

1 AN ACT relating to physician assistants.

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

3 ➔Section 1. KRS 311.840 is amended to read as follows:

4 As used in KRS 311.840 to 311.862:

5 (1) "Board" means the Kentucky Board of Medical Licensure;

6 (2) **"Collaborating physician" means a physician licensed by and in good standing**
7 **with the board who has entered into a collaboration agreement with one (1) or**
8 **more physician assistants;**

9 (3) (a) **"Collaboration" means consultation with or referral to the appropriate**
10 **physician or other health care professional by a physician assistant as**
11 **indicated by the:**

12 **1. Patient's condition;**

13 **2. Education, competencies, and experience of the physician assistant;**
14 **and**

15 **3. Standard of care for the condition.**

16 (b) **"Collaboration" does not require the physical presence of a collaborating**
17 **physician at the physical location where medical services are provided;**

18 (4) **"Collaboration agreement" means a document that is mutually developed by a**
19 **physician assistant and a collaborating physician that outlines the**
20 **communication and collaboration procedures between a physician assistant and a**
21 **collaborating physician;**

22 (5) "Complaint" means a formal administrative pleading that sets forth charges against
23 a physician assistant and commences a formal disciplinary proceeding; **and**

24 (6)~~(3)~~ "Physician assistant" means a person licensed under KRS 311.840 to 311.862
25 who:

26 (a) Has graduated from a physician assistant or surgeon assistant program
27 accredited by the Accreditation Review Commission on Education for

1 Physician Assistants or its predecessor or successor agencies and has passed
 2 the certifying examination administered by the National Commission on
 3 Certification of Physician Assistants or its predecessor or successor agencies;
 4 or

5 (b) Possesses a current physician assistant certificate issued by the board prior to
 6 July 15, 2002[;

7 ~~(4) "Supervising physician" means a physician licensed by the board who supervises
 8 one (1) or more physician assistants;~~

9 ~~(5) "Supervising physician in anesthesia" means a physician licensed by the board who
 10 has completed postgraduate training in anesthesiology at an anesthesiology program
 11 accredited by the Accreditation Council for Graduate Medical Education or its
 12 equivalent; and~~

13 ~~(6) "Supervision" means overseeing the activities of and accepting of responsibility for
 14 the medical services rendered by a physician assistant. Each team of physicians and
 15 physician assistants shall ensure that the delegation of medical tasks is appropriate
 16 to the physician assistant's level of training and experience, that the identifications
 17 of and access to the supervising physician are clearly defined, and that a process for
 18 evaluation of the physician assistant's performance is established].~~

19 ➔Section 2. KRS 311.842 is amended to read as follows:

20 (1) The board shall promulgate administrative regulations in accordance with KRS
 21 Chapter 13A relating to the licensing and regulation of physician assistants,
 22 including but not limited to:

23 (a) Temporary licensing;

24 (b) Professional standards for prescribing and administering controlled
 25 substances; and

26 (c) Professional standards for prescribing or administering Buprenorphine-Mono-
 27 Product or Buprenorphine-Combined-with-Naloxone.

- 1 (2) The board shall establish a nine (9) member Physician Assistant Advisory
2 Committee that shall review and make recommendations to the board regarding all
3 matters relating to physician assistants that come before the board, including but not
4 limited to:
- 5 (a) Applications for physician assistant licensing;
 - 6 (b) Licensing renewal requirements;
 - 7 (c) Approval of collaborating~~[supervising]~~ physicians;
 - 8 (d) Disciplinary actions; and
 - 9 (e) Promulgation and revision of administrative regulations.
- 10 (3) Members of the Physician Assistant Advisory Committee shall be appointed by the
11 board for four (4) year terms and shall consist of:
- 12 (a) Five (5) practicing physician assistants, each selected from a list of three (3)
13 names submitted for each position by the Kentucky Academy of Physician
14 Assistants;
 - 15 (b) Two (2) ~~[supervising]~~physicians engaged in an active collaboration
16 agreement with a physician assistant;
 - 17 (c) One (1) member of the board; and
 - 18 (d) One (1) citizen at large.
- 19 (4) The chairperson of the committee shall be a practicing physician assistant elected
20 by a majority vote of the committee members and shall be responsible for presiding
21 over meetings that shall be held on a regular basis.
- 22 (5) Members shall receive reimbursement for expenditures relating to attendance at
23 committee meetings consistent with state policies for reimbursement of travel
24 expenses for state employees.
- 25 (6) Members shall not serve more than two (2) consecutive terms.
- 26 (7) Nothing in this chapter shall be construed to require licensing of a physician
27 assistant student enrolled in a physician assistant or surgeon assistant program

1 accredited by the Accreditation Review Commission on Education for Physician
2 Assistants or its successor agencies or of a physician assistant employed in the
3 service of the federal government while performing duties relating to that
4 employment.

5 ➔Section 3. KRS 311.848 is amended to read as follows:

- 6 (1) As used in this section, "medical emergency" means a real and substantial threat to
7 public health or the health of an individual as determined by the executive director
8 of the board that requires additional professional resources.
- 9 (2) In a medical emergency, the board may approve an additional physician assistant
10 for a collaborating~~[supervising]~~ physician practicing in this Commonwealth for a
11 period not to exceed thirty (30) days who:
- 12 (a) Submits satisfactorily completed forms to the board; and
 - 13 (b) Is licensed and in good standing in this Commonwealth.
- 14 (3) In a medical emergency, the board may issue an emergency permit to a physician
15 assistant who:
- 16 (a) Is credentialed and in good standing in another state or Canadian province;
 - 17 (b) Submits satisfactorily completed forms to the board; and
 - 18 (c) Based on verifiable information, meets the requirements for licensure under
19 KRS 311.844.
- 20 (4) An emergency permit:
- 21 (a) Shall be valid for a period of time not to exceed thirty (30) days;
 - 22 (b) Shall not be renewed or reissued and shall be immediately canceled if a
23 medical emergency no longer exists;
 - 24 (c) May be canceled by the executive director upon reasonable cause without a
25 prior hearing; and
 - 26 (d) Shall not authorize a physician assistant to practice beyond a specified
27 geographical area, beyond the scope of practice encompassed by the medical

1 emergency, or *beyond the terms of the collaboration agreement established*
2 *between the physician assistant and collaborating physician*~~[without the~~
3 ~~supervision of a supervising physician]~~.

4 ➔Section 4. KRS 311.850 is amended to read as follows:

- 5 (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the license
6 of a physician assistant, or may fine, reprimand or place a physician assistant on
7 probation for no more than five (5) years upon proof that a physician assistant has:
- 8 (a) Knowingly made or presented or caused to be made or presented any false,
9 fraudulent, or forged statement, writing, certificate, diploma, or other
10 document relating to an application for licensure;
 - 11 (b) Practiced, aided, or abetted in the practice of fraud, forgery, deception,
12 collusion, or conspiracy relating to an examination for licensure;
 - 13 (c) Been convicted of a crime as defined in KRS 335B.010, if in accordance with
14 KRS Chapter 335B;
 - 15 (d) Been convicted of a misdemeanor offense under KRS Chapter 510 involving
16 a patient or a felony offense under KRS Chapter 510, KRS 530.064, or
17 531.310, or has been found by the board to have had sexual contact, as
18 defined in KRS 510.010, with a patient while the patient was under the care of
19 the physician assistant or the physician assistant's *collaborating*~~[supervising]~~
20 physician;
 - 21 (e) Become addicted to a controlled substance, as defined in KRS 311.550(26);
 - 22 (f) Become a chronic or persistent alcoholic, as defined in KRS 311.550(25);
 - 23 (g) Been unable or is unable to practice medicine according to acceptable and
24 prevailing standards of care by reason of mental or physical illness or other
25 condition including but not limited to physical deterioration that adversely
26 affects cognitive, motor, or perceptive skills, or by reason of an extended
27 absence from the active practice of medicine;

- 1 (h) Knowingly made or caused to be made or aided or abetted in the making of a
2 false statement in any document executed in connection with the practice of
3 medicine or osteopathy;
- 4 (i) Performed any act or service as a physician assistant without a designated
5 **collaborating**~~[supervising]~~ physician;
- 6 (j) Exceeded the scope of medical services described by the
7 **collaborating**~~[supervising]~~ physician in the applications required under
8 **Section 6 of this Act**~~[KRS 311.854]~~;
- 9 (k) ~~[Exceeded the scope of practice for which the physician assistant was~~
10 ~~credentialed by the governing board of a hospital or licensed health care~~
11 ~~facility under KRS 311.856 and 311.858]~~ **Failed to comply with the terms of a**
12 **collaboration agreement**;
- 13 (l) Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or
14 any healing art, including the unlawful practice of physician assistants;
- 15 (m) Willfully violated a confidential communication;
- 16 (n) Performed the services of a physician assistant in an unprofessional,
17 incompetent, or grossly or chronically negligent manner;
- 18 (o) Been removed, suspended, expelled, or placed on probation by any health care
19 facility or professional society for unprofessional conduct, incompetence,
20 negligence, or violation of any provision of this section or KRS 311.858 or
21 311.862;
- 22 (p) Violated any applicable provision of administrative regulations relating to
23 physician assistant practice;
- 24 (q) Violated any term of probation or other discipline imposed by the board;
- 25 (r) Failed to complete the required number of hours of approved continuing
26 education;
- 27 (s) Engaged in dishonorable, unethical, or unprofessional conduct of character

1 likely to deceive, defraud, or harm the public or any member thereof, as
2 described in KRS 311.597; or

3 (t) As provided in KRS 311.824(2), been convicted of a violation of KRS
4 311.823(2).

5 (2) All disciplinary proceedings against a physician assistant shall be conducted in
6 accordance with the provisions of KRS 311.591, 311.592, 311.593, 311.599, and
7 KRS Chapter 13B and related administrative regulations promulgated under KRS
8 Chapter 311.

