

1 AN ACT relating to sex crimes.

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

3 ➔Section 1. KRS 510.060 is amended to read as follows:

4 (1) A person is guilty of rape in the third degree when:

5 (a) Being twenty-one (21) years **of age or older**~~[old or more]~~, he or she engages  
6 in sexual intercourse with another person **who is under**~~[less than]~~ sixteen (16)  
7 years old;

8 (b) Being at least ten (10) years older than a person who is sixteen (16) or  
9 seventeen (17) years old at the time of sexual intercourse, he or she engages in  
10 sexual intercourse with the person;

11 (c) Being twenty-one (21) years **of age or older**~~[old or more]~~, he or she engages  
12 in sexual intercourse with another person **who is under**~~[less than]~~ eighteen  
13 (18) years old and for whom he or she provides a foster family home as  
14 defined in KRS 600.020;

15 (d) Being a person in a position of authority or position of special trust, as defined  
16 in KRS 532.045, he or she engages in sexual intercourse with a minor **who is**  
17 under eighteen (18) years old with whom he or she comes into contact as a  
18 result of that position;

19 (e) Being a jailer, or an employee, contractor, vendor, or volunteer of the  
20 Department of Corrections, Department of Juvenile Justice, or a detention  
21 facility as defined in KRS 520.010, or of an entity under contract with either  
22 department or a detention facility for the custody, supervision, evaluation, or  
23 treatment of offenders, he or she subjects a person who he or she knows is  
24 incarcerated, supervised, evaluated, or treated by the Department of  
25 Corrections, Department of Juvenile Justice, detention facility, or contracting  
26 entity, to sexual intercourse;~~[or]~~

27 (f) Being a peace officer, while serving in his or her official capacity, he or she

1 subjects a person who the officer:

2 1. Arrested, held in custody, or investigated for commission of a traffic or  
3 criminal offense; or

4 2. Knew or should have known was under arrest, held in custody, or being  
5 investigated for commission of a traffic or criminal offense;

6 to sexual intercourse; or

7 (g) Being a school employee, he or she engages in sexual intercourse with a  
8 student enrolled in an elementary or secondary school with whom he or she  
9 comes into contact with as a result of that employment.

10 (2) Rape in the third degree is a Class D felony.

11 ➔Section 2. KRS 510.090 is amended to read as follows:

12 (1) A person is guilty of sodomy in the third degree when:

13 (a) Being twenty-one (21) years of age or older~~[old or more]~~, he or she engages  
14 in deviate sexual intercourse with another person who is under~~[less than]~~  
15 sixteen (16) years old;

16 (b) Being at least ten (10) years older than a person who is sixteen (16) or  
17 seventeen (17) years old at the time of deviate sexual intercourse, he or she  
18 engages in deviate sexual intercourse with the person;

19 (c) Being twenty-one (21) years of age or older~~[old or more]~~, he or she engages  
20 in deviate sexual intercourse with another person who is under~~[less than]~~  
21 eighteen (18) years old and for whom he or she provides a foster family home  
22 as defined in KRS 600.020;

23 (d) Being a person in a position of authority or position of special trust, as defined  
24 in KRS 532.045, he or she engages in deviate sexual intercourse with a minor  
25 who is under~~[less than]~~ eighteen (18) years old with whom he or she comes  
26 into contact as a result of that position;

27 (e) Being a jailer, or an employee, contractor, vendor, or volunteer of the

1 Department of Corrections, Department of Juvenile Justice, or a detention  
2 facility as defined in KRS 520.010, or of an entity under contract with either  
3 department or a detention facility for the custody, supervision, evaluation, or  
4 treatment of offenders, he or she subjects a person who he or she knows is  
5 incarcerated, supervised, evaluated, or treated by the Department of  
6 Corrections, Department of Juvenile Justice, detention facility, or contracting  
7 entity, to deviate sexual intercourse;~~or~~

8 (f) Being a peace officer, while serving in his or her official capacity, he or she  
9 subjects a person who the officer:

- 10 1. Arrested, held in custody, or investigated for commission of a traffic or  
11 criminal offense; or  
12 2. Knew or should have known was under arrest, held in custody, or being  
13 investigated for commission of a traffic or criminal offense;  
14 to deviate sexual intercourse; or

15 (g) Being a school employee, he or she engages in deviate sexual intercourse  
16 with a student enrolled in an elementary or secondary school with whom he  
17 or she comes into contact with as a result of that employment.

18 (2) Sodomy in the third degree is a Class D felony.

19 ➔Section 3. KRS 510.110 is amended to read as follows:

20 (1) A person is guilty of sexual abuse in the first degree when:

- 21 (a) He or she subjects another person to sexual contact by forcible compulsion;~~or~~  
22 ~~or~~  
23 (b) He or she subjects another person to sexual contact who is incapable of  
24 consent because he or she:  
25 1. Is physically helpless;  
26 2. Is under~~less than~~ twelve (12) years old;  
27 3. Is mentally incapacitated; or

- 1           4.    Is an individual with an intellectual disability;~~[-or]~~
- 2           (c)   Being twenty-one (21) years of age or older~~[old or more]~~, he or she:
- 3               1.   Subjects another person who is under~~[less than]~~ sixteen (16) years old
- 4               to sexual contact;
- 5               2.   Engages in masturbation in the presence of another person who is
- 6               under~~[less than]~~ sixteen (16) years old and knows or has reason to know
- 7               the other person is present; or
- 8               3.   Engages in masturbation while using the internet, telephone, or other
- 9               electronic communication device while communicating with a minor
- 10              who the person knows is under~~[less than]~~ sixteen (16) years old, and the
- 11              minor can see or hear the person masturbate;~~[-or]~~
- 12           (d)   Being a person in a position of authority or position of special trust, as defined
- 13              in KRS 532.045, he or she, regardless of his or her age, subjects a minor who
- 14              is under~~[less than]~~ eighteen (18) years old, with whom he or she comes into
- 15              contact as a result of that position, to sexual contact or engages in
- 16              masturbation in the presence of the minor and knows or has reason to know
- 17              the minor is present or engages in masturbation while using the internet,
- 18              telephone, or other electronic communication device while communicating
- 19              with a minor who the person knows is under~~[less than]~~ sixteen (16) years old,
- 20              and the minor can see or hear the person masturbate;or
- 21           (e)   Being a school employee, he or she;
- 22               1.   Subjects a student to sexual contact;
- 23               2.   Engages in masturbation in the presence of a student and knows or
- 24               has reason to know the student is present; or
- 25               3.   Engages in masturbation while using the internet, telephone, or other
- 26               electronic communication device while communicating with a student
- 27               and the student can see or hear the school employee masturbate; and

1           the student is a student enrolled in an elementary or secondary school with  
2           whom the school employee comes into contact with as a result of that  
3           employment.

4       (2) Sexual abuse in the first degree is a Class D felony, unless the victim is under~~less~~  
5       ~~than~~ twelve (12) years old, in which case the offense shall be a Class C felony.

