

1 AN ACT relating to patient-directed care at the end of life.

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 *As used in Sections 1 to 10 of this Act:*

6 *(1) "Adult" means a person who is eighteen (18) years of age or older;*

7 *(2) "Attending physician" means the physician licensed in Kentucky who has*  
8 *primary responsibility for the treatment and care of the patient's terminal*  
9 *condition;*

10 *(3) "Competent" means that, in the opinion of a court or in the opinion of the*  
11 *patient's attending physician, consulting physician, psychiatrist, or psychologist,*  
12 *a patient has the ability to make and communicate an informed decision to health*  
13 *care providers, including communication through persons familiar with the*  
14 *patient's manner of communicating if those persons are available;*

15 *(4) "Consulting physician" means a physician licensed in Kentucky who is qualified*  
16 *by specialty or experience to make a professional diagnosis and prognosis*  
17 *regarding a patient's terminal condition;*

18 *(5) "Counseling" means one (1) or more consultations between a state-licensed*  
19 *psychiatrist, psychologist, clinical social worker, or clinical professional*  
20 *counselor and a patient for the purpose of determining that the patient is*  
21 *competent and not suffering from a psychiatric or psychological disorder or*  
22 *depression causing impaired judgment;*

23 *(6) "Health care facility" means a hospital, nursing facility, nursing home, or*  
24 *hospice, public or private, whether organized for profit or not, that is licensed*  
25 *pursuant to KRS Chapter 216B;*

26 *(7) "Health care provider" means a health care facility or a health care provider*  
27 *licensed under KRS Chapter 311, 315, or 319;*

- 1 (8) "Informed decision" means a decision by a qualified patient to request and  
2 obtain a prescription for medication that the qualified patient may self-administer  
3 to end the qualified patient's life in a humane and dignified manner that is based  
4 on an appreciation of the relevant facts and that is made after being fully  
5 informed by the attending physician of:
- 6 (a) The qualified patient's medical diagnosis;  
7 (b) The qualified patient's prognosis;  
8 (c) The potential risks associated with taking the medication to be prescribed;  
9 (d) The probable result of taking the medication to be prescribed; and  
10 (e) The feasible alternatives to taking the medication to be prescribed,  
11 including palliative care, comfort care, hospice care, pain control, and  
12 terminal condition-directed treatment options;
- 13 (9) "Medically confirmed" means the medical opinion of an attending physician has  
14 been confirmed by a consulting physician who has examined the patient and the  
15 patient's relevant medical records;
- 16 (10) "Notice" means a separate statement in writing advising of a health care  
17 provider's policy with respect to prohibiting participation in activities under  
18 Sections 1 to 10 of this Act;
- 19 (11) "Participating, or entering into an agreement to participate, in activities" means  
20 doing or entering into an agreement to:
- 21 (a) Perform the duties of a health care provider under Sections 1 to 10 of this  
22 Act;  
23 (b) Deliver the prescription for or dispensing or delivering the dispensed  
24 medication pursuant to Sections 1 to 10 of this Act; or  
25 (c) Be present when the qualified patient takes the medication prescribed  
26 pursuant to Sections 1 to 10 of this Act;
- 27 (12) "Patient" means an adult who is under the care of a physician;

1 (13) "Physician" means a person licensed to practice medicine under this chapter;

2 (14) "Qualified patient" means a competent adult who is a resident of Kentucky and  
3 who has satisfied the requirements of Sections 1 to 10 of this Act in order to  
4 obtain a prescription for medication that the qualified patient may self-administer  
5 to end the qualified patient's life in a humane and dignified manner;

6 (15) "Self-administer" means, for a qualified patient, to voluntarily ingest medication  
7 to end the qualified patient's life in a humane and dignified manner; and

8 (16) "Terminal condition" means a condition caused by injury, disease, or illness  
9 which, to a reasonable degree of medical probability as determined solely by the  
10 patient's attending physician and a consulting physician, is incurable and  
11 irreversible and will result in death within a relatively short time, and where the  
12 application of life-prolonging treatment would serve only to artificially prolong  
13 the dying process.

14 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
15 READ AS FOLLOWS:

16 (1) A patient has a right to information regarding all treatment options reasonably  
17 available for the care of the patient, including but not limited to information in  
18 response to specific questions about the foreseeable risks and benefits of  
19 medication, without a physician's withholding requested information regardless  
20 of the purpose of the questions or the nature of the information.