9 ➔Section 5. KRS 311.858 is amended to read as follows:

10 (1) A physician assistant may perform medical services and procedures **that are:**

11 **(a) Appropriate to the education, training, and experience of the physician**
12 **assistant; and**

13 **(b) In a manner consistent with a collaboration agreement**~~[within the scope of~~
14 ~~medical services and procedures described in the initial or any supplemental~~
15 ~~application received by the board under KRS 311.854].~~

16 (2) **Services that may be provided by a physician assistant under a collaboration**
17 **agreement include but are not limited to:**

18 **(a) Obtaining and performing comprehensive health histories and physical**
19 **examinations;**

20 **(b) Evaluating, diagnosing, managing, and providing medical treatment;**

21 **(c) Ordering, performing, and interpreting diagnostic studies and therapeutic**
22 **procedures;**

23 **(d) Exercising prescriptive authority in accordance with this section;**

24 **(e) Informing patients about health promotion and disease prevention;**

25 **(f) Providing consultations;**

26 **(g) Writing medical orders;**

27 **(h) Obtaining informed consent; and**

1 (i) Certifying the health or disability of a patient as required by any local, state,
 2 or federal program~~[A physician assistant shall be considered an agent of the~~
 3 ~~supervising physician in performing medical services and procedures~~
 4 ~~described in the initial application or any supplemental application received~~
 5 ~~by the board under KRS 311.854].~~

6 (3) A physician assistant may initiate evaluation and treatment in emergency situations
 7 without specific approval.

8 (4) A physician assistant may prescribe and administer all nonscheduled legend drugs
 9 and medical devices~~[to the extent delegated by the supervising physician].~~ A
 10 physician assistant~~[who is delegated prescribing authority]~~ may request, receive,
 11 sign for, and distribute professional samples of nonscheduled legend drugs to
 12 patients.

13 (5) (a) A physician assistant, under a collaboration agreement with a collaborating
 14 physician~~[who has been approved by the board pursuant to paragraph (b) of~~
 15 ~~this subsection],~~ may prescribe and administer Schedules III, IV, and V
 16 controlled substances~~[, as described in KRS Chapter 218A, to the extent~~
 17 ~~delegated by the supervising physician and]~~ as permitted under paragraphs
 18 (c), (d), and (e) of this subsection.

19 (b) Before a physician assistant engages in prescribing or administering
 20 controlled substances, the physician assistant shall:

21 1. Have at least one (1) year of experience as a licensed and practicing
 22 physician assistant;

23 2. Submit to the board a completed application for prescriptive authority
 24 for controlled substances signed by the physician assistant's
 25 collaborating~~[supervising]~~ physician~~[in accordance with KRS~~
 26 ~~311.856];~~

27 3. Receive from the board, or its executive director, a notice that the

- 1 application for prescriptive authority has been approved; and
- 2 4. Obtain a Controlled Substance Registration Certificate through the
- 3 United States Drug Enforcement Administration and register with the
- 4 electronic system for monitoring controlled substances established in
- 5 KRS 218A.202 and any other applicable state controlled substance
- 6 regulatory authority.
- 7 (c) Prescriptions issued by a physician assistant for Schedule III controlled
- 8 substances, as defined~~described~~ in KRS 218A.080, shall be limited to a
- 9 thirty (30) day supply without any refill.
- 10 (d) Prescriptions issued by a physician assistant for Schedule IV or V controlled
- 11 substances, as described in KRS 218A.100 and 218A.120, shall be limited to
- 12 the original prescription and refills not to exceed a six (6) month supply.
- 13 (e) Notwithstanding paragraph (d) of this subsection, prescriptions issued by a
- 14 physician assistant for benzodiazepines or Carisoprodol shall be limited to a
- 15 thirty (30) day supply without any refill.
- 16 (6) A physician assistant shall not submit direct billing for medical services and
- 17 procedures performed by the physician assistant.
- 18 (7) A physician assistant may perform local infiltrative anesthesia under the provisions
- 19 of subsection (1) of this section, but a physician assistant shall not administer or
- 20 monitor general or regional anesthesia unless the requirements of KRS 311.862 are
- 21 met.
- 22 (8) A physician assistant may perform services in the offices or clinics of the
- 23 collaborating~~supervising~~ physician. A physician assistant may also render
- 24 services in hospitals or other licensed health care facilities only with written
- 25 permission of the facility's governing body, and the facility may restrict the
- 26 physician assistant's scope of practice within the facility as deemed appropriate by
- 27 the facility.

1 (9) A physician assistant shall not practice medicine or osteopathy independently. Each
2 physician assistant shall practice under a collaboration agreement^[supervision] as
3 defined in KRS 311.840.

4 **(10) A physician assistant shall consult and collaborate with or refer a patient to an**
5 **appropriate licensed physician or other health care provider as indicated by the**
6 **patient's condition and the standards of care for the condition.**

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

9 **(1) A collaboration agreement shall include the:**

10 **(a) Physician assistant's scope of practice as determined at the practice setting**
11 **and as set forth in this chapter;**

12 **(b) Communication and decision-making process for the physician assistant,**
13 **the collaborating physician, and other members of the health care team;**
14 **and**

15 **(c) Signatures of the physician assistant and the collaborating physician.**

16 **(2) A copy of the signed collaboration agreement must be kept on file at the**
17 **physician assistant's practice location and made available to the board upon**
18 **request.**

19 **(3) The level of collaboration required under this section shall be determined at the**
20 **practice setting, including a collaborating physician, physician group practice,**
21 **private practice, or by the credentialing and privileging system of a health care**
22 **facility.**

23 **(4) A collaborating physician shall not enter into a collaboration agreement with**
24 **more than four (4) physician assistants.**

25 **(5) The Kentucky Board of Medical Licensure shall be notified within five (5)**
26 **business days of the dissolution of a collaboration agreement by a physician**
27 **assistant.**

1 ➔Section 7. KRS 311.862 is amended to read as follows:

- 2 (1) A physician assistant who was practicing as an anesthesiology assistant in
3 Kentucky prior to July 15, 2002, may continue to practice if the physician assistant:
- 4 (a) Met the practice, education, training, and licensure requirements specified in
5 KRS 311.844 and 311.846;
- 6 (b) Is a graduate of an approved program accredited by the Committee on Allied
7 Health Education and Accreditation or the Commission on Accreditation of
8 Allied Health Education Programs that is specifically designed to train an
9 individual to administer general or regional anesthesia; and
- 10 (c) Is employed by a collaborating~~[supervising]~~ physician in anesthesia.
- 11 (2) A physician assistant who has not practiced as an anesthesiology assistant in
12 Kentucky prior to the July 15, 2002, shall meet the following requirements prior to
13 practicing as an anesthesiology assistant:
- 14 (a) Graduation from an approved four (4) year physician assistant program as
15 specified in subsection (1)(b) of this section and graduation from another two
16 (2) year approved and accredited program that consists of academic and
17 clinical training in anesthesiology;
- 18 (b) Compliance with the practice, education, training, and licensure requirements
19 specified in KRS 311.844 and 311.846; and
- 20 (c) Employment with a collaborating~~[supervising]~~ physician in anesthesia.
- 21 (3) A physician assistant practicing as an anesthesiology assistant shall not administer
22 or monitor general or regional anesthesia unless the collaborating~~[supervising]~~
23 physician in anesthesia:
- 24 (a) Is physically present in the room during induction and emergence;
- 25 (b) Is not concurrently performing any other anesthesiology procedure; and
- 26 (c) Is available to provide immediate physical presence in the room.

27 ➔Section 8. KRS 202A.011 is amended to read as follows:

1 As used in this chapter, unless the context otherwise requires:

- 2 (1) "Authorized staff physician" means a physician who is a bona fide member of the
3 hospital's medical staff;
- 4 (2) "Cabinet" means the Kentucky Cabinet for Health and Family Services;
- 5 (3) "Contract mental health evaluator" means a qualified mental health professional
6 who is employed by or under contract with a community mental health center, crisis
7 stabilization unit, mental institution, or any other facility designated by the
8 secretary to provide mental health evaluations to determine whether an individual
9 meets the criteria for involuntary hospitalization;
- 10 (4) "Danger" or "threat of danger to self, family, or others" means substantial physical
11 harm or threat of substantial physical harm upon self, family, or others, including
12 actions which deprive self, family, or others of the basic means of survival
13 including provision for reasonable shelter, food, or clothing;
- 14 (5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof,
15 designated by the secretary for the purpose and function of providing inpatient
16 evaluation, care, and treatment for mentally ill persons or individuals with an
17 intellectual disability, who have been charged with or convicted of a felony;
- 18 (6) "Hospital" means:
- 19 (a) A state mental hospital or institution or other licensed public or private
20 hospital, institution, health-care facility, or part thereof, approved by the
21 Kentucky Cabinet for Health and Family Services as equipped to provide full-
22 time residential care and treatment for mentally ill persons or individuals with
23 an intellectual disability; or
- 24 (b) A hospital, institution, or health-care facility of the government of the United
25 States equipped to provide residential care and treatment for mentally ill
26 persons or individuals with an intellectual disability;
- 27 (7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner

- 1 of the District Court acting under authority of SCR 5.030;
- 2 (8) "Least restrictive alternative mode of treatment" means that treatment which will
3 give a mentally ill individual a realistic opportunity to improve the individual's
4 level of functioning, consistent with accepted professional practice in the least
5 confining setting available;
- 6 (9) "Mentally ill person" means a person with substantially impaired capacity to use
7 self-control, judgment, or discretion in the conduct of the person's affairs and social
8 relations, associated with maladaptive behavior or recognized emotional symptoms
9 where impaired capacity, maladaptive behavior, or emotional symptoms can be
10 related to physiological, psychological, or social factors;
- 11 (10) "Patient" means a person under observation, care, or treatment in a hospital
12 pursuant to the provisions of this chapter;
- 13 (11) "Petitioner" means a person who institutes a proceeding under this chapter;
- 14 (12) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the
15 cabinet and which provides inpatient, outpatient, psychosocial rehabilitation,
16 emergency, and consultation and education services for the diagnosis and treatment
17 of persons who have a mental illness;
- 18 (13) "Qualified mental health professional" means:
- 19 (a) A physician licensed under the laws of Kentucky to practice medicine or
20 osteopathy, or a medical officer of the government of the United States while
21 engaged in the performance of official duties;
- 22 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or
23 osteopathy, or a medical officer of the government of the United States while
24 engaged in the practice of official duties, who is certified or eligible to apply
25 for certification by the American Board of Psychiatry and Neurology, Inc.;
- 26 (c) A psychologist with the health service provider designation, a psychological
27 practitioner, a certified psychologist, or a psychological associate, licensed