6       ➔Section 4. KRS 510.010 is amended to read as follows:

7       The following definitions apply in this chapter unless the context otherwise requires:

8       (1) "Adult intermediary" means a person who is eighteen (18) years of age or older  
9       and communicates with another for the purpose of procuring or promoting the  
10       use of a minor in violation of KRS 510.155;

11       (2) "Deviate sexual intercourse" means any act of sexual gratification involving the sex  
12       organs of one person and the mouth or anus of another; or penetration of the anus of  
13       one person by any body part or a foreign object manipulated by another person.  
14       "Deviate sexual intercourse" does not include penetration of the anus by any body  
15       part or a foreign object in the course of the performance of generally recognized  
16       health-care practices;

17       (3)~~(2)~~ "Forcible compulsion" means physical force or threat of physical force,  
18       express or implied, which places a person in fear of immediate death, physical  
19       injury to self or another person, fear of the immediate kidnap of self or another  
20       person, or fear of any offense under this chapter. Physical resistance on the part of  
21       the victim shall not be necessary to meet this definition;

22       (4) "Foreign object" means anything used in commission of a sexual act other than  
23       the person of the actor;

24       (5) "Individual with an intellectual disability" means a person with significantly  
25       subaverage general intellectual functioning existing concurrently with deficits in  
26       adaptive behavior and manifested during the developmental period;

27       (6)~~(3)~~ "Mental illness" means a diagnostic term that covers many clinical categories,

1 typically including behavioral or psychological symptoms, or both, along with  
2 impairment of personal and social function, and specifically defined and clinically  
3 interpreted through reference to criteria contained in the most recent edition of the  
4 Diagnostic and Statistical Manual of Mental Disorders~~[(Third Edition) and any~~  
5 ~~subsequent revision thereto]~~, of the American Psychiatric Association;{

6 ~~(4) "Individual with an intellectual disability" means a person with significantly~~  
7 ~~subaverage general intellectual functioning existing concurrently with deficits in~~  
8 ~~adaptive behavior and manifested during the developmental period, as defined in~~  
9 ~~KRS Chapter 202B;]~~

10 ~~(7)~~~~(5)~~ "Mentally incapacitated" means that a person is rendered temporarily  
11 incapable of appraising or controlling his or her conduct as a result of the influence  
12 of an intoxicating substance administered to him or her without his or her consent  
13 or as a result of any other act committed upon him or her without his or her consent;

14 ~~(8)~~~~(6)~~ "Physically helpless" means that a person is unconscious or for any other  
15 reason is physically unable to communicate unwillingness to an act. "Physically  
16 helpless" also includes a person who has been rendered unconscious or for any  
17 other reason is physically unable to communicate an unwillingness to an act as a  
18 result of the influence of a controlled substance or legend drug;

19 (9) "Registrant" has the same meaning as in KRS 17.500;

20 (10) "School employee" means:

21 (a) An adult employee of a public school district or private, parochial, or  
22 church school who:

23 1. Is not enrolled in the school district or school; and

24 2. Serves as a:

25 a. School administrator;

26 b. Classified school employee;

27 c. Certified employee;

1 d. Nonfaculty coach or assistant coach; or

2 e. Contract employee, including but not limited to health staff  
3 working under a contract between a health clinic and the school  
4 district; and

5 (b) Any employee of the Kentucky Department of Education or a regional  
6 education cooperative who is assigned to a school or area technology center  
7 within the school district;

8 ~~(11)~~~~(7)~~ "Sexual contact" means the touching of a person's intimate parts or the  
9 touching of the clothing or other material intended to cover the immediate area of a  
10 person's intimate parts, if that touching can be construed by a reasonable person as  
11 being done:

12 (a) For the purpose of sexual arousal or gratification of either party;

13 (b) For a sexual purpose; or

14 (c) In a sexual manner for the purpose of:

15 1. Exacting revenge or retribution;

16 2. Humiliating or degrading; or

17 3. Punishment; and

18 ~~(12)~~~~(8)~~ "Sexual intercourse" means sexual intercourse in its ordinary sense and  
19 includes penetration of the sex organs of one person by any body part or a foreign  
20 object manipulated by another person. Sexual intercourse occurs upon any  
21 penetration, however slight; emission is not required. "Sexual intercourse" does not  
22 include penetration of the sex organ by any body part or a foreign object in the  
23 course of the performance of generally recognized health-care practices;

24 ~~(9) "Foreign object" means anything used in commission of a sexual act other than the~~  
25 ~~person of the actor;~~

26 ~~(10) "Registrant" has the same meaning as in KRS 17.500; and~~

27 ~~(11) "Adult intermediary" means a person who is age eighteen (18) years or older, who~~

1 ~~communicates with another for the purpose of procuring or promoting the use of a~~  
2 ~~minor in violation of KRS 510.155].~~

3 ➔Section 5. KRS 161.120 is amended to read as follows:

4 (1) Except as described in KRS 161.795, the Education Professional Standards Board  
5 may revoke, suspend, or refuse to issue or renew; impose probationary or  
6 supervisory conditions upon; issue a written reprimand or admonishment; or any  
7 combination of those actions regarding any certificate issued under KRS 161.010 to  
8 161.100, or any certificate or license issued under any previous law to  
9 superintendents, principals, teachers, substitute teachers, interns, supervisors,  
10 directors of pupil personnel, or other administrative, supervisory, or instructional  
11 employees for the following reasons:

12 (a) Being convicted of, or entering an ~~["]Alford["]~~ plea or plea of nolo contendere  
13 to, notwithstanding an order granting probation or suspending imposition of  
14 any sentence imposed following the conviction or entry of the plea, one (1) of  
15 the following:

- 16 1. A felony;
- 17 2. A misdemeanor under KRS Chapter 218A, 508, 509, 510, 522, 525,  
18 529, 530, or 531; or
- 19 3. A misdemeanor involving a student or minor.

20 A certified copy of the conviction or plea shall be conclusive evidence of the  
21 conviction or plea;

22 (b) Having sexual contact as defined in KRS 510.010~~[(7)]~~ with a student or  
23 minor. Conviction in a criminal proceeding shall not be a requirement for  
24 disciplinary action;

25 (c) Committing any act that constitutes fraudulent, corrupt, dishonest, or immoral  
26 conduct. If the act constitutes a crime, conviction in a criminal proceeding  
27 shall not be a condition precedent to disciplinary action;

- 1 (d) Demonstrating willful or careless disregard for the health, welfare, or safety  
2 of others;
- 3 (e) Physical or mental incapacity that prevents the certificate holder from  
4 performing duties with reasonable skill, competence, or safety;
- 5 (f) Possessing, using, or being under the influence of alcohol, which impairs the  
6 performance of duties;
- 7 (g) Unlawfully possessing or unlawfully using a drug during the performance of  
8 duties;
- 9 (h) Incompetency or neglect of duty;
- 10 (i) Making, or causing to be made, any false or misleading statement or  
11 concealing a material fact in obtaining issuance or renewal of any certificate;
- 12 (j) Failing to report as required by subsection (3) of this section;
- 13 (k) Failing to comply with an order of the Education Professional Standards  
14 Board;
- 15 (l) Violating any state statute relating to schools or the teaching profession;
- 16 (m) Violating the professional code of ethics for Kentucky school certified  
17 personnel established by the Education Professional Standards Board through  
18 the promulgation of administrative regulation;
- 19 (n) Violating any administrative regulation promulgated by the Education  
20 Professional Standards Board or the Kentucky Board of Education; or
- 21 (o) Receiving disciplinary action or having the issuance of a certificate denied or  
22 restricted by another jurisdiction on grounds that constitute a violation of this  
23 subsection.
- 24 (2) The Education Professional Standards Board shall respond to complaints against a  
25 certificate holder by the following process:
- 26 (a) 1. Except as provided in subparagraph 2. of this paragraph, within thirty  
27 (30) calendar days of the receipt of a completed complaint, board staff

1 shall conduct an initial review to determine whether there is sufficient  
2 evidence that a violation may have occurred and shall provide notice of  
3 the initial determination to the certificate holder within seven (7)  
4 business days that shall include the complete copy of the report and all  
5 underlying relevant documents and records. If the complaint alleges  
6 unauthorized electronic communication as defined in KRS 160.145,  
7 sexual contact, or other sexual misconduct, the identity of a complainant  
8 that is not the superintendent and any identifying information of the  
9 minor involved in the complaint shall remain confidential.

