

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*
with the board who has entered into a collaboration agreement with one (1) or
more physician assistants;

9 (3) *"Collaboration":*

10 (a) *Means consultation with or referral to the appropriate physician or other*
health care professional by a physician assistant as indicated by the:

12 *1. Patient's condition;*

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

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

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

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

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; and

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

9 (7)~~(5)~~ "Supervising physician in anesthesia" means a physician licensed by the board
10 who has completed postgraduate training in anesthesiology at an anesthesiology
11 program accredited by the Accreditation Council for Graduate Medical Education
12 or its 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 not 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 311.844 is amended to read as follows:

6 (1) To be licensed by the board as a physician assistant, an applicant shall:

- 7 (a) Submit a completed application form with the required fee;
- 8 (b) Be of good character and reputation;
- 9 (c) Be a graduate of an approved program; and

10 (d) Have passed an examination approved by the board within three (3) attempts.
11 (2) A physician assistant who is authorized to practice in another state and who is in
12 good standing may apply for licensure by endorsement from the state of his or her
13 credentialing if that state has standards substantially equivalent to those of this
14 Commonwealth.

15 (3) A physician assistant's license shall be valid for two (2) years and shall be renewed
16 by the board upon fulfillment of the following requirements:

- 17 (a) The holder shall be of good character and reputation;
- 18 (b) The holder shall provide evidence of completion, during the previous two (2)
19 years, of a minimum of one hundred (100) hours of continuing education
20 approved by the American Medical Association, the American Osteopathic
21 Association, the American Academy of Family Physicians, the American
22 Academy of Physician Assistants, or by another entity approved by the board.

23 The one hundred (100) hours of continuing education required by this
24 paragraph shall include:

25 1. During the first two (2) years of licensure or prior to the first licensure
26 renewal:

27 a. One and one-half (1.5) hours of continuing education in the

prevention and recognition of pediatric abusive head trauma, as defined in KRS 620.020, except that graduating physician assistant students may apply pediatric abusive head trauma curriculum taught in their physician assistant graduate education to count towards the required one and one-half (1.5) hours; and

b. As a part of the continuing education requirements that the board adopts to ensure continuing competency of present and future licensees and the evolving needs of the growing senior population, the board shall ensure physician assistants licensed under KRS Chapter 311 complete a one (1) time course of one (1) hour of continuing education approved by the board. The course shall be completed one (1) time and count towards the current number of required continuing education hours, except that graduating student physician assistants may submit Alzheimer's and other forms of dementia course curriculum taught in their programs of study towards the required one (1) hour for approval. The course topics shall include but not be limited to:

- i. The warning signs and symptoms of Alzheimer's disease and other forms of dementia;
- ii. The importance of early detection, diagnosis, and appropriate communication techniques for discussion of memory concerns with the patient and his or her caregiver;
- iii. Cognitive assessment and care planning billing codes;
- iv. The variety of tools used to assess a patient's cognition; and
- v. Current treatments that may be available to the patient; and

1 substances, a minimum of seven and one-half (7.5) hours of approved
2 continuing education relating to controlled substance diversion, pain
3 management, addiction disorders, use of the electronic system for
4 monitoring controlled substances established in KRS 218A.202, or any
5 combination of two (2) or more of these subjects; and

8 ➔Section 4. KRS 311.848 is amended to read as follows:

9 (1) As used in this section, "medical emergency" means a real and substantial threat to
10 public health or the health of an individual as determined by the executive director
11 of the board that requires additional professional resources.

12 (2) In a medical emergency, the board may approve an additional physician assistant
13 for a collaborating[supervising] physician practicing in this Commonwealth for a
14 period not to exceed thirty (30) days who:

15 (a) Submits satisfactorily completed forms to the board; and

16 (b) Is licensed and in good standing in this Commonwealth.

17 (3) In a medical emergency, the board may issue an emergency permit to a physician
18 assistant who:

19 (a) Is credentialed and in good standing in another state or Canadian province;

20 (b) Submits satisfactorily completed forms to the board; and

21 (c) Based on verifiable information, meets the requirements for licensure under
22 KRS 311.844.

23 (4) An emergency permit:

24 (a) Shall be valid for a period of time not to exceed thirty (30) days;

25 (b) Shall not be renewed or reissued and shall be immediately canceled if a
26 medical emergency no longer exists:

27 (c) May be canceled by the executive director upon reasonable cause without a

1 prior hearing; and

2 (d) Shall not authorize a physician assistant to practice beyond a specified
3 geographical area, beyond the scope of practice encompassed by the medical
4 emergency, or beyond the terms of the collaboration agreement established
5 between the physician assistant and collaborating physician~~[without the~~
6 supervision of a supervising physician].

7 ➔ Section 5. KRS 311.850 is amended to read as follows:

8 (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the license
9 of a physician assistant, or may fine, reprimand or place a physician assistant on
10 probation for no more than five (5) years upon proof that a physician assistant has:

11 (a) Knowingly made or presented or caused to be made or presented any false,
12 fraudulent, or forged statement, writing, certificate, diploma, or other
13 document relating to an application for licensure;

14 (b) Practiced, aided, or abetted in the practice of fraud, forgery, deception,
15 collusion, or conspiracy relating to an examination for licensure;

16 (c) Been convicted of a crime as defined in KRS 335B.010, if in accordance with
17 KRS Chapter 335B;

18 (d) Been convicted of a misdemeanor offense under KRS Chapter 510 involving
19 a patient or a felony offense under KRS Chapter 510, KRS 530.064, or
20 531.310, or has been found by the board to have had sexual contact, as
21 defined in KRS 510.010, with a patient while the patient was under the care of
22 the physician assistant or the physician assistant's collaborating~~[supervising]~~
23 physician;

