanding Section 27 of this Act, the cabinet shall conduct an on-site
 5 visit of a personal care home or specialized personal care home:

6 1. As part of the initial licensure review process;

7 2. Twenty-four (24) months following the date of the previous licensure
 8 review, if during the previous licensure review a personal care home
 9 or specialized personal care home was not found to have violated an
 10 administrative regulation set forth by the cabinet that presented
 11 imminent danger to a resident that created substantial risk of death or
 12 serious mental or physical harm; and

13 3. Twelve (12) months following the date of the previous licensure
 14 review, if during the previous licensure review a personal care home
 15 or specialized personal care home was found to have violated an
 16 administrative regulation set forth by the cabinet that presented
 17 imminent danger to a resident that created substantial risk of death or
 18 serious mental or physical harm.

19 ➔Section 38. KRS 216A.030 is amended to read as follows:

20 (1) No licensed long-term care facility shall operate except under the supervision of a
 21 long-term care administrator, unless approved by the board through administrative
 22 regulation, and no person shall be a long-term care administrator unless he or she is
 23 the holder of a long-term care administrator's license issued pursuant to this chapter.

24 (2) This section shall not apply to assisted living communities licensed under KRS
 25 194A.700 to 194A.729.

26 ➔Section 39. KRS 216B.015 is amended to read as follows:

27 Except as otherwise provided, for purposes of this chapter, the following definitions shall

1 apply:

2 (1) "Abortion facility" means any place in which an abortion is performed;

3 (2) "Administrative regulation" means a regulation adopted and promulgated pursuant
4 to the procedures in KRS Chapter 13A;

5 (3) "Affected persons" means the applicant; any person residing within the geographic
6 area served or to be served by the applicant; any person who regularly uses health
7 facilities within that geographic area; health facilities located in the health service
8 area in which the project is proposed to be located which provide services similar to
9 the services of the facility under review; health facilities which, prior to receipt by
10 the agency of the proposal being reviewed, have formally indicated an intention to
11 provide similar services in the future; and the cabinet and third-party payors who
12 reimburse health facilities for services in the health service area in which the project
13 is proposed to be located;

14 (4) (a) "Ambulatory surgical center" means a health facility:

15 1. Licensed pursuant to administrative regulations promulgated by the
16 cabinet;

17 2. That provides outpatient surgical services, excluding oral or dental
18 procedures; and

19 3. Seeking recognition and reimbursement as an ambulatory surgical center
20 from any federal, state, or third-party insurer from which payment is
21 sought.

22 (b) An ambulatory surgical center does not include the private offices of
23 physicians where in-office outpatient surgical procedures are performed as
24 long as the physician office does not seek licensure, certification,
25 reimbursement, or recognition as an ambulatory surgical center from a federal,
26 state, or third-party insurer.

27 (c) Nothing in this subsection shall preclude a physician from negotiating

1 enhanced payment for outpatient surgical procedures performed in the
2 physician's private office so long as the physician does not seek recognition or
3 reimbursement of his or her office as an ambulatory surgical center without
4 first obtaining a certificate of need or license required under KRS 216B.020
5 and 216B.061;

6 (5) "Applicant" means any physician's office requesting a major medical equipment
7 expenditure exceeding the capital expenditure minimum, or any person, health
8 facility, or health service requesting a certificate of need or license;

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

10 (7) "Capital expenditure" means an expenditure made by or on behalf of a health
11 facility which:

12 (a) Under generally accepted accounting principles is not properly chargeable as
13 an expense of operation and maintenance or is not for investment purposes
14 only; or

15 (b) Is made to obtain by lease or comparable arrangement any facility or part
16 thereof or any equipment for a facility or part thereof;

17 (8) "Capital expenditure minimum" means the annually adjusted amount set by the
18 cabinet. In determining whether an expenditure exceeds the expenditure minimum,
19 the cost of any studies, surveys, designs, plans, working drawings, specifications,
20 and other activities essential to the improvement, expansion, or replacement of any
21 plant or any equipment with respect to which the expenditure is made shall be
22 included. Donations of equipment or facilities to a health facility which if acquired
23 directly by the facility would be subject to review under this chapter shall be
24 considered a capital expenditure, and a transfer of the equipment or facilities for
25 less than fair market value shall be considered a capital expenditure if a transfer of
26 the equipment or facilities at fair market value would be subject to review;

27 (9) "Certificate of need" means an authorization by the cabinet to acquire, to establish,

1 to offer, to substantially change the bed capacity, or to substantially change a health
2 service as covered by this chapter;