- 10 2. When a complaint alleges unauthorized electronic communication, as  
11 defined in KRS 160.145, sexual contact, or other sexual misconduct, the  
12 board staff shall have one hundred twenty (120) days to conduct the  
13 initial review required by subparagraph 1. of this paragraph;
- 14 (b) Upon receipt of the notice, the certificate holder shall have thirty (30)  
15 calendar days to respond or provide a rebuttal to any complaint that was  
16 determined to contain sufficient evidence that a violation may have occurred.  
17 The response period shall be extended an additional thirty (30) calendar days  
18 upon the certificate holder's written request submitted to the board;
- 19 (c) Within ten (10) business days of the receipt of the certificate holder's response  
20 or the end of the response period established in paragraph (b) of this  
21 subsection, board staff shall conduct another review of the complaint to  
22 determine if sufficient evidence exists to support a violation. If the board staff  
23 determines that the evidence is:
- 24 1. Insufficient, then the board staff shall recommend dismissal and shall  
25 notify the certificate holder and the complainant of the recommendation  
26 within seven (7) business days of the determination; or
- 27 2. Sufficient, then the board staff shall have seven (7) business days to

1            notify the certificate holder and the complainant of the determination.  
2            Notice to the complainant shall only state that further proceedings will  
3            occur;

4            (d) Upon a determination that sufficient evidence exists to support a possible  
5            violation, within the notice required under paragraph (c)2. of this subsection,  
6            board staff shall initiate an in-person or virtual conference with the certificate  
7            holder to share information and to determine if an agreed resolution can be  
8            recommended to the board concerning the alleged violation. The conference  
9            shall be scheduled within thirty (30) calendar days of the determination. The  
10           certificate holder may decline the conference. If the conference does not occur  
11           due to the certificate holder's failure to respond within the thirty (30) calendar  
12           days, the required conference shall be considered waived. The certificate  
13           holder may have an attorney present at the conference;

14           (e) Upon the conclusion of the thirty (30) calendar days conference period, the  
15           board shall act on the complaint within thirty (30) calendar days. If the board  
16           fails to act on the complaint within the thirty (30) calendar days, then the  
17           complaint shall be considered dismissed. The board shall consider the entirety  
18           of the complaint with any associated response or recommended agreed  
19           resolution to determine:

- 20           1. Dismissal, conditional dismissal upon completion of training,  
21           admonishment, further investigation, or initiation of a hearing;
- 22           2. Approval of the recommended agreed resolution; or
- 23           3. A deferral if:
  - 24           a. The content of the complaint is subject to ongoing:
    - 25           i. Criminal investigation or proceedings;
    - 26           ii. Child abuse, dependency, or neglect investigation by an  
27           authorized state agency; or

1                               iii. Teacher tribunal process as provided in KRS 161.790; or

2                               b. The deferral is agreed to by the certificate holder; and

3               (f) The provision of a confirmation of receipt from the board to the certificate  
4 holder whenever the certificate holder submits a response or correspondence  
5 to the board.

6       (3)   (a) The superintendent of each local school district shall report in writing to the  
7 Education Professional Standards Board the name, address, phone number,  
8 Social Security number, and position name of any certified school employee  
9 in the superintendent's~~employee's~~ district:

10               1. Whose contract is terminated or not renewed, for cause except failure to  
11 meet local standards for quality of teaching performance prior to the  
12 employee gaining tenure;

13               2. Who resigns from, or otherwise leaves, a position under threat of  
14 contract termination, or nonrenewal, for cause;

15               3. Who is convicted in a criminal prosecution; or

16               4. Who otherwise may have engaged in any actions or conduct while  
17 employed in the school district that might reasonably be expected to  
18 warrant consideration for action against the certificate under subsection  
19 (1) of this section.

20               The duty to report shall exist without regard to any disciplinary action, or lack  
21 thereof, by the superintendent, and the required report shall be submitted  
22 within thirty (30) calendar days of the event giving rise to the duty to report.

23               (b) The district superintendent shall inform the Education Professional Standards  
24 Board in writing of the full facts and circumstances leading to the contract  
25 termination or nonrenewal, resignation, or other absence, conviction, or  
26 otherwise reported actions or conduct of the certified employee, that may  
27 warrant action against the certificate under subsection (1) of this section, and

1           shall forward copies of all relevant documents and records in his or her  
2           possession.

3           (c) The Education Professional Standards Board shall provide the superintendent  
4           confirmation of receipt of any report submitted by the superintendent within  
5           seven (7) business days and shall provide the superintendent with notice of:

6           1. Whether or not board staff determine that there is sufficient evidence in  
7           the report that a violation may have occurred; and

8           2. Any board action taken against the certificate holder who is the subject  
9           of the report.

10          (d) The Education Professional Standards Board may consider reports and  
11          information received from other sources.

12          (e) The certified school employee shall be given a copy of any report provided to  
13          the Education Professional Standards Board by the district superintendent or  
14          other sources. The employee shall have the right to file a written rebuttal  
15          pursuant to subsection (2) of this section to the report which shall be placed in  
16          the official file with the report.

17          (4) A finding or action by a school superintendent or tribunal does not create a  
18          presumption of a violation or lack of a violation of subsection (1) of this section.

19          (5) The board may issue a written admonishment to the certificate holder if the board  
20          determines, based on the evidence, that a violation has occurred that is not of a  
21          serious nature. A copy of the written admonishment shall be placed in the official  
22          file of the certificate holder. The certificate holder may respond in writing to the  
23          admonishment within thirty (30) calendar days of receipt and have that response  
24          placed in his or her official certification file. Alternatively, the certificate holder  
25          may file a request for a hearing with the board within thirty (30) calendar days of  
26          receipt of the admonishment. Upon receipt of a request for a hearing, the board  
27          shall set aside the written admonishment and set the matter for hearing pursuant to

1 the provisions of KRS Chapter 13B within thirty (30) calendar days of receipt of the  
2 request.

3 (6) (a) In accordance with the timeline specified in this section, the Education  
4 Professional Standards Board shall schedule and conduct a hearing in  
5 accordance with KRS Chapter 13B:

6 1. Upon determining that a complaint warrants possible revoking,  
7 suspending, refusing to renew, imposing probationary or supervisory  
8 conditions upon, issuing a written reprimand, or any combination of  
9 these actions regarding any certificate;

10 2. After denying an application for a certificate, upon written request filed  
11 within thirty (30) calendar days of receipt of the letter advising of the  
12 denial; or

13 3. After issuing a written admonishment, upon written request for a  
14 hearing filed within thirty (30) calendar days of receipt of the written  
15 admonishment.