24 (e) Become addicted to a controlled substance, as defined in KRS 311.550~~(26)~~;

25 (f) Become a chronic or persistent alcoholic, as defined in KRS 311.550~~(25)~~;

26 (g) Been unable or is unable to practice medicine according to acceptable and
27 prevailing standards of care by reason of mental or physical illness or other

1 condition including but not limited to physical deterioration that adversely
2 affects cognitive, motor, or perceptive skills, or by reason of an extended
3 absence from the active practice of medicine;

4 (h) Knowingly made or caused to be made or aided or abetted in the making of a
5 false statement in any document executed in connection with the practice of
6 medicine or osteopathy;

7 (i) Performed any act or service as a physician assistant without a designated
8 collaborating[supervising] physician;

9 (j) Exceeded the scope of medical services described in[by] the collaborating
10 agreement[supervising physician in the applications required under KRS
11 311.854];

12 (k) Failed to comply with the terms of a collaboration agreement[Exceeded the
13 scope of practice for which the physician assistant was credentialed by the
14 governing board of a hospital or licensed health care facility under KRS
15 311.856 and 311.858];

16 (l) Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or
17 any healing art, including the unlawful practice of physician assistants;

18 (m) Willfully violated a confidential communication;

19 (n) Performed the services of a physician assistant in an unprofessional,
20 incompetent, or grossly or chronically negligent manner;

21 (o) Been removed, suspended, expelled, or placed on probation by any health care
22 facility or professional society for unprofessional conduct, incompetence,
23 negligence, or violation of any provision of this section or KRS 311.858 or
24 311.862;

25 (p) Violated any applicable provision of administrative regulations relating to
26 physician assistant practice;

27 (q) Violated any term of probation or other discipline imposed by the board;

1 (r) Failed to complete the required number of hours of approved continuing
2 education;

3 (s) Engaged in dishonorable, unethical, or unprofessional conduct of character
4 likely to deceive, defraud, or harm the public or any member thereof, as
5 described in KRS 311.597; or

6 (t) As provided in KRS 311.824(2), been convicted of a violation of KRS
7 311.823(2).

8 (2) All disciplinary proceedings against a physician assistant shall be conducted in
9 accordance with ~~the provisions of~~ KRS 311.591, 311.592, 311.593, and
10 311.599; ~~and~~ KRS Chapter 13B; and related administrative regulations
11 promulgated under this ~~KRS~~ chapter ~~311~~.

12 ➤ Section 6. KRS 311.858 is amended to read as follows:

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

14 (a) Appropriate to the education, training, and experience of the physician
15 assistant; and

16 (b) In a manner consistent with a collaboration agreement ~~within the scope of~~
17 ~~medical services and procedures described in the initial or any supplemental~~
18 ~~application received by the board under KRS 311.854~~.

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

21 (a) Obtaining and performing comprehensive health histories and physical
22 examinations;

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

24 (c) Ordering, performing, and interpreting diagnostic studies and therapeutic
25 procedures;

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

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

- 1 (f) Providing consultations;
- 2 (g) Writing medical orders;
- 3 (h) Obtaining informed consent; and
- 4 (i) Certifying the health or disability of a patient as required by any local, state,
5 or federal program~~[A physician assistant shall be considered an agent of the~~
6 ~~supervising physician in performing medical services and procedures~~
7 ~~described in the initial application or any supplemental application received~~
8 ~~by the board under KRS 311.854].~~
- 9 (3) A physician assistant may initiate evaluation and treatment in emergency situations
10 without specific approval.
- 11 (4) A physician assistant may prescribe and administer all nonscheduled legend drugs
12 and medical devices~~[to the extent delegated by the supervising physician]~~. A
13 physician assistant~~[who is delegated prescribing authority]~~ may request, receive,
14 sign for, and distribute professional samples of nonscheduled legend drugs to
15 patients.
- 16 (5) (a) A physician assistant, under a collaboration agreement with a collaborating
17 physician~~[who has been approved by the board pursuant to paragraph (b) of~~
18 ~~this subsection]~~, may prescribe and administer Schedules II, III, IV, and V
19 controlled substances~~[, as described in KRS Chapter 218A, to the extent~~
20 ~~delegated by the supervising physician and]~~ as permitted under paragraphs
21 (c), (d),~~[and]~~ (e), and (f) of this subsection.
22 (b) Before a physician assistant engages in prescribing or administering
23 controlled substances, the physician assistant shall:
24 1. Have at least one (1) year of experience as a licensed and practicing
25 physician assistant;
26 2. Submit to the board a completed application for prescriptive authority
27 for controlled substances signed by the physician assistant's

1 collaborating~~[supervising]~~ physician~~[in accordance with KRS~~
2 311.856];

3 3. Receive from the board, or its executive director, a notice that the
4 application for prescriptive authority has been approved; and
5 4. Obtain a Controlled Substance Registration Certificate through the
6 United States Drug Enforcement Administration and register with the
7 electronic system for monitoring controlled substances established in
8 KRS 218A.202 and any other applicable state controlled substance
9 regulatory authority.

10 (c) Prescriptions issued by a physician assistant for Schedule II controlled
11 substances classified under KRS 218A.060, except for hydrocodone
12 combination products as defined in KRS 218A.010, shall be limited to a
13 seventy-two (72) hour supply without any refill.

14 (d) Prescriptions issued by a physician assistant for hydrocodone combination
15 products as defined in KRS 218A.010, nonnarcotic Schedule II controlled
16 substances, and Schedule III controlled substances, as defined~~[described]~~ in
17 KRS 218A.060 and 218A.080, shall be limited to a thirty (30) day supply
18 without any refill.