- 1 under the provisions of KRS Chapter 319;
- 2 (d) A licensed registered nurse with a master's degree in psychiatric nursing from
3 an accredited institution and two (2) years of clinical experience with
4 mentally ill persons, or a licensed registered nurse, with a bachelor's degree in
5 nursing from an accredited institution, who is certified as a psychiatric and
6 mental health nurse by the American Nurses Association and who has three
7 (3) years of inpatient or outpatient clinical experience in psychiatric nursing
8 and is currently employed by a hospital or forensic psychiatric facility
9 licensed by the Commonwealth or a psychiatric unit of a general hospital or a
10 private agency or company engaged in the provision of mental health services
11 or a regional community program for mental health and individuals with an
12 intellectual disability;
- 13 (e) A licensed clinical social worker licensed under the provisions of KRS
14 335.100, or a certified social worker licensed under the provisions of KRS
15 335.080 with three (3) years of inpatient or outpatient clinical experience in
16 psychiatric social work and currently employed by a hospital or forensic
17 psychiatric facility licensed by the Commonwealth or a psychiatric unit of a
18 general hospital or a private agency or company engaged in the provision of
19 mental health services or a regional community program for mental health and
20 individuals with an intellectual disability;
- 21 (f) A marriage and family therapist licensed under the provisions of KRS
22 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical
23 experience in psychiatric mental health practice and currently employed by a
24 hospital or forensic facility licensed by the Commonwealth, a psychiatric unit
25 of a general hospital, a private agency or company engaged in providing
26 mental health services, or a regional community program for mental health
27 and individuals with an intellectual disability;

- 1 (g) A professional counselor credentialed under the provisions of KRS Chapter
2 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical
3 experience in psychiatric mental health practice and currently employed by a
4 hospital or forensic facility licensed by the Commonwealth, a psychiatric unit
5 of a general hospital, a private agency or company engaged in providing
6 mental health services, or a regional community program for mental health
7 and individuals with an intellectual disability; or
- 8 (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one
9 (1) of the following requirements:
- 10 1. Provides documentation that he or she has completed a psychiatric
11 residency program for physician assistants;
 - 12 2. Has completed at least one thousand (1,000) hours of clinical experience
13 under a collaborating~~[supervising]~~ physician, as defined by KRS
14 311.840, who is a psychiatrist and is certified or eligible for certification
15 by the American Board of Psychiatry and Neurology, Inc.;
 - 16 3. Holds a master's degree from a physician assistant program accredited
17 by the Accreditation Review Commission on Education for the
18 Physician Assistant or its predecessor or successor agencies, is
19 practicing under a collaborating~~[supervising]~~ physician as defined by
20 KRS 311.840, and:
 - 21 a. Has two (2) years of clinical experience in the assessment,
22 evaluation, and treatment of mental disorders; or
 - 23 b. Has been employed by a hospital or forensic psychiatric facility
24 licensed by the Commonwealth or a psychiatric unit of a general
25 hospital or a private agency or company engaged in the provision
26 of mental health services or a regional community program for
27 mental health and individuals with an intellectual disability for at

- 1 least two (2) years; or
- 2 4. Holds a bachelor's degree, possesses a current physician assistant
- 3 certificate issued by the board prior to July 15, 2002, is practicing under
- 4 a collaborating~~[supervising]~~ physician as defined by KRS 311.840, and:
- 5 a. Has three (3) years of clinical experience in the assessment,
- 6 evaluation, and treatment of mental disorders; or
- 7 b. Has been employed by a hospital or forensic psychiatric facility
- 8 licensed by the Commonwealth or a psychiatric unit of a general
- 9 hospital or a private agency or company engaged in the provision
- 10 of mental health services or a regional community program for
- 11 mental health and individuals with an intellectual disability for at
- 12 least three (3) years;

13 (14) "Residence" means legal residence as determined by applicable principles

14 governing conflicts of law;

15 (15) "Respondent" means a person alleged in a hearing under this chapter to be a

16 mentally ill person or an individual with an intellectual disability; and

17 (16) "Secretary" means the secretary of the Cabinet for Health and Family Services.

18 ➔Section 9. KRS 202C.010 is amended to read as follows:

19 As used in this chapter, unless the context otherwise requires:

20 (1) "Cabinet" means the Kentucky Cabinet for Health and Family Services;

21 (2) "Commitment hearing" means the hearing under KRS 202C.040 to determine if a

22 respondent meets the criteria for involuntary commitment under this chapter;

23 (3) "Danger" means substantial physical harm or threat of substantial physical harm

24 upon self or others;

25 (4) "Evidentiary hearing" means the hearing under KRS 202C.030 to determine if the

26 defendant committed the qualifying offense for which he or she was charged by a

27 preponderance of the evidence;

- 1 (5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof,
2 designated by the secretary for the purpose and function of providing inpatient
3 evaluation, care, and treatment for mentally ill persons or individuals with an
4 intellectual disability who have been charged with or convicted of a felony;
- 5 (6) "Hospital" means:
- 6 (a) A state mental hospital or institution or other licensed public or private
7 hospital, institution, health-care facility, or part thereof, approved by the
8 Kentucky Cabinet for Health and Family Services as equipped to provide full-
9 time residential care and treatment for mentally ill persons or individuals with
10 an intellectual disability; or
- 11 (b) A hospital, institution, or health-care facility of the government of the United
12 States equipped to provide residential care and treatment for mentally ill
13 persons or individuals with an intellectual disability;
- 14 (7) "Individual with an intellectual disability" means a person with significantly
15 subaverage general intellectual functioning existing concurrently with deficits in
16 adaptive behavior and manifested during the developmental period;
- 17 (8) "Judge" means the judge who found the respondent incompetent to stand trial in the
18 criminal proceeding from which the petition for involuntary commitment arose;
- 19 (9) "Less restrictive alternative mode of treatment" means a treatment given outside of
20 a forensic psychiatric facility which would provide a respondent with appropriate
21 treatment or care consistent with accepted professional practice standards and
22 protect the respondent's safety and the safety of others;
- 23 (10) "Mentally ill person" means a person with substantially impaired capacity to use
24 self-control, judgment, or discretion in the conduct of the person's affairs and social
25 relations, associated with maladaptive behavior or recognized emotional symptoms
26 where impaired capacity, maladaptive behavior, or emotional symptoms can be
27 related to physiological, psychological, or social factors;

- 1 (11) "Qualified mental health professional" means:
- 2 (a) A physician licensed under the laws of Kentucky to practice medicine or
- 3 osteopathy, or a medical officer of the government of the United States while
- 4 engaged in the performance of official duties;
- 5 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or
- 6 osteopathy, or a medical officer of the government of the United States while
- 7 engaged in the practice of official duties, who is certified or eligible to apply
- 8 for certification by the American Board of Psychiatry and Neurology, Inc.;
- 9 (c) A psychologist with the health service provider designation, a psychological
- 10 practitioner, a certified psychologist, or a psychological associate, licensed
- 11 under the provisions of KRS Chapter 319;
- 12 (d) A licensed registered nurse with a master's degree in psychiatric nursing from
- 13 an accredited institution and two (2) years of clinical experience with
- 14 mentally ill persons, or a licensed registered nurse, with a bachelor's degree in
- 15 nursing from an accredited institution, who is certified as a psychiatric and
- 16 mental health nurse by the American Nurses Association and who has three
- 17 (3) years of inpatient or outpatient clinical experience in psychiatric nursing
- 18 and is currently employed by a hospital or forensic psychiatric facility
- 19 licensed by the Commonwealth or a psychiatric unit of a general hospital or a
- 20 private agency or company engaged in the provision of mental health services
- 21 or a regional community program for mental health and individuals with an
- 22 intellectual disability;
- 23 (e) A licensed clinical social worker licensed under the provisions of KRS
- 24 335.100, or a certified social worker licensed under the provisions of KRS
- 25 335.080 with three (3) years of inpatient or outpatient clinical experience in
- 26 psychiatric social work and currently employed by a hospital or forensic
- 27 psychiatric facility licensed by the Commonwealth or a psychiatric unit of a

1 general hospital or a private agency or company engaged in the provision of
2 mental health services or a regional community program for mental health and
3 individuals with an intellectual disability;

4 (f) A marriage and family therapist licensed under the provisions of KRS
5 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical
6 experience in psychiatric mental health practice and currently employed by a
7 hospital or forensic facility licensed by the Commonwealth, a psychiatric unit
8 of a general hospital, a private agency or company engaged in providing
9 mental health services, or a regional community program for mental health
10 and individuals with an intellectual disability;

11 (g) A professional counselor credentialed under the provisions of KRS Chapter
12 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical
13 experience in psychiatric mental health practice and currently employed by a
14 hospital or forensic facility licensed by the Commonwealth, a psychiatric unit
15 of a general hospital, a private agency or company engaged in providing
16 mental health services, or a regional community program for mental health
17 and individuals with an intellectual disability; or

18 (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one
19 (1) of the following requirements:

20 1. Provides documentation that he or she has completed a psychiatric
21 residency program for physician assistants;

22 2. Has completed at least one thousand (1,000) hours of clinical experience
23 under a collaborating~~[supervising]~~ physician, as defined by KRS
24 311.840, who is a psychiatrist and is certified or eligible for certification
25 by the American Board of Psychiatry and Neurology, Inc.;

26 3. Holds a master's degree from a physician assistant program accredited
27 by the Accreditation Review Commission on Education for the