16 (b) If after the hearing required under paragraph (a) of this subsection is  
17 scheduled and the certificate holder or applicant believes the hearing is not  
18 timely, the certificate holder or applicant may submit a request for an  
19 expedited hearing, and the hearing shall be conducted within sixty (60)  
20 calendar days of the request.

21 (c) Upon request, a hearing may be public or private at the discretion of the  
22 certified employee or applicant.

23 (d) The hearing shall be conducted before a hearing officer secured by the board  
24 pursuant to KRS 13B.030 and the board may:

25 1. Employ hearing officers;

26 2. Contract with another agency for hearing officers;

27 3. Contract with private attorneys through personal service contracts; or

- 1           4.     Secure a hearing officer from the Attorney General's office.
- 2           (e)    The hearing shall afford the certificate holder all the rights secured under KRS
- 3                Chapter 13B.
- 4   (7)   The Education Professional Standards Board or its chair may take emergency action
- 5       pursuant to KRS 13B.125. Emergency action shall not affect a certificate holder's
- 6       contract or tenure rights in the school district.
- 7   (8)   If the Education Professional Standards Board substantiates that sexual contact
- 8       occurred between a certified employee and a student or minor, the employee's
- 9       certificate may be revoked or suspended with mandatory treatment of the employee
- 10      as prescribed by the Education Professional Standards Board. The Education
- 11      Professional Standards Board may require the employee to pay a specified amount
- 12      for mental health services for the student or minor which are needed as a result of
- 13      the sexual contact.
- 14   (9)   At any time during the investigative or hearing processes, the board may enter into
- 15      an agreed order or accept an assurance of voluntary compliance with the certificate
- 16      holder.
- 17   (10)   The board may reconsider, modify, or reverse its decision on any disciplinary
- 18      action.
- 19   (11)   (a)   Suspension of a certificate shall be for a specified period of time, not to
- 20       exceed two (2) years.
- 21       (b)~~[(a)]~~   At the conclusion of the specified period, upon demonstration of
- 22       compliance with any educational requirements and the terms set forth in the
- 23       agreed order, the certificate shall be reactivated.
- 24       (c)~~[(b)]~~   A suspended certificate is subject to expiration and termination.
- 25   (12)   (a)   Revocation of a certificate is a permanent forfeiture. The board shall establish
- 26       the minimum period of time before an applicant can apply for a new
- 27       certificate.

1        ~~(b)(a)~~ At the conclusion of the specified period, and upon demonstration of  
2        compliance with any educational requirements and the terms set forth in the  
3        agreed order, the applicant shall bear the burden of proof to show that he or  
4        she is again fit for practice.

5        ~~(c)(b)~~ The board shall have discretion to impose conditions that it deems  
6        reasonably appropriate to ensure the applicant's fitness and the protection of  
7        public safety. Any conditions imposed by the board shall address or apply to  
8        only that time period after the revocation of the certificate.

9        (13) An appeal from any final order of the Education Professional Standards Board shall  
10       be filed in Franklin Circuit Court or the Circuit Court of the county in which the  
11       certificate holder was employed when the incident occurred in accordance with  
12       KRS 13B.140~~[Chapter 13B which provides that all final orders of an agency shall~~  
13       ~~be subject to judicial review].~~

14       ➔Section 6. KRS 309.362 is amended to read as follows:

15       (1) The board may deny or refuse to renew a license, may suspend or revoke a license,  
16       may issue an administrative reprimand, or may impose probationary conditions or  
17       fines not to exceed one thousand dollars (\$1,000) per violation when the licensee  
18       has engaged in unprofessional conduct that has endangered or is likely to endanger  
19       the health, welfare, or safety of the public. Unprofessional conduct shall include the  
20       following:

21       (a) Obtaining or attempting to obtain a license by fraud, misrepresentation,  
22       concealment of material facts, or making a false statement to the board;

23       (b) Being convicted of a felony in any court if the act or acts for which the  
24       licensee or applicant for license was convicted are determined by the board to  
25       have a direct bearing on whether the person is trustworthy to serve the public  
26       as a licensed massage therapist, if in accordance with KRS Chapter 335B.

27       ~~["Conviction,"]~~As used in this paragraph, **"convicted"** ~~includes~~~~[shall~~

- 1 ~~include~~ a finding or verdict of guilty, an admission of guilt, or a plea of nolo  
2 contendere in a court of law;
- 3 (c) Violating any lawful order or administrative regulation promulgated by the  
4 board;
- 5 (d) Violating any provision of this chapter or administrative regulations  
6 promulgated under this chapter~~[thereunder]~~;
- 7 (e) Having sexual contact as defined in~~[by]~~ KRS 510.010~~[(7)]~~ with a client or  
8 having engaged or attempted to engage in lewd or immoral conduct with any  
9 client or patient;
- 10 (f) Engaging in fraud or material deception in the delivery of professional  
11 services, including reimbursement or advertising services, in a false or  
12 misleading manner;
- 13 (g) Evidence of gross negligence or gross incompetence in the practice of  
14 massage therapy;
- 15 (h) Violating the standards of practice or the code of ethics as promulgated by  
16 administrative regulations;
- 17 (i) Violating KRS 304.39-215; or
- 18 (j) Engaging in conduct that is subject to the penalties under KRS 304.99-060(4)  
19 or (5).
- 20 (2) The board may, at its discretion, deny, refuse to renew, suspend or revoke a license,  
21 or impose probationary conditions following an administrative hearing pursuant to  
22 KRS Chapter 13B and in accordance with administrative regulations promulgated  
23 by the board.
- 24 (3) The surrender of a license shall not deprive the board of jurisdiction to proceed with  
25 disciplinary actions under KRS 309.350 to 309.364.
- 26 ➔Section 7. KRS 311.595 is amended to read as follows:
- 27 If the power has not been transferred by statute to some other board, commission, or

- 1 agency of the Commonwealth~~[this state]~~, the board may deny an application or  
2 reregistration for a license; place a licensee on probation for a period not to exceed five  
3 (5) years; suspend a license for a period not to exceed five (5) years; limit or restrict a  
4 license for an indefinite period; or revoke any license ~~[heretofore or hereafter]~~ issued by  
5 the board, upon proof that the licensee has:
- 6 (1) Knowingly made or presented, or caused to be made or presented, any false,  
7 fraudulent, or forged statement, writing, certificate, diploma, or other thing, in  
8 connection with an application for a license or permit;
  - 9 (2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion,  
10 or conspiracy in connection with an examination for a license;
  - 11 (3) Committed, procured, or aided in the procurement of an unlawful abortion,  
12 including a partial-birth abortion or an abortion in violation of KRS 311.731;
  - 13 (4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or  
14 without the Commonwealth of Kentucky of a crime as defined in KRS 335B.010, if  
15 in accordance with KRS Chapter 335B;
  - 16 (5) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a  
17 patient, or a felony offense under KRS Chapter 510 or KRS~~[,]~~ 530.064(1)(a)~~[,]~~ or  
18 531.310, or been found by the board to have had sexual contact as defined in KRS  
19 510.010~~[(7)]~~ with a patient while the patient was under the care of the physician;
  - 20 (6) Become addicted to a controlled substance;
  - 21 (7) Become a chronic or persistent alcoholic;
  - 22 (8) Been unable or is unable to practice medicine according to acceptable and  
23 prevailing standards of care by reason of mental or physical illness or other  
24 condition including but not limited to physical deterioration that adversely affects  
25 cognitive, motor, or perceptive skills, or by reason of an extended absence from the  
26 active practice of medicine;
  - 27 (9) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely

- 1 to deceive, defraud, or harm the public or any member of the public~~[thereof]~~;
- 2 (10) Knowingly made, or caused to be made, or aided or abetted in the making of, a  
3 false statement in any document executed in connection with the practice of his or  
4 her profession;
- 5 (11) Employed, as a practitioner of medicine or osteopathy in the practice of his or her  
6 profession in the Commonwealth~~[this state]~~, any person not duly licensed or  
7 otherwise aided, assisted, or abetted the unlawful practice of medicine or  
8 osteopathy or any other healing art;
- 9 (12) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the  
10 violation of, or conspired to violate any provision or term of any medical practice  
11 act, including but not limited to the code of conduct promulgated by the board  
12 under KRS 311.601 or any other valid regulation of the board;
- 13 (13) Violated any agreed order, letter of agreement, final order, or emergency order  
14 issued by the board;
- 15 (14) Engaged in or attempted to engage in the practice of medicine or osteopathy under a  
16 false or assumed name, or impersonated another practitioner of a like, similar, or  
17 different name;
- 18 (15) Obtained a fee or other thing of value on the fraudulent representation that a  
19 manifestly incurable condition could be cured;
- 20 (16) Willfully violated a confidential communication;
- 21 (17) Had his or her license to practice medicine or osteopathy in any other state,  
22 territory, or foreign nation revoked, suspended, restricted, or limited or has been  
23 subjected to other disciplinary action by the licensing authority thereof. This  
24 subsection shall not require relitigation of the disciplinary action;
- 25 (18) Failed or refused, without legal justification, to practice medicine in a rural area of  
26 the Commonwealth~~[this state]~~ in violation of a valid medical scholarship loan  
27 contract with the trustees of the rural Kentucky medical scholarship fund;

- 1 (19) Given or received, directly or indirectly, from any person, firm, or corporation, any  
2 fee, commission, rebate, or other form of compensation for sending, referring, or  
3 otherwise inducing a person to communicate with a person licensed under KRS  
4 311.530 to 311.620 in his or her professional capacity or for any professional  
5 services not actually and personally rendered. ~~[; provided,]~~ However, ~~[that nothing~~  
6 ~~contained in]~~ this subsection shall **not** prohibit persons holding valid and current  
7 licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or  
8 association or in a professional service corporation authorized by KRS Chapter 274,  
9 as ~~[now or hereinafter]~~ amended, or from pooling, sharing, dividing, or  
10 apportioning the fees and moneys received by them or by the partnership,  
11 corporation, or association in accordance with the partnership agreement or the  
12 policies of the board of directors of the corporation or association. ~~[Nothing~~  
13 ~~contained in]~~ This subsection shall **not** abrogate the right of two (2) or more persons  
14 holding valid and current licenses under KRS 311.530 to 311.620 to receive  
15 adequate compensation for concurrently rendering professional care to a single  
16 patient and divide a fee, if the patient has full knowledge of this division and if the  
17 division is made in proportion to the services performed and responsibility assumed  
18 by each;
- 19 (20) Been removed, suspended, expelled, or disciplined by any professional medical  
20 association or society when the action was based upon what the association or  
21 society found to be unprofessional conduct, professional incompetence,  
22 malpractice, or a violation of any provision of KRS Chapter 311. This subsection  
23 shall not require relitigation of the disciplinary action;
- 24 (21) Been disciplined by a licensed hospital or medical staff of the hospital, including  
25 removal, suspension, limitation of hospital privileges, failing to renew privileges for  
26 cause, resignation of privileges under pressure or investigation, or other disciplinary  
27 action if the action was based upon what the hospital or medical staff found to be

- 1 unprofessional conduct, professional incompetence, malpractice, or a violation of  
2 any provisions of KRS Chapter 311. This subsection shall not require relitigation of  
3 the disciplinary action;
- 4 (22) Failed to comply with the requirements of KRS 213.101, 311.782, or 311.783 or  
5 failed to submit to the Vital Statistics Branch in accordance with a court order a  
6 complete report as described in KRS 213.101;
- 7 (23) Failed to comply with any of the requirements regarding making or maintaining  
8 medical records or documents described in KRS 311.7704 or 311.7707;
- 9 (24) Failed to comply with the requirements of KRS 311.7705 or 311.7706;
- 10 (25) Been convicted of female genital mutilation under KRS 508.125, which shall result  
11 in mandatory revocation of a license;
- 12 (26) As provided in KRS 311.824(2), been convicted of a violation of KRS 311.823(2);  
13 or
- 14 (27) Failed to comply with the requirements of KRS 311.732.
- 15 ➔Section 8. KRS 311A.050 is amended to read as follows:
- 16 (1) ~~A[No]~~ person shall not:
- 17 (a) Call or hold himself or herself out as or use the title of emergency medical  
18 technician, advanced emergency medical technician, emergency medical  
19 responder, paramedic, advanced practice paramedic, emergency medical  
20 services educator, paramedic course coordinator, emergency medical services  
21 medical director, mobile integrated healthcare program medical director, or  
22 any other member of emergency medical services personnel unless licensed or  
23 certified under the provisions of this chapter. The provisions of this paragraph  
24 shall not apply if the board does not license or certify a person as an instructor  
25 in a particular discipline regulated by the board;
- 26 (b) Operate or offer to operate or represent or advertise the operation of a school  
27 or other educational program for emergency medical services personnel

1 unless the school or educational program has been approved and licensed  
2 under the provisions of this chapter. The provisions of this paragraph shall not  
3 apply to continuing education provided by a licensed ambulance service for  
4 anyone certified or licensed by the board given by an ambulance service for  
5 its employees or volunteers; or

6 (c) Knowingly employ emergency medical services personnel unless that person  
7 is licensed or certified under the provisions of this chapter.

8 (2) ~~A[No]~~ person who is licensed or certified by the board or ~~[who is]~~ an applicant for  
9 licensure or certification by the board shall not:

10 (a) If licensed or certified, violate any provision of this chapter or any  
11 administrative regulation promulgated by the board;

12 (b) Use fraud or deceit in obtaining or attempting to obtain a license or  
13 certification from the board, or be granted a license upon mistake of a material  
14 fact;

15 (c) If licensed or certified by the board, grossly negligently or willfully act in a  
16 manner inconsistent with the practice of the discipline for which the person is  
17 certified or licensed;

18 (d) Be unfit or incompetent to practice a discipline regulated by the board by  
19 reason of negligence or other causes;

20 (e) Abuse, misuse, or misappropriate any drugs placed in the custody of the  
21 licensee or certified person for administration, or for use of others;

22 (f) Falsify or fail to make essential entries on essential records;

23 (g) Be convicted of a misdemeanor which involved acts that bear directly on the  
24 qualifications or ability of the applicant, licensee, or certified person to  
25 practice the discipline for which the person is an applicant, licensee, or  
26 certified person, if in accordance with KRS Chapter 335B;

27 (h) Be convicted of a misdemeanor which involved fraud, deceit, breach of trust,