19 (e)~~[(d)]~~ Prescriptions issued by a physician assistant for Schedule IV or V
20 controlled substances, as defined~~[described]~~ in KRS 218A.100 and 218A.120,
21 shall be limited to the original prescription and refills not to exceed a six (6)
22 month supply.

23 (f)~~[(e)]~~ Notwithstanding paragraph (e)~~[(d)]~~ of this subsection, prescriptions
24 issued by a physician assistant for benzodiazepines or Carisoprodol shall be
25 limited to a thirty (30) day supply without any refill.

26 (6) A physician assistant shall not submit direct billing for medical services and
27 procedures performed by the physician assistant.

1 (7) A physician assistant may perform local infiltrative anesthesia under the provisions
2 of subsection (1) of this section, but a physician assistant shall not administer or
3 monitor general or regional anesthesia unless the requirements of KRS 311.862 are
4 met.

5 (8) A physician assistant may perform services in the offices or clinics of the
6 collaborating[supervising] physician. A physician assistant may also render
7 services in hospitals or other licensed health care facilities only with written
8 permission of the facility's governing body, and the facility may restrict the
9 physician assistant's scope of practice within the facility as deemed appropriate by
10 the facility.

11 (9) A physician assistant shall not practice medicine or osteopathy independently. Each
12 physician assistant shall practice under a collaboration agreement[supervision as
13 defined in KRS 311.840].

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

17 → SECTION 7. A NEW SECTION OF KRS 311.840 TO 311.862 IS CREATED
18 TO READ AS FOLLOWS:

19 (1) A collaboration agreement shall include the:

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

22 (b) Communication and decision-making process for the physician assistant,
23 the collaborating physician, and other members of the health care team;

24 and

25 (c) Signatures of the physician assistant and the collaborating physician.

26 (2) A copy of the signed collaboration agreement shall be kept on file at the
27 physician assistant's practice location and made available to the board upon

1 request.

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

6 (4) A collaborating physician shall not enter into a collaboration agreement with
7 more than four (4) physician assistants.

8 (5) The board shall be notified within five (5) business days of the dissolution of a
9 collaboration agreement by a physician assistant.

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

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

12 (1) "Authorized staff physician" means a physician who is a bona fide member of the
13 hospital's medical staff;

14 (2) "Cabinet" means the Kentucky Cabinet for Health and Family Services;

15 (3) "Contract mental health evaluator" means a qualified mental health professional
16 who is employed by or under contract with a community mental health center, crisis
17 stabilization unit, mental institution, or any other facility designated by the
18 secretary to provide mental health evaluations to determine whether an individual
19 meets the criteria for involuntary hospitalization;

20 (4) "Danger" or "threat of danger to self, family, or others" means substantial physical
21 harm or threat of substantial physical harm upon self, family, or others, including
22 actions which deprive self, family, or others of the basic means of survival
23 including provision for reasonable shelter, food, or clothing;

24 (5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof,
25 designated by the secretary for the purpose and function of providing inpatient
26 evaluation, care, and treatment for mentally ill persons or individuals with an
27 intellectual disability, who have been charged with or convicted of a felony;

- 1 (6) "Hospital" means:
 - 2 (a) A state mental hospital or institution or other licensed public or private
 - 3 hospital, institution, health-care facility, or part thereof, approved by the
 - 4 Kentucky Cabinet for Health and Family Services as equipped to provide full-
 - 5 time residential care and treatment for mentally ill persons or individuals with
 - 6 an intellectual disability; or
 - 7 (b) A hospital, institution, or health-care facility of the government of the United
 - 8 States equipped to provide residential care and treatment for mentally ill
 - 9 persons or individuals with an intellectual disability;
- 10 (7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner
- 11 of the District Court acting under authority of SCR 5.030;
- 12 (8) "Least restrictive alternative mode of treatment" means that treatment which will
- 13 give a mentally ill individual a realistic opportunity to improve the individual's
- 14 level of functioning, consistent with accepted professional practice in the least
- 15 confining setting available;
- 16 (9) "Mentally ill person" means a person with substantially impaired capacity to use
- 17 self-control, judgment, or discretion in the conduct of the person's affairs and social
- 18 relations, associated with maladaptive behavior or recognized emotional symptoms
- 19 where impaired capacity, maladaptive behavior, or emotional symptoms can be
- 20 related to physiological, psychological, or social factors;
- 21 (10) "Patient" means a person under observation, care, or treatment in a hospital
- 22 pursuant to the provisions of this chapter;
- 23 (11) "Petitioner" means a person who institutes a proceeding under this chapter;
- 24 (12) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the
- 25 cabinet and which provides inpatient, outpatient, psychosocial rehabilitation,
- 26 emergency, and consultation and education services for the diagnosis and treatment
- 27 of persons who have a mental illness;

1 (13) "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 in~~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
3 in~~by~~ 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 in~~by~~ KRS 311.840,
15 and:

16 a. Has three (3) years of clinical experience in the assessment,
17 evaluation, and treatment of mental disorders; or

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

24 (14) "Residence" means legal residence as determined by applicable principles
25 governing conflicts of law;

26 (15) "Respondent" means a person alleged in a hearing under this chapter to be a
27 mentally ill person or an individual with an intellectual disability; and

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

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

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

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

5 (2) "Commitment hearing" means the hearing under KRS 202C.040 to determine if a
6 respondent meets the criteria for involuntary commitment under this chapter;

7 (3) "Danger" means substantial physical harm or threat of substantial physical harm
8 upon self or others;