1 Physician Assistant or its predecessor or successor agencies, is
2 practicing under a collaborating~~[supervising]~~ physician as defined by
3 KRS 311.840, and:

- 4 a. Has two (2) years of clinical experience in the assessment,
5 evaluation, and treatment of mental disorders; or
- 6 b. Has been employed by a hospital or forensic psychiatric facility
7 licensed by the Commonwealth or a psychiatric unit of a general
8 hospital or a private agency or company engaged in the provision
9 of mental health services or a regional community program for
10 mental health and individuals with an intellectual disability for at
11 least two (2) years; or

12 4. Holds a bachelor's degree, possesses a current physician assistant
13 certificate issued by the board prior to July 15, 2002, is practicing under
14 a collaborating~~[supervising]~~ physician as defined by KRS 311.840, and:

- 15 a. Has three (3) years of clinical experience in the assessment,
16 evaluation, and treatment of mental disorders; or
- 17 b. Has been employed by a hospital or forensic psychiatric facility
18 licensed by the Commonwealth or a psychiatric unit of a general
19 hospital or a private agency or company engaged in the provision
20 of mental health services or a regional community program for
21 mental health and individuals with an intellectual disability for at
22 least three (3) years;

23 (12) "Qualifying offense" means a capital offense, a Class A felony, a Class B felony
24 resulting in death or serious physical injury, or a violation of KRS 510.040 or
25 510.070;

26 (13) "Respondent" means a person who was a criminal defendant found incompetent to
27 stand trial who is or was the subject of a petition for involuntary commitment filed

1 under KRS Chapter 504;

2 (14) "Review hearing" means any hearing conducted to determine if a respondent
3 continues to meet the criteria for involuntary commitment after the initial order for
4 involuntary commitment has been issued under this chapter; and

5 (15) "Secretary" means the secretary of the Cabinet for Health and Family Services.

6 ➔Section 10. KRS 216B.175 is amended to read as follows:

7 (1) A physician assistant, credentialed under KRS Chapter 311, when those duties and
8 responsibilities are within the scope of training received in an approved program
9 and within the scope of the collaborating~~[supervising]~~ physician's practice, or an
10 advanced practice registered nurse licensed under KRS Chapter 314, may:

11 (a) Perform a history and physical examination for a patient admitted to an acute
12 care or psychiatric hospital licensed under this chapter; and

13 (b) Order and review continuation of restraints and seclusion as a health care
14 practitioner in accordance with 42 C.F.R. 482.13.

15 (2) A history and physical examination shall be performed no more than thirty (30)
16 days before or twenty-four (24) hours after a patient is admitted to an acute care or
17 psychiatric hospital licensed under this chapter.

18 (3) The history and physical examination that has been performed in compliance with
19 subsection (2) of this section is transferable to another licensed level of care within
20 the same hospital.

21 (4) The Cabinet for Health and Family Services shall promulgate administrative
22 regulations in accordance with KRS Chapter 13A to establish the content of the
23 history and physical examination required by subsection (2) of this section
24 performed in an acute or psychiatric hospital that shall be used by the licensing
25 entity.

26 ➔Section 11. KRS 600.020 is amended to read as follows:

27 As used in KRS Chapters 600 to 645, unless the context otherwise requires:

- 1 (1) "Abused or neglected child" means a child whose health or welfare is harmed or
2 threatened with harm when:
- 3 (a) His or her parent, guardian, person in a position of authority or special trust,
4 as defined in KRS 532.045, or other person exercising custodial control or
5 supervision of the child:
- 6 1. Inflicts or allows to be inflicted upon the child physical or emotional
7 injury as defined in this section by other than accidental means;
 - 8 2. Creates or allows to be created a risk of physical or emotional injury as
9 defined in this section to the child by other than accidental means;
 - 10 3. Engages in a pattern of conduct that renders the parent incapable of
11 caring for the immediate and ongoing needs of the child, including but
12 not limited to parental incapacity due to a substance use disorder as
13 defined in KRS 222.005;
 - 14 4. Continuously or repeatedly fails or refuses to provide essential parental
15 care and protection for the child, considering the age of the child;
 - 16 5. Commits or allows to be committed an act of sexual abuse, sexual
17 exploitation, or prostitution upon the child;
 - 18 6. Creates or allows to be created a risk that an act of sexual abuse, sexual
19 exploitation, or prostitution will be committed upon the child;
 - 20 7. Abandons or exploits the child;
 - 21 8. Does not provide the child with adequate care, supervision, food,
22 clothing, shelter, and education or medical care necessary for the child's
23 well-being when financially able to do so or offered financial or other
24 means to do so. A parent or other person exercising custodial control or
25 supervision of the child legitimately practicing the person's religious
26 beliefs shall not be considered a negligent parent solely because of
27 failure to provide specified medical treatment for a child for that reason

- 1 alone. This exception shall not preclude a court from ordering necessary
2 medical services for a child;
- 3 9. Fails to make sufficient progress toward identified goals as set forth in
4 the court-approved case plan to allow for the safe return of the child to
5 the parent that results in the child remaining committed to the cabinet
6 and remaining in foster care for fifteen (15) cumulative months out of
7 forty-eight (48) months; or
- 8 10. Commits or allows female genital mutilation as defined in KRS 508.125
9 to be committed; or
- 10 (b) A person twenty-one (21) years of age or older commits or allows to be
11 committed an act of sexual abuse, sexual exploitation, or prostitution upon a
12 child less than sixteen (16) years of age;
- 13 (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.
14 675(11);
- 15 (3) "Aggravated circumstances" means the existence of one (1) or more of the
16 following conditions:
- 17 (a) The parent has not attempted or has not had contact with the child for a period
18 of not less than ninety (90) days;
- 19 (b) The parent is incarcerated and will be unavailable to care for the child for a
20 period of at least one (1) year from the date of the child's entry into foster care
21 and there is no appropriate relative placement available during this period of
22 time;
- 23 (c) The parent has sexually abused the child and has refused available treatment;
- 24 (d) The parent has been found by the cabinet to have engaged in abuse of the
25 child that required removal from the parent's home two (2) or more times in
26 the past two (2) years; or
- 27 (e) The parent has caused the child serious physical injury;

- 1 (4) "Beyond the control of parents" means a child who has repeatedly failed to follow
2 the reasonable directives of his or her parents, legal guardian, or person exercising
3 custodial control or supervision other than a state agency, which behavior results in
4 danger to the child or others, and which behavior does not constitute behavior that
5 would warrant the filing of a petition under KRS Chapter 645;
- 6 (5) "Beyond the control of school" means any child who has been found by the court to
7 have repeatedly violated the lawful regulations for the government of the school as
8 provided in KRS 158.150, and as documented in writing by the school as a part of
9 the school's petition or as an attachment to the school's petition. The petition or
10 attachment shall describe the student's behavior and all intervention strategies
11 attempted by the school;
- 12 (6) "Boarding home" means a privately owned and operated home for the boarding and
13 lodging of individuals which is approved by the Department of Juvenile Justice or
14 the cabinet for the placement of children committed to the department or the
15 cabinet;
- 16 (7) "Cabinet" means the Cabinet for Health and Family Services;
- 17 (8) "Certified juvenile facility staff" means individuals who meet the qualifications of,
18 and who have completed a course of education and training in juvenile detention
19 developed and approved by, the Department of Juvenile Justice after consultation
20 with other appropriate state agencies;
- 21 (9) "Child" means any person who has not reached his or her eighteenth birthday,
22 unless otherwise provided;
- 23 (10) "Child-caring facility" means any facility or group home other than a state facility,
24 Department of Juvenile Justice contract facility or group home, or one certified by
25 an appropriate agency as operated primarily for educational or medical purposes,
26 providing residential care on a twenty-four (24) hour basis to children not related by
27 blood, adoption, or marriage to the person maintaining the facility;

- 1 (11) "Child-placing agency" means any agency, other than a state agency, which
2 supervises the placement of children in foster family homes or child-caring
3 facilities or which places children for adoption;
- 4 (12) "Clinical treatment facility" means a facility with more than eight (8) beds
5 designated by the Department of Juvenile Justice or the cabinet for the treatment of
6 mentally ill children. The treatment program of such facilities shall be supervised
7 by a qualified mental health professional;
- 8 (13) "Commitment" means an order of the court which places a child under the custodial
9 control or supervision of the Cabinet for Health and Family Services, Department
10 of Juvenile Justice, or another facility or agency until the child attains the age of
11 eighteen (18) unless otherwise provided by law;
- 12 (14) "Community-based facility" means any nonsecure, homelike facility licensed,
13 operated, or permitted to operate by the Department of Juvenile Justice or the
14 cabinet, which is located within a reasonable proximity of the child's family and
15 home community, which affords the child the opportunity, if a Kentucky resident,
16 to continue family and community contact;
- 17 (15) "Complaint" means a verified statement setting forth allegations in regard to the
18 child which contain sufficient facts for the formulation of a subsequent petition;
- 19 (16) "Court" means the juvenile session of District Court unless a statute specifies the
20 adult session of District Court or the Circuit Court;
- 21 (17) "Court-designated worker" means that organization or individual delegated by the
22 Administrative Office of the Courts for the purposes of placing children in
23 alternative placements prior to arraignment, conducting preliminary investigations,
24 and formulating, entering into, and supervising diversion agreements and
25 performing such other functions as authorized by law or court order;
- 26 (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- 27 (19) "Department" means the Department for Community Based Services;