21 (2) A patient who is competent, is a resident of Kentucky, has been determined by an  
22 attending physician and a consulting physician to be suffering from a terminal  
23 condition, and has voluntarily expressed the wish to die may make a written  
24 request for medication that the patient may self-administer in accordance with  
25 Sections 1 to 10 of this Act. A patient shall not qualify under Sections 1 to 10 of  
26 this Act solely because of age or disability.

27 (3) A valid written request for medication under Sections 1 to 10 of this Act shall be

1 substantially in the form described in Section 9 of this Act, signed and dated by  
2 the patient and witnessed by at least two (2) individuals who, in the presence of  
3 the patient, attest that to the best of their knowledge and belief the patient is  
4 competent, acting voluntarily, and not being coerced to sign the request.

5 (4) The language of a written request for medication under Sections 1 to 10 of this  
6 Act shall be the language in which any conversations or consultations or  
7 interpreted conversations or consultations between a patient and the patient's  
8 attending physician or consulting physician are held.

9 (5) Notwithstanding subsection (4) of this section, the language of a written request  
10 for medication under Sections 1 to 10 of this Act may be in English when the  
11 conversations or consultations or interpreted conversations or consultations  
12 between a patient and the patient's attending physician or consulting physician  
13 were conducted in a language other than English, if the form described in  
14 Section 9 of this Act contains the attachment described in Section 10 of this Act.

15 (6) At least one (1) of the witnesses and the interpreter, if one (1) is required, shall be  
16 a person who is not:

17 (a) A relative of the patient by blood, marriage, or adoption;

18 (b) A person who at the time the request is signed would be entitled to any  
19 portion of the estate of the qualified patient upon death under any will or  
20 state law; or

21 (c) An owner, operator, or employee of a health care facility where the  
22 qualified patient is receiving medical treatment or is a resident.

23 (7) The patient's attending physician at the time the written request is signed shall  
24 not be a witness.

25 (8) If the patient is a patient in a long-term care facility at the time the patient makes  
26 the written request, one (1) of the witnesses shall be a medical director of the  
27 facility.

1 (9) A patient may rescind a request for medication prescribed under Sections 1 to 10  
2 of this Act at any time and in any manner without regard to the patient's mental  
3 state.

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

6 (1) Notwithstanding any state law to the contrary, an attending physician may  
7 provide medication to a qualified patient to end the qualified patient's life upon a  
8 request made by the qualified patient under Sections 1 to 10 of this Act.

9 (2) The attending physician shall:

10 (a) Make the initial determination of whether a patient has a terminal  
11 condition, is competent, and has made the written request for medication  
12 that the patient may self-administer voluntarily;

13 (b) Request that the patient demonstrate state residency as required by Section  
14 4 of this Act;

15 (c) Inform the patient of:

16 1. The patient's medical diagnosis;

17 2. The patient's prognosis;

18 3. The potential risks associated with taking the medication to be  
19 prescribed;

20 4. The probable result of taking the medication to be prescribed; and

21 5. The feasible alternatives to taking the medication to be prescribed,  
22 including palliative care, comfort care, hospice care, pain control, and  
23 terminal condition-directed treatment options;

24 (d) Refer the patient to a consulting physician for medical confirmation of the  
25 diagnosis and for a determination that the patient is competent and acting  
26 voluntarily;

27 (e) Confirm that the patient's request does not arise from coercion or undue

- 1           influence by another individual by discussing with the patient, outside the  
2           presence of any other individual except for an interpreter, whether the  
3           patient is feeling coerced or unduly influenced;
- 4           (f) Refer the patient for counseling, if appropriate, as described in subsection  
5           (4) of this section;
- 6           (g) Recommend that the patient notify the patient's next of kin;
- 7           (h) Counsel the patient about the importance of having another person present  
8           when the patient takes the medication prescribed under Sections 1 to 10 of  
9           this Act, and counsel the patient about not taking the medication prescribed  
10           in a public place;
- 11           (i) Inform the patient that the patient has an opportunity to rescind the request  
12           at any time and in any manner and offer the patient an opportunity to  
13           rescind the request pursuant to subsection (6) of this section;
- 14           (j) Verify, immediately before writing the prescription for medication under  
15           Sections 1 to 10 of this Act, that the patient is making an informed decision;
- 16           (k) Fulfill the medical record documentation requirements of subsection (7) of  
17           this section;
- 18           (l) Ensure that all appropriate steps are carried out in accordance with  
19           Sections 1 to 10 of this Act before writing a prescription for medication to  
20           enable a qualified patient to end the qualified patient's life in a humane and  
21           dignified manner; and
- 22           (m) Dispense medications directly, including ancillary medications intended to  
23           minimize the patient's discomfort, if appropriate, or with the patient's  
24           written consent:
- 25           1. Contact a pharmacist and inform the pharmacist of the prescription;  
26           and  
27           2. Deliver the written prescription personally, by mail, or electronically to