9 (4) "Evidentiary hearing" means the hearing under KRS 202C.030 to determine if the
10 defendant committed the qualifying offense for which he or she was charged by a
11 preponderance of the evidence;

12 (5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof,
13 designated by the secretary for the purpose and function of providing inpatient
14 evaluation, care, and treatment for mentally ill persons or individuals with an
15 intellectual disability who have been charged with or convicted of a felony;

16 (6) "Hospital" means:

17 (a) A state mental hospital or institution or other licensed public or private
18 hospital, institution, health-care facility, or part thereof, approved by the
19 Kentucky Cabinet for Health and Family Services as equipped to provide full-
20 time residential care and treatment for mentally ill persons or individuals with
21 an intellectual disability; or

22 (b) A hospital, institution, or health-care facility of the government of the United
23 States equipped to provide residential care and treatment for mentally ill
24 persons or individuals with an intellectual disability;

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

- (8) "Judge" means the judge who found the respondent incompetent to stand trial in the criminal proceeding from which the petition for involuntary commitment arose;
- (9) "Less restrictive alternative mode of treatment" means a treatment given outside of a forensic psychiatric facility which would provide a respondent with appropriate treatment or care consistent with accepted professional practice standards and protect the respondent's safety and the safety of others;
- (10) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;
- (11) "Qualified mental health professional" means:
 - (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - (c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;
 - (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three

1 (3) years of inpatient or outpatient clinical experience in psychiatric nursing
2 and is currently employed by a hospital or forensic psychiatric facility
3 licensed by the Commonwealth or a psychiatric unit of a general hospital or a
4 private agency or company engaged in the provision of mental health services
5 or a regional community program for mental health and individuals with an
6 intellectual disability;

7 (e) A licensed clinical social worker licensed under the provisions of KRS
8 335.100, or a certified social worker licensed under the provisions of KRS
9 335.080 with three (3) years of inpatient or outpatient clinical experience in
10 psychiatric social work and currently employed by a hospital or forensic
11 psychiatric facility licensed by the Commonwealth or a psychiatric unit of a
12 general hospital or a private agency or company engaged in the provision of
13 mental health services or a regional community program for mental health and
14 individuals with an intellectual disability;

15 (f) A marriage and family therapist licensed under the provisions of KRS
16 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical
17 experience in psychiatric mental health practice and currently employed by a
18 hospital or forensic facility licensed by the Commonwealth, a psychiatric unit
19 of a general hospital, a private agency or company engaged in providing
20 mental health services, or a regional community program for mental health
21 and individuals with an intellectual disability;

22 (g) A professional counselor credentialed under the provisions of KRS Chapter
23 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical
24 experience in psychiatric mental health practice and currently employed by a
25 hospital or forensic facility licensed by the Commonwealth, a psychiatric unit
26 of a general hospital, a private agency or company engaged in providing
27 mental health services, or a regional community program for mental health

1 and individuals with an intellectual disability; or

2 (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one

3 (1) of the following requirements:

4 1. Provides documentation that he or she has completed a psychiatric

5 residency program for physician assistants;

6 2. Has completed at least one thousand (1,000) hours of clinical experience

7 under a collaborating[supervising] physician, as defined in[by] KRS

8 311.840, who is a psychiatrist and is certified or eligible for certification

9 by the American Board of Psychiatry and Neurology, Inc.;

10 3. Holds a master's degree from a physician assistant program accredited

11 by the Accreditation Review Commission on Education for the

12 Physician Assistant or its predecessor or successor agencies, is

13 practicing under a collaborating[supervising] physician as defined

14 in[by] KRS 311.840, and:

15 a. Has two (2) 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 two (2) years; or

23 4. Holds a bachelor's degree, possesses a current physician assistant

24 certificate issued by the board prior to July 15, 2002, is practicing under

25 a collaborating[supervising] physician as defined in[by] KRS 311.840,

26 and:

27 a. Has three (3) years of clinical experience in the assessment,

1 evaluation, and treatment of mental disorders; or

2 b. Has been employed by a hospital or forensic psychiatric facility

3 licensed by the Commonwealth or a psychiatric unit of a general

4 hospital or a private agency or company engaged in the provision

5 of mental health services or a regional community program for

6 mental health and individuals with an intellectual disability for at

7 least three (3) years;

8 (12) "Qualifying offense" means a capital offense, a Class A felony, a Class B felony

9 resulting in death or serious physical injury, or a violation of KRS 510.040 or

10 510.070;

11 (13) "Respondent" means a person who was a criminal defendant found incompetent to

12 stand trial who is or was the subject of a petition for involuntary commitment filed

13 under KRS Chapter 504;

14 (14) "Review hearing" means any hearing conducted to determine if a respondent

15 continues to meet the criteria for involuntary commitment after the initial order for

16 involuntary commitment has been issued under this chapter; and

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

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

19 (1) A physician assistant, credentialed under KRS Chapter 311, when those duties and

20 responsibilities are within the scope of training received in an approved program

21 and within the scope of the collaborating[supervising] physician's practice, or an

22 advanced practice registered nurse licensed under KRS Chapter 314, may:

23 (a) Perform a history and physical examination for a patient admitted to an acute

24 care or psychiatric hospital licensed under this chapter; and

25 (b) Order and review continuation of restraints and seclusion as a health care

26 practitioner in accordance with 42 C.F.R. 482.13.

27 (2) A history and physical examination shall be performed no more than thirty (30)

1 days before or twenty-four (24) hours after a patient is admitted to an acute care or
2 psychiatric hospital licensed under this chapter.