- 1 (20) "Dependent child" means any child, other than an abused or neglected child, who is
2 under improper care, custody, control, or guardianship that is not due to an
3 intentional act of the parent, guardian, or person exercising custodial control or
4 supervision of the child;
- 5 (21) "Detention" means the safe and temporary custody of a juvenile who is accused of
6 conduct subject to the jurisdiction of the court who requires a restricted or closely
7 supervised environment for his or her own or the community's protection;
- 8 (22) "Detention hearing" means a hearing held by a judge or trial commissioner within
9 twenty-four (24) hours, exclusive of weekends and holidays, of the start of any
10 period of detention prior to adjudication;
- 11 (23) "Diversion agreement" means a mechanism designed to hold a child accountable
12 for his or her behavior and, if appropriate, securing services to serve the best
13 interest of the child and to provide redress for that behavior without court action
14 and without the creation of a formal court record;
- 15 (24) "Eligible youth" means a person who:
- 16 (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
- 17 (b) Is eighteen (18) years of age to nineteen (19) years of age; and
- 18 (c) Is requesting to extend or reinstate his or her commitment to the cabinet in
19 order to participate in state or federal educational programs or to establish
20 independent living arrangements;
- 21 (25) "Emergency shelter" is a group home, private residence, foster home, or similar
22 homelike facility which provides temporary or emergency care of children and
23 adequate staff and services consistent with the needs of each child;
- 24 (26) "Emotional injury" means an injury to the mental or psychological capacity or
25 emotional stability of a child as evidenced by a substantial and observable
26 impairment in the child's ability to function within a normal range of performance
27 and behavior with due regard to his or her age, development, culture, and

- 1 environment as testified to by a qualified mental health professional;
- 2 (27) "Evidence-based practices" means policies, procedures, programs, and practices
3 proven by scientific research to reliably produce reductions in recidivism;
- 4 (28) "Fictive kin" means an individual who is not related by birth, adoption, or marriage
5 to a child, but who has an emotionally significant relationship with the child, or an
6 emotionally significant relationship with a biological parent, siblings, or half-
7 siblings of the child in the case of a child from birth to twelve (12) months of age,
8 prior to placement;
- 9 (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- 10 (30) "Foster family home" means a private home in which children are placed for foster
11 family care under supervision of the cabinet or a licensed child-placing agency;
- 12 (31) "Graduated sanction" means any of a continuum of accountability measures,
13 programs, and sanctions, ranging from less restrictive to more restrictive in nature,
14 that may include but are not limited to:
- 15 (a) Electronic monitoring;
- 16 (b) Drug and alcohol screening, testing, or monitoring;
- 17 (c) Day or evening reporting centers;
- 18 (d) Reporting requirements;
- 19 (e) Community service; and
- 20 (f) Rehabilitative interventions such as family counseling, substance abuse
21 treatment, restorative justice programs, and behavioral or mental health
22 treatment;
- 23 (32) "Habitual runaway" means any child who has been found by the court to have been
24 absent from his or her place of lawful residence without the permission of his or her
25 custodian for at least three (3) days during a one (1) year period;
- 26 (33) "Habitual truant" means any child who has been found by the court to have been
27 reported as a truant as defined in KRS 159.150(1) two (2) or more times during a

- 1 one (1) year period;
- 2 (34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or
3 public facility, health care facility, or part thereof, which is approved by the cabinet
4 to treat children;
- 5 (35) "Independent living" means those activities necessary to assist a committed child to
6 establish independent living arrangements;
- 7 (36) "Informal adjustment" means an agreement reached among the parties, with
8 consultation, but not the consent, of the victim of the crime or other persons
9 specified in KRS 610.070 if the victim chooses not to or is unable to participate,
10 after a petition has been filed, which is approved by the court, that the best interest
11 of the child would be served without formal adjudication and disposition;
- 12 (37) "Intentionally" means, with respect to a result or to conduct described by a statute
13 which defines an offense, that the actor's conscious objective is to cause that result
14 or to engage in that conduct;
- 15 (38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that
16 the program developed on the child's behalf is no more harsh, hazardous, or
17 intrusive than necessary; or involves no restrictions on physical movements nor
18 requirements for residential care except as reasonably necessary for the protection
19 of the child from physical injury; or protection of the community, and is conducted
20 at the suitable available facility closest to the child's place of residence to allow for
21 appropriate family engagement;
- 22 (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS
23 Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- 24 (40) "Near fatality" means an injury that, as certified by a physician, places a child in
25 serious or critical condition;
- 26 (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- 27 (42) "Nonoffender" means a child alleged to be dependent, neglected, or abused and

- 1 who has not been otherwise charged with a status or public offense;
- 2 (43) "Nonsecure facility" means a facility which provides its residents access to the
3 surrounding community and which does not rely primarily on the use of physically
4 restricting construction and hardware to restrict freedom;
- 5 (44) "Nonsecure setting" means a nonsecure facility or a residential home, including a
6 child's own home, where a child may be temporarily placed pending further court
7 action. Children before the court in a county that is served by a state operated
8 secure detention facility, who are in the detention custody of the Department of
9 Juvenile Justice, and who are placed in a nonsecure alternative by the Department
10 of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- 11 (45) "Out-of-home placement" means a placement other than in the home of a parent,
12 relative, or guardian, in a boarding home, clinical treatment facility, community-
13 based facility, detention facility, emergency shelter, fictive kin home, foster family
14 home, hospital, nonsecure facility, physically secure facility, residential treatment
15 facility, or youth alternative center;
- 16 (46) "Parent" means the biological or adoptive mother or father of a child;
- 17 (47) "Person exercising custodial control or supervision" means a person or agency that
18 has assumed the role and responsibility of a parent or guardian for the child, but that
19 does not necessarily have legal custody of the child;
- 20 (48) "Petition" means a verified statement, setting forth allegations in regard to the child,
21 which initiates formal court involvement in the child's case;
- 22 (49) "Physical injury" means substantial physical pain or any impairment of physical
23 condition;
- 24 (50) "Physically secure facility" means a facility that relies primarily on the use of
25 construction and hardware such as locks, bars, and fences to restrict freedom;
- 26 (51) "Public offense action" means an action, excluding contempt, brought in the interest
27 of a child who is accused of committing an offense under KRS Chapter 527 or a

1 public offense which, if committed by an adult, would be a crime, whether the same
2 is a felony, misdemeanor, or violation, other than an action alleging that a child
3 sixteen (16) years of age or older has committed a motor vehicle offense;

4 (52) "Qualified mental health professional" means:

5 (a) A physician licensed under the laws of Kentucky to practice medicine or
6 osteopathy, or a medical officer of the government of the United States while
7 engaged in the performance of official duties;

8 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or
9 osteopathy, or a medical officer of the government of the United States while
10 engaged in the practice of official duties, and who is certified or eligible to
11 apply for certification by the American Board of Psychiatry and Neurology,
12 Inc.;

13 (c) A psychologist with the health service provider designation, a psychological
14 practitioner, a certified psychologist, or a psychological associate licensed
15 under the provisions of KRS Chapter 319;

16 (d) A licensed registered nurse with a master's degree in psychiatric nursing from
17 an accredited institution and two (2) years of clinical experience with
18 mentally ill persons, or a licensed registered nurse with a bachelor's degree in
19 nursing from an accredited institution who is certified as a psychiatric and
20 mental health nurse by the American Nurses Association and who has three
21 (3) years of inpatient or outpatient clinical experience in psychiatric nursing
22 and who is currently employed by a hospital or forensic psychiatric facility
23 licensed by the Commonwealth or a psychiatric unit of a general hospital, a
24 private agency or company engaged in providing mental health services, or a
25 regional comprehensive care center;

26 (e) A licensed clinical social worker licensed under the provisions of KRS
27 335.100, or a certified social worker licensed under the provisions of KRS

- 1 335.080 with three (3) years of inpatient or outpatient clinical experience in
2 psychiatric social work and currently employed by a hospital or forensic
3 psychiatric facility licensed by the Commonwealth, a psychiatric unit of a
4 general hospital, a private agency or company engaged in providing mental
5 health services, or a regional comprehensive care center;
- 6 (f) A marriage and family therapist licensed under the provisions of KRS
7 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical
8 experience in psychiatric mental health practice and currently employed by a
9 hospital or forensic psychiatric facility licensed by the Commonwealth, a
10 psychiatric unit of a general hospital, a private agency or company engaged in
11 providing mental health services, or a regional comprehensive care center;
- 12 (g) A professional counselor credentialed under the provisions of KRS 335.500 to
13 335.599 with three (3) years of inpatient or outpatient clinical experience in
14 psychiatric mental health practice and currently employed by a hospital or
15 forensic facility licensed by the Commonwealth, a psychiatric unit of a
16 general hospital, a private agency or company engaged in providing mental
17 health services, or a regional comprehensive care center; or
- 18 (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one
19 (1) of the following requirements:
- 20 1. Provides documentation that he or she has completed a psychiatric
21 residency program for physician assistants;
 - 22 2. Has completed at least one thousand (1,000) hours of clinical experience
23 under a collaborating~~[supervising]~~ physician, as defined by KRS
24 311.840, who is a psychiatrist and is certified or eligible for certification
25 by the American Board of Psychiatry and Neurology, Inc.;
 - 26 3. Holds a master's degree from a physician assistant program accredited
27 by the Accreditation Review Commission on Education for the

1 Physician Assistant or its predecessor or successor agencies, is
2 practicing under a collaborating~~[supervising]~~ physician as defined by
3 KRS 311.840, and:

4 a. Has two (2) years of clinical experience in the assessment,
5 evaluation, and treatment of mental disorders; or
6 b. Has been employed by a hospital or forensic psychiatric facility
7 licensed by the Commonwealth or a psychiatric unit of a general
8 hospital or a private agency or company engaged in the provision
9 of mental health services or a regional community program for
10 mental health and individuals with an intellectual disability for at
11 least two (2) years; or

12 4. Holds a bachelor's degree, possesses a current physician assistant
13 certificate issued by the board prior to July 15, 2002, is practicing under
14 a collaborating~~[supervising]~~ physician as defined by KRS 311.840, and:

15 a. Has three (3) years of clinical experience in the assessment,
16 evaluation, and treatment of mental disorders; or
17 b. Has been employed by a hospital or forensic psychiatric facility
18 licensed by the Commonwealth or a psychiatric unit of a general
19 hospital or a private agency or company engaged in the provision
20 of mental health services or a regional community program for
21 mental health and individuals with an intellectual disability for at
22 least three (3) years;