1           the pharmacist, who may dispense the medications in person to the  
2           patient, the attending physician, or an expressly identified agent of the  
3           patient.

4   (3) Before a patient is determined to be a qualified patient under Sections 1 to 10 of  
5   this Act, a consulting physician shall examine the patient and the patient's  
6   relevant medical records and confirm, in writing, the attending physician's  
7   diagnosis that the patient is suffering from a terminal condition and that the  
8   patient is competent, is acting voluntarily, and has made an informed decision.

9   (4) If, in the opinion of the attending physician or the consulting physician, a patient  
10   may be suffering from a psychiatric or psychological disorder or depression  
11   causing impaired judgment, the attending physician shall refer the patient for  
12   counseling. Medication for the qualified patient to self-administer shall not be  
13   prescribed until the person performing the counseling determines that the patient  
14   is not suffering from a psychiatric or psychological disorder or depression  
15   causing impaired judgment.

16   (5) An attending physician shall not deny medication to self-administer to a qualified  
17   patient who declines or is unable to notify the qualifying patient's next of kin.

18   (6) An attending physician shall not prescribe medication to a qualified patient to  
19   self-administer unless the qualified patient has:

20   (a) Made an oral request;

21   (b) Made and signed a written request at least fifteen (15) days after the initial  
22   oral request;

23   (c) Reiterated the oral request at least fifteen (15) days after making the initial  
24   oral request; and

25   (d) Been offered an opportunity to rescind a request by the attending physician  
26   at least forty-eight (48) hours after signing the written request.

27   (7) An attending physician shall document in a patient's medical record:

- 1        (a) All oral requests by the patient for medication;
- 2        (b) All written requests by the patient for medication;
- 3        (c) The attending physician's diagnosis and prognosis and the attending  
4            physician's determination that the patient is competent, is acting  
5            voluntarily, and has made an informed decision;
- 6        (d) The consulting physician's diagnosis and prognosis of the patient's terminal  
7            condition and the consulting physician's verification that the patient is  
8            competent, is acting voluntarily, and has made an informed decision;
- 9        (e) A report of the outcome and determinations made during counseling, if  
10           counseling is provided as described in subsection (4) of this section;
- 11       (f) The attending physician's offer to the patient to rescind the patient's request  
12           at the time of the patient's second oral request; and
- 13       (g) A note by the attending physician indicating that all requirements under  
14           Sections 1 to 10 of this Act have been met and indicating the steps taken to  
15           carry out the patient's request, including a notation of the medication  
16           prescribed for self-administration.
- 17       (8) A person who has custody of or control over any unused medications prescribed  
18           pursuant to Sections 1 to 10 of this Act after the death of the qualified patient  
19           shall personally deliver the unused medications to the nearest facility qualified to  
20           dispose of controlled substances or, if such delivery is impracticable, personally  
21           dispose of the unused medications by any lawful means.

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

24       For purposes of Sections 1 to 10 of this Act, only requests made by residents of  
25       Kentucky shall be granted. The residence of a person is that place where the person  
26       has established a fixed and principal home to which the person, whenever temporarily  
27       absent, intends to return. Proof of at least one (1) of the following shall be provided to