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

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

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

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

13 (1) "Abused or neglected child" means a child whose health or welfare is harmed or
14 threatened with harm when:

15 (a) His or her parent, guardian, person in a position of authority or special trust,
16 as defined in KRS 532.045, or other person exercising custodial control or
17 supervision of the child:

18 1. Inflicts or allows to be inflicted upon the child physical or emotional
19 injury as defined in this section by other than accidental means;

20 2. Creates or allows to be created a risk of physical or emotional injury as
21 defined in this section to the child by other than accidental means;

22 3. Engages in a pattern of conduct that renders the parent incapable of
23 caring for the immediate and ongoing needs of the child, including but
24 not limited to parental incapacity due to a substance use disorder as
25 defined in KRS 222.005;

26 4. Continuously or repeatedly fails or refuses to provide essential parental
27 care and protection for the child, considering the age of the child;

5. Commits or allows to be committed an act of sexual abuse, sexual
exploitation, or prostitution upon the child;
6. Creates or allows to be created a risk that an act of sexual abuse, sexual
exploitation, or prostitution will be committed upon the child;
7. Abandons or exploits the child;
8. Does not provide the child with adequate care, supervision, food,
clothing, shelter, and education or medical care necessary for the child's
well-being when financially able to do so or offered financial or other
means to do so. A parent or other person exercising custodial control or
supervision of the child legitimately practicing the person's religious
beliefs shall not be considered a negligent parent solely because of
failure to provide specified medical treatment for a child for that reason
alone. This exception shall not preclude a court from ordering necessary
medical services for a child;
9. Fails to make sufficient progress toward identified goals as set forth in
the court-approved case plan to allow for the safe return of the child to
the parent that results in the child remaining committed to the cabinet
and remaining in foster care for fifteen (15) cumulative months out of
forty-eight (48) months; or
10. Commits or allows female genital mutilation as defined in KRS 508.125
to be committed; or

(b) A person twenty-one (21) years of age or older commits or allows to be
committed an act of sexual abuse, sexual exploitation, or prostitution upon a
child less than sixteen (16) years of age;

(2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec.
675(11);

(3) "Aggravated circumstances" means the existence of one (1) or more of the

1 following conditions:

2 (a) The parent has not attempted or has not had contact with the child for a period
3 of not less than ninety (90) days;

4 (b) The parent is incarcerated and will be unavailable to care for the child for a period
5 of at least one (1) year from the date of the child's entry into foster care
6 and there is no appropriate relative placement available during this period of
7 time;

8 (c) The parent has sexually abused the child and has refused available treatment;

9 (d) The parent has been found by the cabinet to have engaged in abuse of the
10 child that required removal from the parent's home two (2) or more times in
11 the past two (2) years; or

12 (e) The parent has caused the child serious physical injury;

13 (4) "Beyond the control of parents" means a child who has repeatedly failed to follow
14 the reasonable directives of his or her parents, legal guardian, or person exercising
15 custodial control or supervision other than a state agency, which behavior results in
16 danger to the child or others, and which behavior does not constitute behavior that
17 would warrant the filing of a petition under KRS Chapter 645;

18 (5) "Beyond the control of school" means any child who has been found by the court to
19 have repeatedly violated the lawful regulations for the government of the school as
20 provided in KRS 158.150, and as documented in writing by the school as a part of
21 the school's petition or as an attachment to the school's petition. The petition or
22 attachment shall describe the student's behavior and all intervention strategies
23 attempted by the school;

24 (6) "Boarding home" means a privately owned and operated home for the boarding and
25 lodging of individuals which is approved by the Department of Juvenile Justice or
26 the cabinet for the placement of children committed to the department or the
27 cabinet;

- 1 (7) "Cabinet" means the Cabinet for Health and Family Services;
- 2 (8) "Certified juvenile facility staff" means individuals who meet the qualifications of,
3 and who have completed a course of education and training in juvenile detention
4 developed and approved by, the Department of Juvenile Justice after consultation
5 with other appropriate state agencies;
- 6 (9) "Child" means any person who has not reached his or her eighteenth birthday,
7 unless otherwise provided;
- 8 (10) "Child-caring facility" means any facility or group home other than a state facility,
9 Department of Juvenile Justice contract facility or group home, or one certified by
10 an appropriate agency as operated primarily for educational or medical purposes,
11 providing residential care on a twenty-four (24) hour basis to children not related by
12 blood, adoption, or marriage to the person maintaining the facility;
- 13 (11) "Child-placing agency" means any agency, other than a state agency, which
14 supervises the placement of children in foster family homes or child-caring
15 facilities or which places children for adoption;
- 16 (12) "Clinical treatment facility" means a facility with more than eight (8) beds
17 designated by the Department of Juvenile Justice or the cabinet for the treatment of
18 mentally ill children. The treatment program of such facilities shall be supervised
19 by a qualified mental health professional;
- 20 (13) "Commitment" means an order of the court which places a child under the custodial
21 control or supervision of the Cabinet for Health and Family Services, Department
22 of Juvenile Justice, or another facility or agency until the child attains the age of
23 eighteen (18) unless otherwise provided by law;
- 24 (14) "Community-based facility" means any nonsecure, homelike facility licensed,
25 operated, or permitted to operate by the Department of Juvenile Justice or the
26 cabinet, which is located within a reasonable proximity of the child's family and
27 home community, which affords the child the opportunity, if a Kentucky resident,

1 to continue family and community contact;

2 (15) "Complaint" means a verified statement setting forth allegations in regard to the
3 child which contain sufficient facts for the formulation of a subsequent petition;

4 (16) "Court" means the juvenile session of District Court unless a statute specifies the
5 adult session of District Court or the Circuit Court;