23 (53) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C.
24 sec. 675(10);

25 (54) "Residential treatment facility" means a facility or group home with more than eight
26 (8) beds designated by the Department of Juvenile Justice or the cabinet for the
27 treatment of children;

- 1 (55) "Retain in custody" means, after a child has been taken into custody, the continued
2 holding of the child by a peace officer for a period of time not to exceed twelve (12)
3 hours when authorized by the court or the court-designated worker for the purpose
4 of making preliminary inquiries;
- 5 (56) "Risk and needs assessment" means an actuarial tool scientifically proven to
6 identify specific factors and needs that are related to delinquent and noncriminal
7 misconduct;
- 8 (57) "Safety plan" means a written agreement developed by the cabinet and agreed to by
9 a family that clearly describes the protective services that the cabinet will provide
10 the family in order to manage threats to a child's safety;
- 11 (58) "School personnel" means those certified persons under the supervision of the local
12 public or private education agency;
- 13 (59) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 14 (60) "Secure juvenile detention facility" means any physically secure facility used for
15 the secure detention of children other than any facility in which adult prisoners are
16 confined;
- 17 (61) "Serious physical injury" means physical injury which creates a substantial risk of
18 death or which causes serious and prolonged disfigurement, prolonged impairment
19 of health, or prolonged loss or impairment of the function of any bodily member or
20 organ;
- 21 (62) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions
22 in which the parent, guardian, person in a position of authority or special trust, as
23 defined in KRS 532.045, or other person having custodial control or supervision of
24 the child or responsibility for his or her welfare, uses or allows, permits, or
25 encourages the use of the child for the purposes of the sexual stimulation of the
26 perpetrator or another person;
- 27 (63) "Sexual exploitation" includes but is not limited to a situation in which a parent,

1 guardian, person in a position of authority or special trust, as defined in KRS
2 532.045, or other person having custodial control or supervision of a child or
3 responsible for his or her welfare, allows, permits, or encourages the child to
4 engage in an act which constitutes prostitution under Kentucky law; or a parent,
5 guardian, person in a position of authority or special trust, as defined in KRS
6 532.045, or other person having custodial control or supervision of a child or
7 responsible for his or her welfare, allows, permits, or encourages the child to
8 engage in an act of obscene or pornographic photographing, filming, or depicting of
9 a child as provided for under Kentucky law;

10 (64) "Social service worker" means any employee of the cabinet or any private agency
11 designated as such by the secretary of the cabinet or a social worker employed by a
12 county or city who has been approved by the cabinet to provide, under its
13 supervision, services to families and children;

14 (65) "Staff secure facility for residential treatment" means any setting which assures that
15 all entrances and exits are under the exclusive control of the facility staff, and in
16 which a child may reside for the purpose of receiving treatment;

17 (66) "Statewide reporting system" means a system for making and compiling reports of
18 child dependency, neglect, and abuse in Kentucky made via telephone call or in
19 writing by a member of the public;

20 (67) (a) "Status offense action" is any action brought in the interest of a child who is
21 accused of committing acts, which if committed by an adult, would not be a
22 crime. Such behavior shall not be considered criminal or delinquent and such
23 children shall be termed status offenders. Status offenses shall include:

- 24 1. Beyond the control of school or beyond the control of parents;
- 25 2. Habitual runaway;
- 26 3. Habitual truant; and
- 27 4. Alcohol offenses as provided in KRS 244.085.

- 1 (b) Status offenses shall not include violations of state or local ordinances which
2 may apply to children such as a violation of curfew;
- 3 (68) "Take into custody" means the procedure by which a peace officer or other
4 authorized person initially assumes custody of a child. A child may be taken into
5 custody for a period of time not to exceed two (2) hours;
- 6 (69) "Transitional living support" means all benefits to which an eligible youth is
7 entitled upon being granted extended or reinstated commitment to the cabinet by the
8 court;
- 9 (70) "Transition plan" means a plan that is personalized at the direction of the youth that:
10 (a) Includes specific options on housing, health insurance, education, local
11 opportunities for mentors and continuing support services, and workforce
12 supports and employment services; and
13 (b) Is as detailed as the youth may elect;
- 14 (71) "Valid court order" means a court order issued by a judge to a child alleged or
15 found to be a status offender:
16 (a) Who was brought before the court and made subject to the order;
17 (b) Whose future conduct was regulated by the order;
18 (c) Who was given written and verbal warning of the consequences of the
19 violation of the order at the time the order was issued and whose attorney or
20 parent or legal guardian was also provided with a written notice of the
21 consequences of violation of the order, which notification is reflected in the
22 record of the court proceedings; and
23 (d) Who received, before the issuance of the order, the full due process rights
24 guaranteed by the Constitution of the United States;
- 25 (72) "Violation" means any offense, other than a traffic infraction, for which a sentence
26 of a fine only can be imposed;
- 27 (73) "Youth alternative center" means a nonsecure facility, approved by the Department

1 of Juvenile Justice, for the detention of juveniles, both prior to adjudication and
2 after adjudication, which meets the criteria specified in KRS 15A.320; and

3 (74) "Youthful offender" means any person regardless of age, transferred to Circuit
4 Court under the provisions of KRS Chapter 635 or 640 and who is subsequently
5 convicted in Circuit Court.

6 ➔Section 12. KRS 218A.202 is amended to read as follows:

7 (1) As used in this section:

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

9 (b) "Cannabis business" has the same meaning as in KRS 218B.010;

10 (c) "Controlled substance" means any Schedule II, III, IV, or V controlled
11 substance and does not include medicinal cannabis;

12 (d) "Dispensary" has the same meaning as in KRS 218B.010;

13 (e) "Dispensary agent" has the same meaning as in KRS 218B.010;

14 (f) "Disqualifying felony offense" has the same meaning as in KRS 218B.010;

15 (g) "Medicinal cannabis" has the same meaning as in KRS 218B.010;

16 (h) "Medicinal cannabis practitioner" has the same meaning as in KRS 218B.010;

17 (i) "Registry identification card" has the same meaning as in KRS 218B.010;

18 (j) "State licensing board" has the same meaning as in KRS 218B.010;

19 (k) "Use of medicinal cannabis" has the same meaning as in KRS 218B.010; and

20 (l) "Written certification" has the same meaning as in KRS 218B.010.

21 (2) The cabinet shall establish and maintain an electronic system for monitoring
22 Schedules II, III, IV, and V controlled substances and medicinal cannabis. The
23 cabinet may contract for the design, upgrade, or operation of this system if the
24 contract preserves all of the rights, privileges, and protections guaranteed to
25 Kentucky citizens under this chapter and the contract requires that all other aspects
26 of the system be operated in conformity with the requirements of this or any other
27 applicable state or federal law.

- 1 (3) For the purpose of monitoring the prescribing and dispensing of Schedule II, III, IV,
2 or V controlled substances:
- 3 (a) A practitioner or a pharmacist authorized to prescribe or dispense controlled
4 substances to humans shall register with the cabinet to use the system
5 provided for in this section and shall maintain such registration continuously
6 during the practitioner's or pharmacist's term of licensure and shall not have to
7 pay a fee or tax specifically dedicated to the operation of the system;
- 8 (b) Every practitioner or pharmacy which dispenses a controlled substance to a
9 person in Kentucky, or to a person at an address in Kentucky, shall report to
10 the cabinet the data required by this section, which includes the reporting of
11 any Schedule II controlled substance dispensed at a facility licensed by the
12 cabinet and a Schedule II through Schedule V controlled substance regardless
13 of dosage when dispensed by the emergency department of a hospital to an
14 emergency department patient. Reporting shall not be required for:
- 15 1. A drug administered directly to a patient in a hospital, a resident of a
16 health care facility licensed under KRS Chapter 216B, a resident of a
17 child-caring facility as defined by KRS 199.011, or an individual in a
18 jail, correctional facility, or juvenile detention facility;
- 19 2. A Schedule III through Schedule V controlled substance dispensed by a
20 facility licensed by the cabinet provided that the quantity dispensed is
21 limited to an amount adequate to treat the patient for a maximum of
22 forty-eight (48) hours and is not dispensed by the emergency department
23 of a hospital; or
- 24 3. A drug administered or dispensed to a research subject enrolled in a
25 research protocol approved by an institutional review board that has an
26 active federalwide assurance number from the United States Department
27 of Health and Human Services, Office for Human Research Protections,

1 where the research involves single, double, or triple blind drug
2 administration or is additionally covered by a certificate of
3 confidentiality from the National Institutes of Health;

4 (c) In addition to the data required by paragraph (d) of this subsection, a
5 Kentucky-licensed acute care hospital or critical access hospital shall report to
6 the cabinet all positive toxicology screens that were performed by the
7 hospital's emergency department to evaluate the patient's suspected drug
8 overdose;

9 (d) Data for each controlled substance that is reported shall include but not be
10 limited to the following:

- 11 1. Patient identifier;
- 12 2. National drug code of the drug dispensed;
- 13 3. Date of dispensing;
- 14 4. Quantity dispensed;
- 15 5. Prescriber; and
- 16 6. Dispenser;

17 (e) The data shall be provided in the electronic format specified by the cabinet
18 unless a waiver has been granted by the cabinet to an individual dispenser.
19 The cabinet shall establish acceptable error tolerance rates for data.
20 Dispensers shall ensure that reports fall within these tolerances. Incomplete or
21 inaccurate data shall be corrected upon notification by the cabinet if the
22 dispenser exceeds these error tolerance rates;

23 (f) The cabinet shall only disclose data to persons and entities authorized to
24 receive that data under this subsection. Disclosure to any other person or
25 entity, including disclosure in the context of a civil action where the
26 disclosure is sought either for the purpose of discovery or for evidence, is
27 prohibited unless specifically authorized by this section. The cabinet shall be

1 authorized to provide data to:

- 2 1. A designated representative of a board responsible for the licensure,
3 regulation, or discipline of practitioners, pharmacists, or other person
4 who is authorized to prescribe, administer, or dispense controlled
5 substances and who is involved in a bona fide specific investigation
6 involving a designated person;
- 7 2. Employees of the Office of the Inspector General of the cabinet who
8 have successfully completed training for the electronic system and who
9 have been approved to use the system, federal prosecutors, Kentucky
10 Commonwealth's attorneys and assistant Commonwealth's attorneys,
11 county attorneys and assistant county attorneys, a peace officer certified
12 pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer
13 of another state, or a federal agent whose duty is to enforce the laws of
14 this Commonwealth, of another state, or of the United States relating to
15 drugs and who is engaged in a bona fide specific investigation involving
16 a designated person;
- 17 3. A state-operated Medicaid program in conformity with paragraph (g) of
18 this subsection;
- 19 4. A properly convened grand jury pursuant to a subpoena properly issued
20 for the records;
- 21 5. A practitioner or pharmacist, or employee of the practitioner's or
22 pharmacist's practice acting under the specific direction of the
23 practitioner or pharmacist, who certifies that the requested information
24 is for the purpose of:
 - 25 a. Providing medical or pharmaceutical treatment to a bona fide
26 current or prospective patient;
 - 27 b. Reviewing data on controlled substances that have been reported

- 1 for the birth mother of an infant who is currently being treated by
2 the practitioner for neonatal abstinence syndrome, or has
3 symptoms that suggest prenatal drug exposure; or
- 4 c. Reviewing and assessing the individual prescribing or dispensing
5 patterns of the practitioner or pharmacist or to determine the
6 accuracy and completeness of information contained in the
7 monitoring system;
- 8 6. The chief medical officer of a hospital or long-term-care facility, an
9 employee of the hospital or long-term-care facility as designated by the
10 chief medical officer and who is working under his or her specific
11 direction, or a physician designee if the hospital or facility has no chief
12 medical officer, if the officer, employee, or designee certifies that the
13 requested information is for the purpose of providing medical or
14 pharmaceutical treatment to a bona fide current or prospective patient or
15 resident in the hospital or facility;
- 16 7. In addition to the purposes authorized under subparagraph 1. of this
17 paragraph, the Kentucky Board of Medical Licensure, for any physician
18 who is:
- 19 a. Associated in a partnership or other business entity with a
20 physician who is already under investigation by the Board of
21 Medical Licensure for improper prescribing or dispensing
22 practices;
- 23 b. In a designated geographic area for which a trend report indicates
24 a substantial likelihood that inappropriate prescribing or
25 dispensing may be occurring; or
- 26 c. In a designated geographic area for which a report on another
27 physician in that area indicates a substantial likelihood that

1 inappropriate prescribing or dispensing may be occurring in that
2 area;

- 3 8. In addition to the purposes authorized under subparagraph 1. of this
4 paragraph, the Kentucky Board of Nursing, for any advanced practice
5 registered nurse who is:
- 6 a. Associated in a partnership or other business entity with a
7 physician who is already under investigation by the Kentucky
8 Board of Medical Licensure for improper prescribing or
9 dispensing practices;
 - 10 b. Associated in a partnership or other business entity with an
11 advanced practice registered nurse who is already under
12 investigation by the Board of Nursing for improper prescribing
13 practices;
 - 14 c. In a designated geographic area for which a trend report indicates
15 a substantial likelihood that inappropriate prescribing or
16 dispensing may be occurring; or
 - 17 d. In a designated geographic area for which a report on a physician
18 or another advanced practice registered nurse in that area indicates
19 a substantial likelihood that inappropriate prescribing or
20 dispensing may be occurring in that area;
- 21 9. A judge or a probation or parole officer administering a diversion or
22 probation program of a criminal defendant arising out of a violation of
23 this chapter or of a criminal defendant who is documented by the court
24 as a substance abuser who is eligible to participate in a court-ordered
25 drug diversion or probation program; or
- 26 10. A medical examiner engaged in a death investigation pursuant to KRS
27 72.026;

1 (g) The Department for Medicaid Services shall use any data or reports from the
2 system for the purpose of identifying Medicaid providers or recipients whose
3 prescribing, dispensing, or usage of controlled substances may be:

- 4 1. Appropriately managed by a single outpatient pharmacy or primary care
5 physician; or
- 6 2. Indicative of improper, inappropriate, or illegal prescribing or
7 dispensing practices by a practitioner or drug seeking by a Medicaid
8 recipient;

9 (h) A person who receives data or any report of the system from the cabinet shall
10 not provide it to any other person or entity except as provided in this
11 subsection, in another statute, or by order of a court of competent jurisdiction
12 and only to a person or entity authorized to receive the data or the report
13 under this section, except that:

- 14 1. A person specified in paragraph (f)2. of this subsection who is
15 authorized to receive data or a report may share that information with
16 any other persons specified in paragraph (f)2. of this subsection
17 authorized to receive data or a report if the persons specified in
18 paragraph (f)2. of this subsection are working on a bona fide specific
19 investigation involving a designated person. Both the person providing
20 and the person receiving the data or report under this subparagraph shall
21 document in writing each person to whom the data or report has been
22 given or received and the day, month, and year that the data or report
23 has been given or received. This document shall be maintained in a file
24 by each agency engaged in the investigation;
- 25 2. A representative of the Department for Medicaid Services may share
26 data or reports regarding overutilization by Medicaid recipients with a
27 board designated in paragraph (f)1. of this subsection, or with a law

- 1 enforcement officer designated in paragraph (f)2. of this subsection;
- 2 3. The Department for Medicaid Services may submit the data as evidence
- 3 in an administrative hearing held in accordance with KRS Chapter 13B;
- 4 4. If a state licensing board as defined in KRS 218A.205 initiates formal
- 5 disciplinary proceedings against a licensee, and data obtained by the
- 6 board is relevant to the charges, the board may provide the data to the
- 7 licensee and his or her counsel, as part of the notice process required by
- 8 KRS 13B.050, and admit the data as evidence in an administrative
- 9 hearing conducted pursuant to KRS Chapter 13B, with the board and
- 10 licensee taking all necessary steps to prevent further disclosure of the
- 11 data; and
- 12 5. A practitioner, pharmacist, or employee who obtains data under
- 13 paragraph (f)5. of this subsection may share the report with the patient
- 14 or person authorized to act on the patient's behalf. Any practitioner,
- 15 pharmacist, or employee who obtains data under paragraph (f)5. of this
- 16 subsection may place the report in the patient's medical record, in which
- 17 case the individual report shall then be deemed a medical record subject
- 18 to disclosure on the same terms and conditions as an ordinary medical
- 19 record in lieu of the disclosure restrictions otherwise imposed by this
- 20 section;
- 21 (i) The cabinet, all peace officers specified in paragraph (f)2. of this subsection,
- 22 all officers of the court, and all regulatory agencies and officers, in using the
- 23 data for investigative or prosecution purposes, shall consider the nature of the
- 24 prescriber's and dispenser's practice and the condition for which the patient is
- 25 being treated;
- 26 (j) Intentional failure to comply with the reporting requirements of this
- 27 subsection shall be a Class B misdemeanor for the first offense and a Class A

1 misdemeanor for each subsequent offense; and

2 (k) If the cabinet becomes aware of a prescriber's or dispenser's failure to comply
3 with this section, the cabinet shall notify the licensing board or agency
4 responsible for licensing the prescriber or dispenser. The licensing board shall
5 treat the notification as a complaint against the license.

6 (4) For the purpose of monitoring the cultivation, processing, production,
7 recommending, and dispensing of medicinal cannabis:

8 (a) Every medicinal cannabis practitioner who is authorized pursuant to KRS
9 218B.050 to provide written certifications for the use of medicinal cannabis
10 and every cannabis business licensed under KRS 218B.080, 218B.085, and
11 218B.090 shall register with the cabinet to use the system provided for in this
12 section and shall maintain such registration continuously during the medicinal
13 cannabis practitioner's authorization to provide written certifications or a
14 cannabis business's term of licensure and shall not have to pay a fee or tax
15 specifically dedicated to the operation of the system;

16 (b) No later than July 1, 2024, the cabinet shall ensure that the system provided
17 for in this section allows:

18 1. Medicinal cannabis practitioners to record the issuance of written
19 certifications to a patient as required by KRS 218B.050;

20 2. The cabinet, law enforcement personnel, and dispensary agents to verify
21 the validity of registry identification cards issued by the cabinet. When
22 verifying the validity of an identification card, the system shall only
23 disclose whether the identification card is valid and whether the
24 cardholder is a registered qualified patient, visiting qualified patient, or
25 designated caregiver;

26 3. Dispensary agents to record the amount of medicinal cannabis that is
27 dispensed to a cardholder during each transaction, as required by KRS

- 1 218B.110;
- 2 4. Law enforcement personnel and dispensary agents to access medicinal
- 3 cannabis sales data recorded by dispensary agents pursuant to KRS
- 4 218B.110;
- 5 5. The sharing of dispensing data recorded by dispensary agents, pursuant
- 6 to KRS 218B.110, with all licensed dispensaries in real time;
- 7 6. Licensed cannabis businesses to record data required by administrative
- 8 regulations promulgated pursuant to KRS 218B.140 to facilitate the
- 9 tracking of medicinal cannabis from the point of cultivation to the point
- 10 of sale to cardholders; and
- 11 7. The cabinet to track all medicinal cannabis in the state from the point of
- 12 cultivation to the point of sale to a cardholder;
- 13 (c) The cabinet shall only disclose data related to the cultivation, production,
- 14 recommending, and dispensing of medicinal cannabis to persons and entities
- 15 authorized to receive that data under this subsection. Disclosure to any other
- 16 person or entity, including disclosure in the context of a civil action where the
- 17 disclosure is sought either for the purpose of discovery or for evidence, is
- 18 prohibited unless specifically authorized by this subsection. The cabinet shall
- 19 be authorized to provide data to:
- 20 1. Any person or entity authorized to receive data pursuant to paragraph
- 21 (b) of this subsection;
- 22 2. A designated representative of a state licensing board responsible for the
- 23 licensure, regulation, or discipline of medicinal cannabis practitioners
- 24 and who is involved in a bona fide specific investigation involving a
- 25 designated person;
- 26 3. Employees of the Office of the Inspector General of the cabinet who
- 27 have successfully completed training for the electronic system and who