3 (10) "Certified surgical assistant" means a certified surgical assistant or certified first
4 assistant who is certified by the National Surgical Assistant Association on the
5 Certification of Surgical Assistants, the Liaison Council on Certification of Surgical
6 Technologists, or the American Board of Surgical Assistants. The certified surgical
7 assistant is an unlicensed health-care provider who is directly accountable to a
8 physician licensed under KRS Chapter 311 or, in the absence of a physician, to a
9 registered nurse licensed under KRS Chapter 314;

10 (11) "Continuing care retirement community" means a community that provides, on the
11 same campus, a continuum of residential living options and support services to
12 persons sixty (60) years of age or older under a written agreement. The residential
13 living options shall include independent living units, nursing home beds, and either
14 assisted living units or personal care beds;

15 (12) "Formal review process" means the ninety (90) day certificate-of-need review
16 conducted by the cabinet;

17 (13) "Health facility" means any institution, place, building, agency, or portion thereof,
18 public or private, whether organized for profit or not, used, operated, or designed to
19 provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and
20 includes alcohol abuse, drug abuse, and mental health services. This shall include
21 but shall not be limited to health facilities and health services commonly referred to
22 as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical
23 dependency programs, nursing facilities, nursing homes, personal care homes,
24 intermediate care facilities, assisted living communities, family care homes,
25 outpatient clinics, ambulatory care facilities, ambulatory surgical centers,
26 emergency care centers and services, ambulance providers, hospices, community
27 mental health centers, home health agencies, kidney disease treatment centers and

1 freestanding hemodialysis units, and others providing similarly organized services
2 regardless of nomenclature;

3 (14) "Health services" means clinically related services provided within the
4 Commonwealth to two (2) or more persons, including but not limited to diagnostic,
5 treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental
6 health services;

7 (15) "Independent living" means the provision of living units and supportive services,
8 including but not limited to laundry, housekeeping, maintenance, activity direction,
9 security, dining options, and transportation;

10 (16) "Intraoperative surgical care" includes the practice of surgical assisting in which the
11 certified surgical assistant or physician assistant is working under the direction of
12 the operating physician as a first or second assist, and which may include the
13 following procedures:

14 (a) Positioning the patient;

15 (b) Preparing and draping the patient for the operative procedure;

16 (c) Observing the operative site during the operative procedure;

17 (d) Providing the best possible exposure of the anatomy incident to the operative
18 procedure;

19 (e) Assisting in closure of incisions and wound dressings; and

20 (f) Performing any task, within the role of an unlicensed assistive person, or if the
21 assistant is a physician assistant, performing any task within the role of a
22 physician assistant, as required by the operating physician incident to the
23 particular procedure being performed;

24 (17) "Major medical equipment" means equipment which is used for the provision of
25 medical and other health services and which costs in excess of the medical
26 equipment expenditure minimum. In determining whether medical equipment has a
27 value in excess of the medical equipment expenditure minimum, the value of

- 1 studies, surveys, designs, plans, working drawings, specifications, and other
2 activities essential to the acquisition of the equipment shall be included;
- 3 (18) "Nonsubstantive review" means an expedited review conducted by the cabinet of an
4 application for a certificate of need as authorized under KRS 216B.095;
- 5 (19) "Nonclinically related expenditures" means expenditures for:
- 6 (a) Repairs, renovations, alterations, and improvements to the physical plant of a
7 health facility which do not result in a substantial change in beds, a substantial
8 change in a health service, or the addition of major medical equipment, and do
9 not constitute the replacement or relocation of a health facility; or
- 10 (b) Projects which do not involve the provision of direct clinical patient care,
11 including but not limited to the following:
- 12 1. Parking facilities;
- 13 2. Telecommunications or telephone systems;
- 14 3. Management information systems;
- 15 4. Ventilation systems;
- 16 5. Heating or air conditioning, or both;
- 17 6. Energy conservation; or
- 18 7. Administrative offices;
- 19 (20) "Party to the proceedings" means the applicant for a certificate of need and any
20 affected person who appears at a hearing on the matter under consideration and
21 enters an appearance of record;
- 22 (21) "Perioperative nursing" means a practice of nursing in which the nurse provides
23 preoperative, intraoperative, and postoperative nursing care to surgical patients;
- 24 (22) "Person" means an individual, a trust or estate, a partnership, a corporation, an
25 association, a group, state, or political subdivision or instrumentality including a
26 municipal corporation of a state;
- 27 (23) "Physician assistant" means the same as the definition provided in KRS 311.550;