6 (17) "Court-designated worker" means that organization or individual delegated by the
7 Administrative Office of the Courts for the purposes of placing children in
8 alternative placements prior to arraignment, conducting preliminary investigations,
9 and formulating, entering into, and supervising diversion agreements and
10 performing such other functions as authorized by law or court order;

11 (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;

12 (19) "Department" means the Department for Community Based Services;

13 (20) "Dependent child" means any child, other than an abused or neglected child, who is
14 under improper care, custody, control, or guardianship that is not due to an
15 intentional act of the parent, guardian, or person exercising custodial control or
16 supervision of the child;

17 (21) "Detention" means the safe and temporary custody of a juvenile who is accused of
18 conduct subject to the jurisdiction of the court who requires a restricted or closely
19 supervised environment for his or her own or the community's protection;

20 (22) "Detention hearing" means a hearing held by a judge or trial commissioner within
21 twenty-four (24) hours, exclusive of weekends and holidays, of the start of any
22 period of detention prior to adjudication;

23 (23) "Diversion agreement" means a mechanism designed to hold a child accountable
24 for his or her behavior and, if appropriate, securing services to serve the best
25 interest of the child and to provide redress for that behavior without court action
26 and without the creation of a formal court record;

27 (24) "Eligible youth" means a person who:

- 1 (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
- 2 (b) Is eighteen (18) years of age to nineteen (19) years of age; and
- 3 (c) Is requesting to extend or reinstate his or her commitment to the cabinet in
- 4 order to participate in state or federal educational programs or to establish
- 5 independent living arrangements;
- 6 (25) "Emergency shelter" is a group home, private residence, foster home, or similar
- 7 homelike facility which provides temporary or emergency care of children and
- 8 adequate staff and services consistent with the needs of each child;
- 9 (26) "Emotional injury" means an injury to the mental or psychological capacity or
- 10 emotional stability of a child as evidenced by a substantial and observable
- 11 impairment in the child's ability to function within a normal range of performance
- 12 and behavior with due regard to his or her age, development, culture, and
- 13 environment as testified to by a qualified mental health professional;
- 14 (27) "Evidence-based practices" means policies, procedures, programs, and practices
- 15 proven by scientific research to reliably produce reductions in recidivism;
- 16 (28) "Fictive kin" means an individual who is not related by birth, adoption, or marriage
- 17 to a child, but who has an emotionally significant relationship with the child, or an
- 18 emotionally significant relationship with a biological parent, siblings, or half-
- 19 siblings of the child in the case of a child from birth to twelve (12) months of age,
- 20 prior to placement;
- 21 (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- 22 (30) "Foster family home" means a private home in which children are placed for foster
- 23 family care under supervision of the cabinet or a licensed child-placing agency;
- 24 (31) "Graduated sanction" means any of a continuum of accountability measures,
- 25 programs, and sanctions, ranging from less restrictive to more restrictive in nature,
- 26 that may include but are not limited to:
- 27 (a) Electronic monitoring;

- (b) Drug and alcohol screening, testing, or monitoring;
- (c) Day or evening reporting centers;
- (d) Reporting requirements;
- (e) Community service; and
- (f) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment;

(32) "Habitual runaway" means any child who has been found by the court to have been absent from his or her place of lawful residence without the permission of his or her custodian for at least three (3) days during a one (1) year period;

(33) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150(1) two (2) or more times during a one (1) year period;

(34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(35) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(36) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(37) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that

1 the program developed on the child's behalf is no more harsh, hazardous, or
2 intrusive than necessary; or involves no restrictions on physical movements nor
3 requirements for residential care except as reasonably necessary for the protection
4 of the child from physical injury; or protection of the community, and is conducted
5 at the suitable available facility closest to the child's place of residence to allow for
6 appropriate family engagement;

7 (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS
8 Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;

9 (40) "Near fatality" means an injury that, as certified by a physician, places a child in
10 serious or critical condition;

11 (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;

12 (42) "Nonoffender" means a child alleged to be dependent, neglected, or abused and
13 who has not been otherwise charged with a status or public offense;

14 (43) "Nonsecure facility" means a facility which provides its residents access to the
15 surrounding community and which does not rely primarily on the use of physically
16 restricting construction and hardware to restrict freedom;

17 (44) "Nonsecure setting" means a nonsecure facility or a residential home, including a
18 child's own home, where a child may be temporarily placed pending further court
19 action. Children before the court in a county that is served by a state operated
20 secure detention facility, who are in the detention custody of the Department of
21 Juvenile Justice, and who are placed in a nonsecure alternative by the Department
22 of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;

23 (45) "Out-of-home placement" means a placement other than in the home of a parent,
24 relative, or guardian, in a boarding home, clinical treatment facility, community-
25 based facility, detention facility, emergency shelter, fictive kin home, foster family
26 home, hospital, nonsecure facility, physically secure facility, residential treatment
27 facility, or youth alternative center;

- 1 (46) "Parent" means the biological or adoptive mother or father of a child;
- 2 (47) "Person exercising custodial control or supervision" means a person or agency that
3 has assumed the role and responsibility of a parent or guardian for the child, but that
4 does not necessarily have legal custody of the child;
- 5 (48) "Petition" means a verified statement, setting forth allegations in regard to the child,
6 which initiates formal court involvement in the child's case;
- 7 (49) "Physical injury" means substantial physical pain or any impairment of physical
8 condition;
- 9 (50) "Physically secure facility" means a facility that relies primarily on the use of
10 construction and hardware such as locks, bars, and fences to restrict freedom;
- 11 (51) "Public offense action" means an action, excluding contempt, brought in the interest
12 of a child who is accused of committing an offense under KRS Chapter 527 or a
13 public offense which, if committed by an adult, would be a crime, whether the same
14 is a felony, misdemeanor, or violation, other than an action alleging that a child
15 sixteen (16) years of age or older has committed a motor vehicle offense;
- 16 (52) "Qualified mental health professional" means:
 - 17 (a) A physician licensed under the laws of Kentucky to practice medicine or
18 osteopathy, or a medical officer of the government of the United States while
19 engaged in the performance of official duties;
 - 20 (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or
21 osteopathy, or a medical officer of the government of the United States while
22 engaged in the practice of official duties, and who is certified or eligible to
23 apply for certification by the American Board of Psychiatry and Neurology,
24 Inc.;
 - 25 (c) A psychologist with the health service provider designation, a psychological
26 practitioner, a certified psychologist, or a psychological associate licensed
27 under the provisions of KRS Chapter 319;