- 1 or physical harm or endangerment to self or others, acts that bear directly on  
2 the qualifications or ability of the applicant, licensee, or certificate holder to  
3 practice acts in the license or certification held or sought, if in accordance  
4 with KRS Chapter 335B;
- 5 (i) Be convicted of a misdemeanor offense under KRS Chapter 510 involving a  
6 patient or be found by the board to have had sexual contact as defined in KRS  
7 510.010~~[(7)]~~ with a patient while the patient was under the care of the licensee  
8 or certificate holder;
- 9 (j) Have had his or her license or credential to practice as a nurse or physician  
10 denied, limited, suspended, probated, revoked, or otherwise disciplined in  
11 Kentucky or in another jurisdiction on grounds sufficient to cause a license to  
12 be denied, limited, suspended, probated, revoked, or otherwise disciplined in  
13 this Commonwealth;
- 14 (k) Have a license or certification to practice in any activity regulated by the  
15 board denied, limited, suspended, probated, revoked, or otherwise disciplined  
16 in another jurisdiction on grounds sufficient to cause a license or certification  
17 to be denied, limited, suspended, probated, revoked, or otherwise disciplined  
18 in this Commonwealth;
- 19 (l) Violate any lawful order or directive previously entered by the board;
- 20 (m) Have been listed on the nurse aide abuse registry with a substantiated finding  
21 of abuse, neglect, or misappropriation of property; or
- 22 (n) Be convicted of, have entered a guilty plea to, or have entered an Alford plea  
23 to a felony offense, if in accordance with KRS Chapter 335B.
- 24 (3) It shall be unlawful for an employer of a person licensed or certified by the board  
25 having knowledge of the facts to refrain from reporting to the board on an official  
26 complaint form approved by the board through administrative regulation any person  
27 licensed or certified by the board who:

- 1 (a) Has been convicted of, has entered a guilty plea to, or has entered an Alford  
2 plea to a felony offense;
- 3 (b) Has been convicted of a misdemeanor or felony which involved acts that bear  
4 directly on the qualifications or ability of the applicant, licensee, or certified  
5 person to practice the discipline for which they are an applicant, licensee, or  
6 certified person;
- 7 (c) Is reasonably suspected of fraud or deceit in procuring or attempting to  
8 procure a license or certification from the board;
- 9 (d) Is reasonably suspected of grossly negligently or willfully acting in a manner  
10 inconsistent with the practice of the discipline for which they are certified or  
11 licensed;
- 12 (e) Is reasonably suspected of being unfit or incompetent to practice a discipline  
13 regulated by the board by reason of negligence or other causes, including but  
14 not limited to being unable to practice the discipline for which they are  
15 licensed or certified with reasonable skill or safety;
- 16 (f) Is reasonably suspected of violating any provisions of this chapter or the  
17 administrative regulations promulgated under this chapter;
- 18 (g) Has a license or certification to practice an activity regulated by the board  
19 denied, limited, suspended, probated, revoked, or otherwise disciplined in  
20 another jurisdiction on grounds sufficient to cause a license or certification to  
21 be denied, limited, suspended, probated, revoked, or otherwise disciplined in  
22 this Commonwealth;
- 23 (h) Is practicing an activity regulated by the board without a current active license  
24 or certification issued by the board;
- 25 (i) Is reasonably suspected of abusing, misusing, or misappropriating any drugs  
26 placed in the custody of the licensee or certified person for administration or  
27 for use of others; or

1 (j) Is suspected of falsifying or in a grossly negligent manner making incorrect  
2 entries or failing to make essential entries on essential records.

3 (4) A person who violates subsection (1)(a), (b), or (c) of this section shall be guilty of  
4 a Class A misdemeanor for ~~the~~<sup>a</sup> first offense and a Class D felony for each  
5 subsequent offense.

6 (5) ~~[The provisions of]~~ This section shall not preclude prosecution for the unlawful  
7 practice of medicine, nursing, or other practice certified or licensed by an agency of  
8 the Commonwealth.

9 (6) The filing of criminal charges or a criminal conviction for violation of the  
10 provisions of this chapter or the administrative regulations promulgated under this  
11 chapter~~[thereunder]~~ shall not preclude the office of the board from instituting or  
12 imposing board disciplinary action authorized by this chapter against any person or  
13 organization violating this chapter or the administrative regulations promulgated  
14 under this chapter~~[thereunder]~~.

15 (7) The institution or imposition of disciplinary action by the office of the board against  
16 any person or organization violating the provisions of this chapter or the  
17 administrative regulations promulgated under this chapter~~[thereunder]~~ shall not  
18 preclude the filing of criminal charges against or a criminal conviction of any  
19 person or organization for violation of the provisions of this chapter or the  
20 administrative regulations promulgated under this chapter~~[thereunder]~~.

21 ➔Section 9. KRS 314.091 is amended to read as follows:

22 (1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend  
23 any license or credential to practice nursing issued by the board or applied for in  
24 accordance with this chapter or the privilege to practice as a nurse recognized by  
25 the board in accordance with this chapter, or to otherwise discipline a licensee,  
26 credential holder, privilege holder, or applicant, or to deny admission to the  
27 licensure examination, or to require evidence of evaluation and therapy upon proof

1       that the person:

2       (a) Is guilty of fraud or deceit in procuring or attempting to procure a license,  
3       credential, or privilege to practice nursing;

4       (b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol,  
5       fraud, deceit, falsification of records, a breach of trust, physical harm or  
6       endangerment to others, or dishonesty, under the laws of any state or of the  
7       United States, if in accordance with KRS Chapter 335B. The record of  
8       conviction or a copy of the conviction~~thereof~~, certified by the clerk of the  
9       court or by the judge who presided over the conviction, shall be conclusive  
10      evidence;

11      (c) Has been convicted of a misdemeanor offense under KRS Chapter 510  
12      involving a patient, or a felony offense under KRS Chapter 510 or KRS~~[-]~~  
13      530.064(1)(a)~~[-]~~ or 531.310, or has been found by the board to have had  
14      sexual contact as defined in KRS 510.010~~(7)~~ with a patient while the patient  
15      was under the care of the nurse;

16      (d) Has negligently or willfully acted in a manner inconsistent with the practice of  
17      nursing;

18      (e) Is unfit or incompetent to practice nursing by reason of negligence or other  
19      causes, including but not limited to, being unable to practice nursing with  
20      reasonable skill or safety;

21      (f) Abuses controlled substances, prescription medications, illegal substances, or  
22      alcohol;

23      (g) Has misused or misappropriated any drugs placed in the custody of the nurse  
24      for administration, or for use of others;

25      (h) Has falsified or in a negligent manner made incorrect entries or failed to make  
26      essential entries on essential records;

27      (i) Has a license, privilege, or credential to practice as a nurse denied, limited,

- 1           suspended, probated, revoked, or otherwise disciplined in another jurisdiction  
2           on grounds sufficient to cause a license or privilege to be denied, limited,  
3           suspended, probated, revoked, or otherwise disciplined in this  
4           Commonwealth, including action by another jurisdiction for failure to repay a  
5           student loan;
- 6           (j) Has violated any of the provisions of this chapter;
- 7           (k) Has violated any lawful order or directive previously entered by the board;
- 8           (l) Has violated any administrative regulation promulgated by the board;
- 9           (m) Has been listed on either the adult caregiver misconduct registry or the nurse  
10          aide abuse registry with a substantiated finding of abuse, neglect, or  
11          misappropriation of property, or has a substantiated finding or judicial finding  
12          of the abuse or neglect of a child;
- 13          (n) Has violated the confidentiality of information or knowledge concerning any  
14          patient, except as authorized or required by law;
- 15          (o) Used or possessed a Schedule I controlled substance;
- 16          (p) Has used or been impaired as a consequence of the use of alcohol or drugs  
17          while practicing as a nurse;
- 18          (q) Has violated KRS 304.39-215;
- 19          (r) Has engaged in conduct that is subject to the penalties under KRS 304.99-  
20          060(4) or (5); or
- 21          (s) As provided in KRS 311.824(2), has been convicted of a violation of KRS  
22          311.823(2).
- 23       (2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended  
24          or revoked license, privilege, or credential may be reinstated at the discretion of the  
25          board, and in accordance with regulations promulgated by the board.
- 26       (3) The executive director may issue subpoenas to compel the attendance of witnesses  
27          and the production of documents in the conduct of an investigation. The subpoenas

1        may be enforced by the Circuit Court as for contempt. Any order or subpoena of the  
2        court requiring the attendance and testimony of witnesses and the production of  
3        documentary evidence may be enforced and shall be valid anywhere in the  
4        Commonwealth~~[this state]~~.