- 1 (24) "Record" means, as applicable in a particular proceeding:
- 2 (a) The application and any information provided by the applicant at the request
- 3 of the cabinet;
- 4 (b) Any information provided by a holder of a certificate of need or license in
- 5 response to a notice of revocation of a certificate of need or license;
- 6 (c) Any memoranda or documents prepared by or for the cabinet regarding the
- 7 matter under review which were introduced at any hearing;
- 8 (d) Any staff reports or recommendations prepared by or for the cabinet;
- 9 (e) Any recommendation or decision of the cabinet;
- 10 (f) Any testimony or documentary evidence adduced at a hearing;
- 11 (g) The findings of fact and opinions of the cabinet or the findings of fact and
- 12 recommendation of the hearing officer; and
- 13 (h) Any other items required by administrative regulations promulgated by the
- 14 cabinet;
- 15 (25) "Registered nurse first assistant" means one who:
- 16 (a) Holds a current active registered nurse licensure;
- 17 (b) Is certified in perioperative nursing; and
- 18 (c) Has successfully completed and holds a degree or certificate from a
- 19 recognized program, which shall consist of:
- 20 1. The Association of Operating Room Nurses, Inc., Core Curriculum for
- 21 the registered nurse first assistant; and
- 22 2. One (1) year of postbasic nursing study, which shall include at least
- 23 forty-five (45) hours of didactic instruction and one hundred twenty
- 24 (120) hours of clinical internship or its equivalent of two (2) college
- 25 semesters.
- 26 A registered nurse who was certified prior to 1995 by the Certification Board of
- 27 Perioperative Nursing shall not be required to fulfill the requirements of paragraph

- 1 (c) of this subsection;
- 2 (26) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 3 (27) "Sexual assault examination facility" means a licensed health facility, emergency
4 medical facility, primary care center, or a children's advocacy center or rape crisis
5 center that is regulated by the Cabinet for Health and Family Services, and that
6 provides sexual assault examinations under KRS 216B.400;
- 7 (28) "State health plan" means the document prepared triennially, updated annually, and
8 approved by the Governor;
- 9 (29) "Substantial change in a health service" means:
- 10 (a) The addition of a health service for which there are review criteria and
11 standards in the state health plan; or
- 12 (b) The addition of a health service subject to licensure under this chapter;
- 13 (30) "Substantial change in bed capacity" means the addition or reduction of beds by
14 licensure classification within a health facility;
- 15 (31) "Substantial change in a project" means a change made to a pending or approved
16 project which results in:
- 17 (a) A substantial change in a health service, except a reduction or termination of a
18 health service;
- 19 (b) A substantial change in bed capacity, except for reductions;
- 20 (c) A change of location; or
- 21 (d) An increase in costs greater than the allowable amount as prescribed by
22 regulation;
- 23 (32) "To acquire" means to obtain from another by purchase, transfer, lease, or other
24 comparable arrangement of the controlling interest of a capital asset or capital stock,
25 or voting rights of a corporation. An acquisition shall be deemed to occur when
26 more than fifty percent (50%) of an existing capital asset or capital stock or voting
27 rights of a corporation is purchased, transferred, leased, or acquired by comparable

1 arrangement by one (1) person from another person;

2 (33) "To batch" means to review in the same review cycle and, if applicable, give
3 comparative consideration to all filed applications pertaining to similar types of
4 services, facilities, or equipment affecting the same health service area;

5 (34) "To establish" means to construct, develop, or initiate a health facility;

6 (35) "To obligate" means to enter any enforceable contract for the construction,
7 acquisition, lease, or financing of a capital asset. A contract shall be considered
8 enforceable when all contingencies and conditions in the contract have been met.
9 An option to purchase or lease which is not binding shall not be considered an
10 enforceable contract; and

11 (36) "To offer" means, when used in connection with health services, to hold a health
12 facility out as capable of providing, or as having the means of providing, specified
13 health services.

14 ➔Section 40. KRS 216B.160 is amended to read as follows:

15 All health care facilities and services licensed under this chapter shall include in their
16 policies and procedures a care delivery model based on patient needs which includes~~[-]~~
17 but is not limited to:

18 (1) Defined roles and responsibilities of licensed and unlicensed health care personnel;

19 (2) A policy that establishes the credentialing, oversight, appointment, and
20 reappointment of the registered nurse first assistant and for granting, renewing, and
21 revising of the registered nurse first assistant's clinical privileges;

22 (3) A policy that establishes the credentialing, oversight, appointment, and
23 reappointment of the physician assistant and for granting, renewing, and revising of
24 the physician assistant's clinical privileges;

25 (4) A policy that establishes the credentialing, oversight, appointment, and
26 reappointment of the certified surgical assistant and for granting, renewing, and
27 revising of the certified surgical assistant's clinical privileges;

- 1 (5) A staffing plan that specifies staffing levels of licensed and unlicensed personnel
 2 required to safely and consistently meet the performance and clinical outcomes-
 3 based standards as outlined in the facility's or service's quality improvement plan;
- 4 (6) A staffing model that is developed and implemented in an interdisciplinary and
 5 collaborative manner;
- 6 (7) A policy and method that incorporates at least four (4) components in an ongoing
 7 assessment done by the registered nurse, or in an assisted living community, a
 8 registered nurse or the manager's designee, of the severity of the patient's disease,
 9 patient condition, level of impairment or disability, and the specific unit patient
 10 census to meet the needs of the individual patient in a timely manner; and
- 11 (8) A staffing model that supports the delivery of patient care services with an
 12 appropriate mix of licensed health care personnel that will allow them to practice
 13 according to their legal scope of practice, and for nurses, the professional standards
 14 of practice referenced in KRS Chapter 314, and facility and service policies.