- 1 *the attending physician to document that a person is a Kentucky resident:*  
 2 *(1) Possession of a valid Kentucky driver's license;*  
 3 *(2) Registration to vote in Kentucky;*  
 4 *(3) Evidence that the person owns or leases property in Kentucky;*  
 5 *(4) The location in Kentucky of any dwelling currently occupied by the person;*  
 6 *(5) Kentucky motor vehicle registration for a vehicle owned by the person;*  
 7 *(6) A Kentucky residential address that is not a post office box and:*  
 8 *(a) Is shown on a current income tax return;*  
 9 *(b) At which the person's mail is received; or*  
 10 *(c) Is shown on any current resident hunting or fishing license held by the*  
 11 *person; or*  
 12 *(7) Any other objective fact that indicates Kentucky residence.*

13 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
 14 READ AS FOLLOWS:

- 15 *(1) The Cabinet for Health and Family Services shall:*  
 16 *(a) Annually review all records maintained under Section 3 of this Act and*  
 17 *collected pursuant to this section; and*  
 18 *(b) Require an attending physician to submit a copy of the prescription or*  
 19 *dispensing record upon issuing a prescription or dispensing medication*  
 20 *under Section 3 of this Act, and other documentation required under*  
 21 *Section 3 of this Act associated with issuing the prescription or dispensing*  
 22 *the medication, to the cabinet within:*  
 23 *1. Thirty (30) calendar days after the issuance of the prescription or the*  
 24 *dispensing of medication; or*  
 25 *2. Thirty (30) calendar days after the date of the death of the qualified*  
 26 *patient.*  
 27 *(2) In the event that an attending physician who is required to report information to*

1 the cabinet provides an inadequate or incomplete report, the cabinet shall contact  
2 the attending physician to request an adequate or complete report.

3 (3) Within six (6) months of the effective date of this Act, the cabinet shall  
4 promulgate administrative regulations in accordance with KRS Chapter 13A to  
5 facilitate the collection of information relating to compliance with Sections 1 to  
6 10 this Act. The information collected on individual persons and health care  
7 providers shall be confidential, not a public record, and shall not be made  
8 available for inspection by the public.

9 (4) The cabinet shall submit an annual report summarizing information collected  
10 under this section to the Legislative Research Commission for referral to the  
11 Interim Joint Committee on Health Services by March 1 of each year. The report  
12 shall not refer to actions taken under Sections 1 to 10 of this Act as suicide or  
13 assisted suicide. Consistent with the provisions of Sections 1 to 10 of this Act, the  
14 report shall refer to actions taken under Sections 1 to 10 of this Act as obtaining  
15 and self-administering life-ending medication.

16 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
17 READ AS FOLLOWS:

18 (1) Any provision in a contract, will, or other agreement, whether written or oral, to  
19 the extent the provision would affect whether a person may make or rescind a  
20 request for medication to self-administer to end the person's life in a humane and  
21 dignified manner, shall be void as against public policy. Any obligation owing  
22 under any currently existing contract shall not be conditioned upon or affected by  
23 the making or rescinding of a request by a person for medication to end the  
24 person's life in a humane and dignified manner.

25 (2) The sale, procurement, or issuance of any life, health, or accident insurance or  
26 annuity policy or the rate charged for any life, health, or accident insurance or  
27 annuity policy shall not be conditioned upon or affected by the making or

1 rescinding of a request by a qualified patient for medication that the patient may  
2 self-administer to end the patient's life in accordance with Sections 1 to 10 of this  
3 Act.

4 (3) A qualified patient whose life is insured under a life insurance policy and the  
5 beneficiaries of the policy shall not be denied benefits on the basis of self-  
6 administration of medication by the qualified patient in accordance with Sections  
7 1 to 10 of this Act.

8 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
9 READ AS FOLLOWS:

10 (1) Nothing in Sections 1 to 10 of this Act shall require a health care provider to  
11 provide medication to a qualified patient to end the qualified patient's life. If a  
12 health care provider is unable or unwilling to carry out the qualified patient's  
13 request under Sections 1 to 10 of this Act, the health care provider shall transfer  
14 any relevant medical records for the patient to a new health care provider upon  
15 request by the patient.

16 (2) (a) A health care provider may adopt a policy to prohibit a person or entity  
17 from participating, or entering into an agreement to participate, in activities  
18 under Sections 1 to 10 of this Act while on premises owned, under  
19 management, or under direct control of that health care provider or while  
20 acting within the course and scope of any employment by, or contract with,  
21 the health care provider.