5        (4) At all hearings on request of the board the Attorney General of the  
6        Commonwealth~~[this state]~~ or one (1) of the assistant attorneys general designated  
7        by the Attorney General shall appear and represent the board.

8        (5) A final order of the board shall be by majority vote thereof.

9        (6) Any person adversely affected by any final order of the board may obtain a review  
10       thereof by filing a written petition for review with the Circuit Court of the county in  
11       which the board's offices are located in accordance with KRS Chapter 13B.

12       (7) If the board substantiates that sexual contact occurred between a nurse and a patient  
13       while the patient was under the care of or in a professional relationship with the  
14       nurse, the nurse's license, privilege, or credential may be revoked or suspended with  
15       mandatory treatment of the nurse as prescribed by the board. The board may require  
16       the nurse to pay a specified amount for mental health services for the patient which  
17       are needed as a result of the sexual contact.

18       (8) The board may, by administrative regulation, provide for the recovery of the costs  
19       of an administrative hearing.

20       ➔Section 10. KRS 319C.070 is amended to read as follows:

21       The board may deny an application or reregistration for a license, place a licensee on  
22       probation for a period not to exceed five (5) years, suspend a license for a period not to  
23       exceed five (5) years, limit or restrict a license for an indefinite period, or revoke any  
24       license issued by the board, upon proof that the licensee has:

25       (1) Knowingly made or presented, or caused to be made or presented, any false,  
26       fraudulent, or forged statement, writing, certificate, diploma, or other thing, in  
27       connection with an application for a license or permit;

- 1 (2) Practiced, or aided or abetted in the practice of, fraud, forgery, deception, collusion,  
2 or conspiracy in connection with an examination for a license;
- 3 (3) Entered a guilty or nolo contendere plea, or been convicted, of a crime as defined in  
4 KRS 335B.010, if in accordance with KRS Chapter 335B;
- 5 (4) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a  
6 patient, or a felony offense under KRS Chapter 510~~[,]~~ or KRS 530.064(1)(a) or  
7 531.310, or been found by the board to have had sexual contact as defined in KRS  
8 510.010~~[(7)]~~ with a patient while the patient was under the care of the licensee;
- 9 (5) Become addicted to a controlled substance;
- 10 (6) Become a chronic or persistent alcoholic;
- 11 (7) Been unable or is unable to practice applied behavior analysis according to  
12 acceptable and prevailing standards of care by reason of mental or physical illness  
13 or other condition, including but not limited to physical deterioration that adversely  
14 affects cognitive, motor, or perceptive skills, or by reason of an extended absence  
15 from the active practice of applied behavior analysis;
- 16 (8) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely  
17 to deceive, defraud, or harm the public or any member of the public~~[thereof]~~; or
- 18 (9) Knowingly made, or caused to be made, or aided or abetted in the making of, a  
19 false statement in any document executed in connection with the practice of his or  
20 her profession.
- 21 ➔Section 11. KRS 319C.110 is amended to read as follows:
- 22 (1) The board, after due notice and an opportunity for an administrative hearing  
23 conducted in accordance with KRS Chapter 13B, may take any one (1) or a  
24 combination of the following actions against any applied behavior analyst or  
25 applied assistant behavior analyst licensee or applicant:
- 26 (a) Refuse to license or certify any applicant;
- 27 (b) Refuse to renew the license or certificate of any person;

- 1 (c) Suspend or revoke or place on probation the license or certificate of any  
2 person;
- 3 (d) Impose restrictions on the scope of practice of any person;
- 4 (e) Issue an administrative reprimand to any person;
- 5 (f) Issue a private admonishment to any person; and
- 6 (g) Impose fines for violations of this chapter, not to exceed two thousand five  
7 hundred dollars (\$2,500).
- 8 (2) The following acts by a licensee may be considered cause for disciplinary action:
- 9 (a) Indulgence in excessive use of alcoholic beverages or abusive use of  
10 controlled substances that impairs the licensee's ability to practice applied  
11 behavior analysis;
- 12 (b) Engaging in, permitting, or attempting to engage in or permit the performance  
13 of substandard patient care by himself or herself or by persons working under  
14 his or her supervision due to a deliberate or negligent act or failure to act,  
15 regardless of whether actual injury to the patient is established;
- 16 (c) Having engaged in or attempted to engage in a course of lewd or immoral  
17 conduct with any person while that person is a patient or client of the behavior  
18 analyst or assistant behavior analyst;
- 19 (d) Having sexual contact, as defined ~~in~~by KRS 510.010~~(7)~~, without the  
20 consent of both parties, with an employee or coworker of the licensee;
- 21 (e) Sexually harassing an employee or coworker of the licensee;
- 22 (f) Conviction of a felony or misdemeanor in the courts of the  
23 Commonwealth~~[this state]~~ or any other state, territory, or country which  
24 affects his or her ability to continue to practice competently and safely on the  
25 public. ~~["Conviction,"]~~As used in this paragraph, "conviction" includes~~[shall~~  
26 ~~include]~~ a finding or verdict of guilt, an admission of guilt, or a plea of nolo  
27 contendere;

- 1 (g) Obtaining or attempting to obtain a license by fraud or material  
2 misrepresentation or making any other false statement to the board;
- 3 (h) Engaging in fraud or material deception in the delivery of professional  
4 services, including reimbursement, or in advertising services in a false or  
5 misleading manner;
- 6 (i) Evidence of gross negligence or gross incompetence in his or her practice of  
7 behavior analysis;
- 8 (j) Documentation of being declared mentally disabled by a court of competent  
9 jurisdiction and not thereafter having had his or her rights restored;
- 10 (k) Failing or refusing to obey any lawful order or administrative regulation of the  
11 board;
- 12 (l) Promoting for personal gain an unnecessary device, treatment, procedure, or  
13 service, or directing or requiring a patient to purchase a device, treatment,  
14 procedure, or service from a facility or business in which he or she has a  
15 financial interest; and
- 16 (m) Being impaired by reason of a mental, physical, or other condition that  
17 impedes his or her ability to practice competently.
- 18 (3) A private admonishment shall not be subject to disclosure to the public under KRS  
19 61.878(1)(l). A private admonishment shall not constitute disciplinary action but  
20 may be used by the board for statistical purposes or in subsequent disciplinary  
21 action against the same licensee or applicant.
- 22 ➔Section 12. KRS 327.070 is amended to read as follows:
- 23 (1) The board, after due notice and an opportunity for an administrative hearing  
24 conducted in accordance with KRS Chapter 13B may take any one (1) or a  
25 combination of the following actions against any licensee, certificate holder, or  
26 applicant:
- 27 (a) Refuse to license or certify any applicant;