15 If a nursing facility, intermediate care facility, or skilled care facility meets the most
 16 current state or federal regulations which address safe and consistent staffing levels of
 17 licensed and unlicensed personnel, those shall suffice for compliance with the standards
 18 in this section. This section shall not be interpreted as requiring any health care facility to
 19 develop a policy or a procedure for a service not offered by the facility.

20 ➔Section 41. KRS 218A.180 is amended to read as follows:

- 21 (1) Except when dispensed directly by a practitioner to an ultimate user, no controlled
 22 substance listed in Schedule II may be dispensed without the written, facsimile,
 23 electronic, or oral prescription of a practitioner. A prescription for a controlled
 24 substance listed in Schedule II may be dispensed by a facsimile prescription only as
 25 specified in administrative regulations promulgated by the cabinet. A prescription
 26 for a controlled substance listed in Schedule II may be dispensed by oral
 27 prescription only for immediate administration to a patient enrolled in a hospice

1 program or a resident in a long-term care facility, as defined in KRS 216.535,
2 excluding a family care home, *assisted living community as defined in Section 1 of*
3 *this Act*, or personal care home, and the practitioner determines that immediate
4 administration is necessary, no appropriate alternative treatment is available, and it
5 is not reasonably possible for the prescriber to provide a written prescription. No
6 prescription for a controlled substance in Schedule II shall be valid after sixty (60)
7 days from the date issued. No prescription for a controlled substance in Schedule II
8 shall be refilled. All prescriptions for controlled substances classified in Schedule II
9 shall be maintained in a separate prescription file.

10 (2) Except when dispensed directly by a practitioner to an ultimate user, a controlled
11 substance included in Schedules III, IV, and V, which is a prescription drug, shall
12 not be dispensed without a written, facsimile, electronic, or oral prescription by a
13 practitioner. The prescription shall not be filled or refilled more than six (6) months
14 after the date issued or be refilled more than five (5) times, unless renewed by the
15 practitioner and a new prescription, written, electronic, or oral shall be required.

16 (3) (a) To be valid, a prescription for a controlled substance shall be issued only for a
17 legitimate medical purpose by a practitioner acting in the usual course of his
18 professional practice. Responsibility for the proper dispensing of a controlled
19 substance pursuant to a prescription for a legitimate medical purpose is upon
20 the pharmacist who fills the prescription.

21 (b) A prescription shall not be issued for a practitioner to obtain a controlled
22 substance for the purpose of general dispensing or administering to patients.

23 (4) All written, facsimile, and electronic prescriptions for controlled substances shall be
24 dated and signed by the practitioner on the date issued. A computer-generated
25 prescription that is printed out or faxed by the practitioner shall be manually signed.
26 A prescription may be transmitted by facsimile only as specified in administrative
27 regulations promulgated by the cabinet. Electronic prescriptions shall be created,

1 signed, and transmitted in accordance with the requirements of 21 C.F.R. pt. 1311.

2 (5) All prescriptions for controlled substances shall include the full name and address
3 of the patient, drug name, strength, dosage form, quantity prescribed, directions for
4 use, and the name, address and registration number of the practitioner.

5 (6) All oral prescriptions for controlled substances shall be immediately reduced to
6 writing, dated, and signed by the pharmacist.

7 (7) A pharmacist refilling any prescription shall record on the prescription or other
8 equivalent record the date, the quantity, and the pharmacist's initials. The
9 maintenance of prescription records under the federal controlled substances laws
10 and regulations containing substantially the same information as specified in this
11 subsection shall constitute compliance with this subsection.

12 (8) The pharmacist filling a written, facsimile, electronic, or oral prescription for a
13 controlled substance shall affix to the package a label showing the date of filling,
14 the pharmacy name and address, the serial number of the prescription, the name of
15 the patient, the name of the prescribing practitioner and directions for use and
16 cautionary statements, if any, contained in such prescription or required by law.

17 (9) Any person who violates any provision of this section shall:

18 (a) For the first offense, be guilty of a Class A misdemeanor.

19 (b) For a second or subsequent offense, be guilty of a Class D felony.

20 ➔Section 42. The following KRS sections are repealed:

21 194A.723 Penalties for operating without certification.

22 194A.724 Statements of danger -- Penalty for receipt.