22 (b) A health care provider that adopts a policy described in paragraph (a) of  
23 this subsection shall give notice of the policy prohibiting participation to a  
24 person or entity prior to that person or entity participating in activities  
25 under Sections 1 to 10 of this Act. A health care provider that fails to  
26 provide notice to a person or entity shall not enforce the policy against a  
27 person or entity.

1        (c) A health care provider shall not report an action taken pursuant to this  
2                    subsection to a state licensing board.

3        (3) A health care provider shall not prohibit a person or entity from participating, or  
4                    entering into an agreement to participate, in activities under Sections 1 to 10 of  
5                    this Act while on premises that are not owned or under the management or direct  
6                    control of the health care provider or while acting outside the course and scope of  
7                    the participant's duties as an employee of, or an independent contractor for, the  
8                    health care provider.

9        (4) The fact that a health care provider participates in activities under Sections 1 to  
10                    10 of this Act shall not be the sole basis for a complaint or report by another  
11                    health care provider to a state licensing board.

12        ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
13 READ AS FOLLOWS:

14        (1) Nothing in Sections 1 to 10 of this Act shall authorize a physician or any other  
15                    person to end a patient's life by lethal injection, mercy killing, or active  
16                    euthanasia.

17        (2) Actions taken by any person or entity in participating in activities including  
18                    acting as a witness or interpreter under Sections 1 to 10 of this Act shall not, for  
19                    any purpose, constitute suicide, assisted suicide, mercy killing, or homicide under  
20                    state law.

21        (3) The cause of death recorded on a certificate of death under KRS 213.076 for the  
22                    death of a qualified patient under Sections 1 to 10 of this Act shall be related to  
23                    the terminal condition of the qualifying patient and shall not be recorded as  
24                    suicide, assisted suicide, mercy killing, or homicide under state law.

25        ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO  
26 READ AS FOLLOWS:

27        A request for medication as authorized by Sections 1 to 10 of this Act shall be in

1 substantially the following form:

2 "REQUEST FOR MEDICATION TO END MY LIFE IN A HUMANE AND  
3 DIGNIFIED MANNER

4 I, ....., am an adult of sound mind. I am suffering from .....,  
5 which my attending physician has determined is a terminal condition and which has  
6 been medically confirmed by a consulting physician.

7 I have been fully informed of my diagnosis and prognosis, the nature of medication to  
8 be prescribed and potential associated risks, the expected result and feasible  
9 alternatives, including palliative care and comfort care, hospice care, pain control, and  
10 terminal condition-directed treatment options.

11 I request that my attending physician prescribe medication that I may self-administer  
12 to end my life in a humane and dignified manner and contact any pharmacist to fill the  
13 prescription.

14 INITIAL ONE:

15 .....I have informed my family of my decision and taken their opinions into  
16 consideration.

17 .....I have decided not to inform my family of my decision.

18 .....I have no family to inform of my decision.

19 I understand that I have the right to rescind this request at any time.

20 I understand the full import of this request, and I expect to die when I take the  
21 medication to be prescribed. I further understand that, although most deaths occur  
22 within 3 hours, my death may take longer and my physician has counseled me about  
23 this possibility.

24 I make this request voluntarily and without reservation, and I accept full moral  
25 responsibility for my actions.

26 Signed:.....

27 Dated:.....

1 **DECLARATION OF WITNESSES**

2 **By initialing and signing below on or after the date the person named above signs, we**  
3 **declare that the person making and signing the above request:**

4 **Initials of Witness 1:**

5 **.....1. Is personally known to us or has provided proof of identity;**

6 **.....2. Signed this request in our presence on the date of the person's signature;**

7 **.....3. Appears to be of sound mind and not under duress, fraud, or undue influence;**

8 **and**

9 **.....4. Is not a patient for whom either of us is the attending physician.**

10 **Printed Name of Witness 1:.....**

11 **Signature of Witness 1/Date:.....**

12 **Initials of Witness 2:**

13 **.....1. Is personally known to us or has provided proof of identity;**

14 **.....2. Signed this request in our presence on the date of the person's signature;**

15 **.....3. Appears to be of sound mind and not under duress, fraud, or undue influence;**

16 **and**

17 **.....4. Is not a patient for whom either of us is the attending physician.**

18 **Printed Name of Witness 2:.....**

19 **Signature of Witness 2/Date:.....**

20 **NOTE: One witness must be a person who is not a relative by blood, marriage, or**  
21 **adoption of the person signing this request, is not entitled to any portion of the person's**  
22 **estate upon death, and does not own or operate or is not employed at a health care**  
23 **facility where the person is a patient or resident. The person's attending physician at**  
24 **the time the request is signed may not be a witness. If the person is an inpatient at a**  
25 **long-term care facility, one of the witnesses must be the medical director of the**  
26 **facility."**

27 **➔SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO**

1 READ AS FOLLOWS:

2 The form of an attachment for purposes of an interpreter providing services as  
3 described in Section 2 of this Act shall be in substantially the following form:

4 "I, ....., am fluent in English and (language of patient).