- (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional comprehensive care center;
- (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional comprehensive care center;
- (f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional comprehensive care center;
- (g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a

1 general hospital, a private agency or company engaged in providing mental
2 health services, or a regional comprehensive care center; or

7 2. Has completed at least one thousand (1,000) hours of clinical experience
8 under a collaborating[supervising] physician, as defined in[by] KRS
9 311.840, who is a psychiatrist and is certified or eligible for certification
10 by the American Board of Psychiatry and Neurology, Inc.:

11 3. Holds a master's degree from a physician assistant program accredited
12 by the Accreditation Review Commission on Education for the
13 Physician Assistant or its predecessor or successor agencies, is
14 practicing under a collaborating[supervising] physician as defined
15 in[by] KRS 311.840, and:

16 a. Has two (2) years of clinical experience in the assessment,
17 evaluation, and treatment of mental disorders; or

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

- 1 a. Has three (3) years of clinical experience in the assessment,
2 evaluation, and treatment of mental disorders; or
3 b. Has been employed by a hospital or forensic psychiatric facility
4 licensed by the Commonwealth or a psychiatric unit of a general
5 hospital or a private agency or company engaged in the provision
6 of mental health services or a regional community program for
7 mental health and individuals with an intellectual disability for at
8 least three (3) years;
- 9 (53) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C.
10 sec. 675(10);
- 11 (54) "Residential treatment facility" means a facility or group home with more than eight
12 (8) beds designated by the Department of Juvenile Justice or the cabinet for the
13 treatment of children;
- 14 (55) "Retain in custody" means, after a child has been taken into custody, the continued
15 holding of the child by a peace officer for a period of time not to exceed twelve (12)
16 hours when authorized by the court or the court-designated worker for the purpose
17 of making preliminary inquiries;
- 18 (56) "Risk and needs assessment" means an actuarial tool scientifically proven to
19 identify specific factors and needs that are related to delinquent and noncriminal
20 misconduct;
- 21 (57) "Safety plan" means a written agreement developed by the cabinet and agreed to by
22 a family that clearly describes the protective services that the cabinet will provide
23 the family in order to manage risks to a child's safety;
- 24 (58) "School personnel" means those certified persons under the supervision of the local
25 public or private education agency;
- 26 (59) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- 27 (60) "Secure juvenile detention facility" means any physically secure facility used for

1 the secure detention of children other than any facility in which adult prisoners are
2 confined;

3 (61) "Serious physical injury" means physical injury which creates a substantial risk of
4 death or which causes serious and prolonged disfigurement, prolonged impairment
5 of health, or prolonged loss or impairment of the function of any bodily member or
6 organ;

7 (62) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions
8 in which the parent, guardian, person in a position of authority or special trust, as
9 defined in KRS 532.045, or other person having custodial control or supervision of
10 the child or responsibility for his or her welfare, uses or allows, permits, or
11 encourages the use of the child for the purposes of the sexual stimulation of the
12 perpetrator or another person;

13 (63) "Sexual exploitation" includes but is not limited to a situation in which a parent,
14 guardian, person in a position of authority or special trust, as defined in KRS
15 532.045, or other person having custodial control or supervision of a child or
16 responsible for his or her welfare, allows, permits, or encourages the child to
17 engage in an act which constitutes prostitution under Kentucky law; or a parent,
18 guardian, person in a position of authority or special trust, as defined in KRS
19 532.045, or other person having custodial control or supervision of a child or
20 responsible for his or her welfare, allows, permits, or encourages the child to
21 engage in an act of obscene or pornographic photographing, filming, or depicting of
22 a child as provided for under Kentucky law;

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

27 (65) "Staff secure facility for residential treatment" means any setting which assures that

1 all entrances and exits are under the exclusive control of the facility staff, and in
2 which a child may reside for the purpose of receiving treatment;

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

6 (67) (a) "Status offense action" is any action brought in the interest of a child who is
7 accused of committing acts, which if committed by an adult, would not be a
8 crime. Such behavior shall not be considered criminal or delinquent and such
9 children shall be termed status offenders. Status offenses shall include:
10 1. Beyond the control of school or beyond the control of parents;
11 2. Habitual runaway;
12 3. Habitual truant; and
13 4. Alcohol offenses as provided in KRS 244.085.
14 (b) Status offenses shall not include violations of state or local ordinances which
15 may apply to children such as a violation of curfew;

16 (68) "Take into custody" means the procedure by which a peace officer or other
17 authorized person initially assumes custody of a child. A child may be taken into
18 custody for a period of time not to exceed two (2) hours;

19 (69) "Transitional living support" means all benefits to which an eligible youth is
20 entitled upon being granted extended or reinstated commitment to the cabinet by the
21 court;

22 (70) "Transition plan" means a plan that is personalized at the direction of the youth that:
23 (a) Includes specific options on housing, health insurance, education, local
24 opportunities for mentors and continuing support services, and workforce
25 supports and employment services; and
26 (b) Is as detailed as the youth may elect;