- 1 have been approved to use the system, Kentucky Commonwealth's
2 attorneys and assistant Commonwealth's attorneys, and county attorneys
3 and assistant county attorneys who are engaged in a bona fide specific
4 investigation involving a designated person;
- 5 4. A properly convened grand jury pursuant to a subpoena properly issued
6 for the records;
- 7 5. A medicinal cannabis practitioner or an employee of a medicinal
8 cannabis practitioner's practice acting under the specific direction of the
9 medicinal cannabis practitioner, who certifies that the request for
10 information is for the purpose of complying with KRS 218B.050(4)(c);
- 11 6. The chief medical officer of a hospital or long-term-care facility, an
12 employee of the hospital or long-term-care facility as designated by the
13 chief medical officer and who is working under his or her specific
14 direction, or a physician designee if the hospital or facility has no chief
15 medical officer, if the officer, employee, or designee certifies that the
16 requested information is for the purpose of providing medical or
17 pharmaceutical treatment to a bona fide current or prospective patient or
18 resident in the hospital or facility;
- 19 7. In addition to the purposes authorized under subparagraph 2. of this
20 paragraph, the Kentucky Board of Medical Licensure, for any physician
21 who is:
- 22 a. Associated in a partnership, other business entity, or supervision
23 agreement established pursuant to Section 6 of this Act ~~KRS~~
24 ~~311.854~~ with a physician who is already under investigation by
25 the Board of Medical Licensure for improper issuance of written
26 certifications;
- 27 b. Associated in a partnership or other business entity with an

- 1 advanced practice registered nurse who is already under
2 investigation by the Board of Nursing for improper issuance of
3 written certifications;
- 4 c. In a designated geographic area for which a trend report indicates
5 a substantial likelihood that inappropriate issuance of written
6 certifications may be occurring; or
- 7 d. In a designated geographic area for which a report on another
8 physician in that area indicates a substantial likelihood that
9 inappropriate issuance of written certifications may be occurring in
10 that area;
- 11 8. In addition to the purposes authorized under subparagraph 2. of this
12 paragraph, the Kentucky Board of Nursing, for any advanced practice
13 registered nurse who is:
- 14 a. Associated in a partnership or other business entity with a
15 physician who is already under investigation by the Kentucky
16 Board of Medical Licensure for improper issuance of written
17 certifications;
- 18 b. Associated in a partnership or other business entity with an
19 advanced practice registered nurse who is already under
20 investigation by the Board of Nursing for improper issuance of
21 written certifications;
- 22 c. In a designated geographic area for which a trend report indicates
23 a substantial likelihood that inappropriate issuance of written
24 certifications may be occurring; or
- 25 d. In a designated geographic area for which a report on another
26 advanced practice registered nurse in that area indicates a
27 substantial likelihood that inappropriate issuance of written

1 certifications may be occurring in that area;

2 9. A judge or a probation or parole officer administering a diversion or
3 probation program of a criminal defendant arising out of a violation of
4 this chapter or of a criminal defendant who is documented by the court
5 as a substance abuser who is eligible to participate in a court-ordered
6 drug diversion or probation program;

7 10. A medical examiner engaged in a death investigation pursuant to KRS
8 72.026; or

9 11. The Legislative Research Commission, the University of Kentucky
10 College of Medicine, or the Kentucky Center for Cannabis established
11 in KRS 164.983 if the cabinet determines that disclosing data related to
12 the cultivation, production, recommending, and dispensing of medicinal
13 cannabis to the Legislative Research Commission, the University of
14 Kentucky College of Medicine, or the Kentucky Center for Cannabis is
15 necessary to comply with the reporting requirements established in KRS
16 218B.020(8); and

17 (d) A person who receives data or any report of the system from the cabinet shall
18 not provide it to any other person or entity except as provided in this section,
19 in another statute, or by order of a court of competent jurisdiction and only to
20 a person or entity authorized to receive the data or the report under this
21 section, except that:

22 1. A person specified in paragraph (c)3. of this subsection who is
23 authorized to receive data or a report may share that information with
24 any other persons specified in paragraph (c)3. of this subsection
25 authorized to receive data or a report if the persons specified in
26 paragraph (c)3. of this subsection are working on a bona fide specific
27 investigation involving a designated person. Both the person providing

1 and the person receiving the data or report under this subparagraph shall
2 document in writing each person to whom the data or report has been
3 given or received and the day, month, and year that the data or report
4 has been given or received. This document shall be maintained in a file
5 by each agency engaged in the investigation;

6 2. If a state licensing board initiates formal disciplinary proceedings
7 against a licensee, and data obtained by the board is relevant to the
8 charges, the board may provide the data to the licensee and his or her
9 counsel, as part of the notice process required by KRS 13B.050, and
10 admit the data as evidence in an administrative hearing conducted
11 pursuant to KRS Chapter 13B, with the board and licensee taking all
12 necessary steps to prevent further disclosure of the data; and

13 3. A medicinal cannabis practitioner or an employee of a medicinal
14 cannabis practitioner's practice acting under the specific direction of the
15 medicinal cannabis practitioner who obtains data under paragraph (c)5.
16 of this subsection may share the report with the patient or person
17 authorized to act on the patient's behalf. Any medicinal cannabis
18 practitioner or employee who obtains data under paragraph (c)5. of this
19 subsection may place the report in the patient's medical record, in which
20 case the individual report shall then be deemed a medical record subject
21 to disclosure on the same terms and conditions as an ordinary medical
22 record in lieu of the disclosure restrictions otherwise imposed by this
23 section.

24 (5) The data contained in, and any report obtained from, the electronic system for
25 monitoring established pursuant to this section shall not be a public record, except
26 that the Department for Medicaid Services may submit the data as evidence in an
27 administrative hearing held in accordance with KRS Chapter 13B.

- 1 (6) Intentional disclosure of transmitted data to a person not authorized by subsection
2 (3)(f) to (h) or (4)(c) and (d) of this section or authorized by KRS 315.121, or
3 obtaining information under this section not relating to a bona fide current or
4 prospective patient or a bona fide specific investigation, shall be a Class B
5 misdemeanor for the first offense and a Class A misdemeanor for each subsequent
6 offense.
- 7 (7) The cabinet may, by promulgating an administrative regulation, limit the length of
8 time that data remain in the electronic system. Any data removed from the system
9 shall be archived and subject to retrieval within a reasonable time after a request
10 from a person authorized to review data under this section.
- 11 (8) (a) The Cabinet for Health and Family Services shall work with each board
12 responsible for the licensure, regulation, or discipline of practitioners,
13 pharmacists, or other persons who are authorized to prescribe, administer, or
14 dispense controlled substances for the development of a continuing education
15 program about the purposes and uses of the electronic system for monitoring
16 established in this section.
- 17 (b) The cabinet shall work with each board responsible for the licensure,
18 regulation, or discipline of medicinal cannabis practitioners for the
19 development of a continuing education program about the purposes and uses
20 of the electronic system for monitoring established in this section.
- 21 (c) The cabinet shall work with the Kentucky Bar Association for the
22 development of a continuing education program for attorneys about the
23 purposes and uses of the electronic system for monitoring established in this
24 section.
- 25 (d) The cabinet shall work with the Justice and Public Safety Cabinet for the
26 development of a continuing education program for law enforcement officers
27 about the purposes and uses of the electronic system for monitoring

1 established in this section.

2 (e) The cabinet shall develop a training program for cannabis business agents
3 about the purposes and uses of the electronic system for monitoring
4 established in this section.

5 (9) The cabinet, Office of Inspector General, shall conduct quarterly reviews to identify
6 patterns of potential improper, inappropriate, or illegal prescribing or dispensing of
7 a controlled substance, issuance of written certifications, or cultivation, processing,
8 or dispensing of medicinal cannabis. The Office of Inspector General may
9 independently investigate and submit findings and recommendations to the
10 appropriate boards of licensure or other reporting agencies.

11 (10) The cabinet shall promulgate administrative regulations to implement the
12 provisions of this section. Included in these administrative regulations shall be:

13 (a) An error resolution process allowing a patient to whom a report had been
14 disclosed under subsections (3) and (4) of this section to request the correction
15 of inaccurate information contained in the system relating to that patient; and

16 (b) A requirement that data be reported to the system under subsection (3)(b) of
17 this section within one (1) day of dispensing.

18 (11) (a) Before July 1, 2018, the Administrative Office of the Courts shall forward
19 data regarding any felony or Class A misdemeanor conviction that involves
20 the trafficking or possession of a controlled substance or other prohibited acts
21 under KRS Chapter 218A for the previous five (5) calendar years to the
22 cabinet for inclusion in the electronic monitoring system established under
23 this section. On or after July 1, 2018, such data shall be forwarded by the
24 Administrative Office of the Courts to the cabinet on a continuing basis. The
25 cabinet shall incorporate the data received into the system so that a query by
26 patient name indicates any prior drug conviction.

27 (b) Before July 1, 2024, the Administrative Office of the Courts shall forward all

1 available data regarding any disqualifying felony offense for the previous five
2 (5) calendar years to the cabinet for inclusion in the electronic monitoring
3 system established under this section. On or after July 1, 2024, such data shall
4 be forwarded by the Administrative Office of the Courts to the cabinet on a
5 continuing basis. The cabinet shall incorporate the data received into the
6 system so that a query by patient name indicates any prior disqualifying
7 felony conviction.

8 ➔Section 13. The following KRS sections are repealed:

- 9 311.854 Approval of supervising physician -- Requirements -- Application -- Number of
10 assistants -- Restrictions on practice and supervision.
- 11 311.856 Duties of supervising physician -- Definitions.
- 12 311.860 Services performed in location separate from supervising physician --
13 Nonseparate location -- Definition and exceptions.