

1 AN ACT relating to healthcare practitioners.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
4 READ AS FOLLOWS:

5 (1) *As used in the section:*

6 (a) *"Health care practitioner" means anyone professionally engaged in the*  
7 *practice of medicine, surgery, osteopathy, optometry, dentistry, podiatry,*  
8 *pharmacy, chiropractic, psychology or psychiatry, nursing, anesthesiology,*  
9 *physio or physical therapy, or any other profession or business having for*  
10 *its purpose the diagnosis, treatment, correction, or cure of any human*  
11 *ailment, conditions, disease, injury, or infirmity; and*

12 (b) *"Adverse treatment" means a hostile work environment, retaliation,*  
13 *disciplinary actions, negative manipulation of the ordinary flow of business,*  
14 *or an overt act by any person with direct power over the health care*  
15 *practitioner which creates a negative impact intended for the health care*  
16 *practitioner.*

17 (2) *The General Assembly finds that the independence of health care providers is*  
18 *paramount to a robust market of options, and that any type of competition in*  
19 *healthcare will increase health outcomes and reduce costs. The General*  
20 *Assembly wants health care providers to exercise their professional judgment in*  
21 *the best interest of their patients without regard to third parties who are not the*  
22 *direct provider of health services to the patient.*

23 (3) *An employer, health facility, or other person overseeing any part of a health care*  
24 *practitioner's practice shall not:*

25 (a) *Subject the health care practitioner to any requirements beyond established*  
26 *applicable state and federal law that may impede the health care*  
27 *practitioner's independent judgment relating to patient care or advice;*

1        (b) Engage in adverse treatment of a health care practitioner who has not  
2            exceeded the boundaries of the law when he or she performs the duties  
3            inherent in his or her profession; and

4        (c) Engage in adverse treatment of a health care practitioner or disparagement  
5            for the purpose of inciting adverse treatment of a health care practitioner  
6            who is publicly communicating or assembling in a manner protected by the  
7            First Amendment.

8        (4) A health care practitioner professional licensing board shall not:

9            (a) Promulgate administrative regulations, issue opinions, policy statements, or  
10            other guidance that would impede the full scope of practice available to a  
11            health care practitioner under state or federal law or the free exercise of  
12            constitutional rights; and

13            (b) Assist in any adverse treatment of any other health care practitioner.

14        (5) (a) No health care practitioner exceeding the limits of the law shall not be  
15            protected from adverse treatment.

16            (b) Exceeding the limits of the law shall include but not be limited to:

17            1. Advising patients overtly in support of an emergency use drug as  
18            defined in 21 U.S.C. sec. 360bbb-3; or

19            2. Failing to disclose required disclosures.

20            (c) Acts protected by the law which shall not shall result in adverse treatment  
21            include but are not limited to voluntary actions not otherwise prohibited by  
22            law, such as:

23            1. Off-label use of drugs;

24            2. Reporting of adverse events; or

25            3. Providing medical statements or exemptions reasonably needed by the  
26            patient in the health care practitioner's judgment.

27        (6) Adverse treatment shall be professional misconduct if performed by a person

1        subject to a professional code of conduct and subject to administrative  
2        adjudication which may result in reprimand, fines, suspension, or revocation of  
3        licensure or approval by any applicable governing body of the Commonwealth.