- 1 (b) Refuse to renew the license or certificate of any person;
- 2 (c) Suspend or revoke or place on probation the license or certificate of any
- 3 person;
- 4 (d) Impose restrictions on the scope of practice of any person;
- 5 (e) Issue an administrative reprimand to any person;
- 6 (f) Issue a private admonishment to any person; and
- 7 (g) Impose fines for violations of this chapter not to exceed two thousand five
- 8 hundred dollars (\$2,500).
- 9 (2) The following acts by a licensee, certificate holder, or applicant may be considered
- 10 cause for disciplinary action:
- 11 (a) Indulgence in excessive use of alcoholic beverages or abusive use of
- 12 controlled substances;
- 13 (b) Engaging in, permitting, or attempting to engage in or permit the performance
- 14 of substandard patient care by himself or herself or by persons working under
- 15 his or her supervision due to a deliberate or negligent act or failure to act,
- 16 regardless of whether actual injury to the patient is established;
- 17 (c) Having engaged in or attempted to engage in a course of lewd or immoral
- 18 conduct with any person:
- 19 1. While that person is a patient of a health care facility as defined in~~by~~
- 20 KRS 216B.015, where the physical therapist or physical therapist's
- 21 assistant provides physical therapy services; or
- 22 2. While that person is a patient or client of the physical therapist or
- 23 physical therapist's assistant;
- 24 (d) Having sexual contact, as defined in~~by~~ KRS 510.010~~(7)~~, without the
- 25 consent of both parties, with an employee or coworker of the licensee or
- 26 certificate holder;
- 27 (e) Sexually harassing an employee or coworker of the licensee or certificate

- 1 holder;
- 2 (f) Conviction of a felony or misdemeanor in the courts of the  
3 Commonwealth~~[this state]~~ or any other state, territory, or country which  
4 affects his or her ability to continue to practice competently and safely on the  
5 public, if in accordance with KRS Chapter 335B. ~~["Conviction,"]~~As used in  
6 this paragraph, "conviction" includes~~[shall include]~~ a finding or verdict of  
7 guilt, an admission of guilt, or a plea of nolo contendere;
- 8 (g) Obtaining or attempting to obtain a license or certificate by fraud or material  
9 misrepresentation or making any other false statement to the board;
- 10 (h) Engaging in fraud or material deception in the delivery of professional  
11 services, including reimbursement, or advertising services in a false or  
12 misleading manner;
- 13 (i) Evidence of gross negligence or gross incompetence in his or her practice of  
14 physical therapy;
- 15 (j) Documentation of being declared mentally disabled by a court of competent  
16 jurisdiction without~~[and not thereafter]~~ having had his or her rights restored;
- 17 (k) Failing or refusing to obey any lawful order or administrative regulation of the  
18 board;
- 19 (l) Promoting for personal gain an unnecessary device, treatment, procedure, or  
20 service, or directing or requiring a patient to purchase a device, treatment,  
21 procedure, or service from a facility or business in which he or she has a  
22 financial interest;
- 23 (m) Being impaired by reason of a mental, physical, or other condition that  
24 impedes his or her ability to practice competently;
- 25 (n) Violation of KRS 304.39-215; and
- 26 (o) Conduct that is subject to the penalties under KRS 304.99-060(4) or (5).
- 27 (3) A private admonishment shall not be subject to disclosure to the public under KRS

1       61.878(1)(l). A private admonishment shall not constitute disciplinary action but  
2       may be used by the board for statistical purposes or in subsequent disciplinary  
3       action against the same licensee, certificate holder, or applicant.

4       ➔Section 13. KRS 335.150 is amended to read as follows:

5       (1) The board may revoke, suspend, or refuse to issue or renew; impose probationary or  
6       supervisory conditions upon; impose an administrative fine; issue a written  
7       reprimand or admonishment; or any combination of actions regarding any  
8       applicant, license, or licensee upon proof that the applicant or licensee has:

9       (a) Committed any act of dishonesty or corruption, if in accordance with KRS  
10       Chapter 335B. If the act constitutes a crime, conviction in a criminal  
11       proceeding is not a condition precedent to disciplinary action. Upon  
12       conviction of the crime, the judgment and sentence creates a rebuttable  
13       presumption at the ensuing disciplinary hearing of the guilt of the applicant or  
14       licensee. Conviction includes all instances in which a plea of no contest is the  
15       basis of the conviction;

16       (b) Misrepresented or concealed a material fact in obtaining a license, or in  
17       reinstatement thereof;

18       (c) Committed any unfair, false, misleading, or deceptive act or practice;

19       (d) Been incompetent or negligent in the practice of social work;

20       (e) Violated any state statute or administrative regulation governing the practice  
21       of social work or any activities undertaken by a social worker;

22       (f) Failed to comply with an order issued by the board or an assurance of  
23       voluntary compliance;

24       (g) Violated the code of ethical conduct as set forth by the board by promulgation  
25       of an administrative regulation;

26       (h) Been legally declared mentally incompetent;

27       (i) Aided or abetted another person in falsely procuring or attempting to procure

1 a license; or

2 (j) Aided or abetted an unlicensed person in the practice of social work.

3 (2) Five (5) years from the date of a revocation, any person whose license has been  
4 revoked may petition the board for reinstatement. The board shall investigate the  
5 petition and may reinstate the license upon a finding that the individual has  
6 complied with any terms prescribed by the board and is again able to engage  
7 competently in the practice of social work.

8 (3) If an alleged violation is not of a serious nature and the evidence presented to the  
9 board, after the investigation and appropriate opportunity for the licensee to  
10 respond, provides a clear indication that the alleged violation did in fact occur, the  
11 board may issue a written admonishment to the licensee. A copy of the  
12 admonishment shall be placed in the permanent file of the licensee. The licensee  
13 shall have the right to file a response within thirty (30) days of its receipt and to  
14 have the response placed in the licensee's permanent file. Alternatively, the licensee  
15 may file a request for a hearing, within thirty (30) days of the receipt of the written  
16 admonishment. Upon receipt of this request, the board shall set aside the written  
17 admonishment and set the matter for hearing.

18 (4) At any time during the investigative or hearing processes, the board may enter into  
19 an agreed order with, or accept an assurance of voluntary compliance from, the  
20 licensee that effectively satisfies the complaint.

21 (5) The board may reconsider, modify, or reverse its decision regarding probation,  
22 suspension, or any other disciplinary action.

23 (6) Upon proof substantiating that sexual contact occurred between a social worker  
24 licensed by the board and a client while the client was under the care of or in a  
25 professional relationship with the social worker, the social worker's license may be  
26 revoked or suspended with mandatory treatment of the social worker as prescribed  
27 by the board. The board may require the social worker to pay a specified amount for

1        mental health services for the client which are needed as a result of the sexual  
2        contact.

3        (7) The board may revoke the license of a social worker if the social worker has been  
4        convicted of a misdemeanor offense under KRS Chapter 510 involving a client or a  
5        felony offense under KRS Chapter 510 or KRS~~530.064(1)(a) or 531.310~~, or  
6        has been found to have had sexual contact as defined in KRS 510.010~~(7)~~ with a  
7        client while the client was under the care of the social worker.