5 On (date) at approximately (time) I read the "REQUEST FOR MEDICATION TO  
6 END MY LIFE IN A HUMANE AND DIGNIFIED MANNER" to (name of patient)  
7 in (language of patient).

8 Mr./Ms. (name of patient) affirmed to me that he/she understands the content of this  
9 form, that he/she desires to sign this form under his/her own power and volition and  
10 that he/she requested to sign the form after consultations with an attending physician  
11 and a consulting physician.

12 Under penalty of perjury, I declare that I am fluent in English and (language of  
13 patient) and that the contents of this form, to the best of my knowledge, are true and  
14 correct.

15 Executed at (name of city, county and state) on (date).

16 Interpreter's signature: .....

17 Interpreter's printed name: .....

18 Interpreter's address: .....".

19 ➔SECTION 11. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304  
20 IS CREATED TO READ AS FOLLOWS:

21 No insurer shall:

22 (1) Issue or renew an insurance policy, contract, or annuity that violates the  
23 provisions of Section 6 of this Act; or

24 (2) Deny benefits on the basis of terms in an existing policy, contract, or annuity that  
25 are in violation of the provisions of Section 6 of this Act.

26 ➔Section 12. KRS 507.020 is amended to read as follows:

27 (1) A person is guilty of murder when:

- 1 (a) With intent to cause the death of another person, he or she causes the death of  
2 such person or of a third person; except that in any prosecution a person shall  
3 not be guilty under this subsection if he or she acted under the influence of  
4 extreme emotional disturbance for which there was a reasonable explanation  
5 or excuse, the reasonableness of which is to be determined from the viewpoint  
6 of a person in the defendant's situation under the circumstances as the  
7 defendant believed them to be. However, nothing contained in this section  
8 shall constitute a defense to a prosecution for or preclude a conviction of  
9 manslaughter in the first degree or any other crime; or
- 10 (b) Including, but not limited to, the operation of a motor vehicle under  
11 circumstances manifesting extreme indifference to human life, he or she  
12 wantonly engages in conduct which creates a grave risk of death to another  
13 person and thereby causes the death of another person.

14 (2) Murder is a capital offense.

15 **(3) It shall be an affirmative defense to a charge of murder that the person's conduct**  
16 **was expressly authorized by Sections 1 to 10 of this Act.**

17 ➔Section 13. KRS 507.030 is amended to read as follows:

- 18 (1) A person is guilty of manslaughter in the first degree when:
- 19 (a) With intent to cause serious physical injury to another person, he or she  
20 causes the death of such person or of a third person;
- 21 (b) With intent to cause the death of another person, he or she causes the death of  
22 such person or of a third person under circumstances which do not constitute  
23 murder because he or she acts under the influence of extreme emotional  
24 disturbance, as defined in subsection (1)(a) of KRS 507.020;
- 25 (c) Through circumstances not otherwise constituting the offense of murder, he or  
26 she intentionally abuses another person or knowingly permits another person  
27 of whom he or she has actual custody to be abused and thereby causes death

1 to a person twelve (12) years of age or less, or who is physically helpless or  
2 mentally helpless; or

3 (d) He or she knowingly sells fentanyl or a fentanyl derivative to another person,  
4 and the injection, ingestion, inhalation, or other introduction of the fentanyl or  
5 fentanyl derivative causes the death of the person.

6 (2) Manslaughter in the first degree is a Class B felony.

7 **(3) It shall be an affirmative defense to a charge of manslaughter in the first degree**  
8 **that the person's conduct was expressly authorized by Sections 1 to 10 of this Act.**

9 ➔Section 14. Sections 1 to 10 of this Act may be cited as the Kentucky Death  
10 with Dignity Act.