27 (71) "Valid court order" means a court order issued by a judge to a child alleged or

1 found to be a status offender:

2 (a) Who was brought before the court and made subject to the order;

3 (b) Whose future conduct was regulated by the order;

4 (c) Who was given written and verbal warning of the consequences of the
5 violation of the order at the time the order was issued and whose attorney or
6 parent or legal guardian was also provided with a written notice of the
7 consequences of violation of the order, which notification is reflected in the
8 record of the court proceedings; and

9 (d) Who received, before the issuance of the order, the full due process rights
10 guaranteed by the Constitution of the United States;

11 (72) "Violation" means any offense, other than a traffic infraction, for which a sentence
12 of a fine only can be imposed;

13 (73) "Youth alternative center" means a nonsecure facility, approved by the Department
14 of Juvenile Justice, for the detention of juveniles, both prior to adjudication and
15 after adjudication, which meets the criteria specified in KRS 15A.320; and

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

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

20 (1) As used in this section:

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

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

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

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

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

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

- (g) "Medicinal cannabis" has the same meaning as in KRS 218B.010;
- (h) "Medicinal cannabis practitioner" has the same meaning as in KRS 218B.010;
- (i) "Registry identification card" has the same meaning as in KRS 218B.010;
- (j) "State licensing board" has the same meaning as in KRS 218B.010;
- (k) "Use of medicinal cannabis" has the same meaning as in KRS 218B.010; and
- (l) "Written certification" has the same meaning as in KRS 218B.010.

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

(3) For the purpose of monitoring the prescribing and dispensing of Schedule II, III, IV, or V controlled substances:

- (a) A practitioner or a pharmacist authorized to prescribe or dispense controlled substances to humans shall register with the cabinet to use the system provided for in this section and shall maintain such registration continuously during the practitioner's or pharmacist's term of licensure and shall not have to pay a fee or tax specifically dedicated to the operation of the system;
- (b) Every practitioner or pharmacy which dispenses a controlled substance to a person in Kentucky, or to a person at an address in Kentucky, shall report to the cabinet the data required by this section, which includes the reporting of any Schedule II controlled substance dispensed at a facility licensed by the cabinet and a Schedule II through Schedule V controlled substance regardless of dosage when dispensed by the emergency department of a hospital to an emergency department patient. Reporting shall not be required for:

1. A drug administered directly to a patient in a hospital, a resident of a
2 health care facility licensed under KRS Chapter 216B, a resident of a
3 child-caring facility as defined by KRS 199.011, or an individual in a
4 jail, correctional facility, or juvenile detention facility;
5. A Schedule III through Schedule V controlled substance dispensed by a
6 facility licensed by the cabinet provided that the quantity dispensed is
7 limited to an amount adequate to treat the patient for a maximum of
8 forty-eight (48) hours and is not dispensed by the emergency department
9 of a hospital; or
10. A drug administered or dispensed to a research subject enrolled in a
11 research protocol approved by an institutional review board that has an
12 active federalwide assurance number from the United States Department
13 of Health and Human Services, Office for Human Research Protections,
14 where the research involves single, double, or triple blind drug
15 administration or is additionally covered by a certificate of
16 confidentiality from the National Institutes of Health;

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

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

- 24 1. Patient identifier;
- 25 2. National drug code of the drug dispensed;
- 26 3. Date of dispensing;
- 27 4. Quantity dispensed;

1 5. Prescriber; and

2 6. Dispenser;

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

9 (f) The cabinet shall only disclose data to persons and entities authorized to
10 receive that data under this subsection. Disclosure to any other person or
11 entity, including disclosure in the context of a civil action where the
12 disclosure is sought either for the purpose of discovery or for evidence, is
13 prohibited unless specifically authorized by this section. The cabinet shall be
14 authorized to provide data to:

15 1. A designated representative of a board responsible for the licensure,
16 regulation, or discipline of practitioners, pharmacists, or other person
17 who is authorized to prescribe, administer, or dispense controlled
18 substances and who is involved in a bona fide specific investigation
19 involving a designated person;

20 2. Employees of the Office of the Inspector General of the cabinet who
21 have successfully completed training for the electronic system and who
22 have been approved to use the system, federal prosecutors, Kentucky
23 Commonwealth's attorneys and assistant Commonwealth's attorneys,
24 county attorneys and assistant county attorneys, a peace officer certified
25 pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer
26 of another state, or a federal agent whose duty is to enforce the laws of
27 this Commonwealth, of another state, or of the United States relating to

1 drugs and who is engaged in a bona fide specific investigation involving
2 a designated person;

3 3. A state-operated Medicaid program in conformity with paragraph (g) of
4 this subsection;

5 4. A properly convened grand jury pursuant to a subpoena properly issued
6 for the records;

7 5. A practitioner or pharmacist, or employee of the practitioner's or
8 pharmacist's practice acting under the specific direction of the
9 practitioner or pharmacist, who certifies that the requested information
10 is for the purpose of:

11 a. Providing medical or pharmaceutical treatment to a bona fide
12 current or prospective patient;

13 b. Reviewing data on controlled substances that have been reported
14 for the birth mother of an infant who is currently being treated by
15 the practitioner for neonatal abstinence syndrome, or has
16 symptoms that suggest prenatal drug exposure; or

17 c. Reviewing and assessing the individual prescribing or dispensing
18 patterns of the practitioner or pharmacist or to determine the
19 accuracy and completeness of information contained in the
20 monitoring system;

21 6. The chief medical officer of a hospital or long-term-care facility, an
22 employee of the hospital or long-term-care facility as designated by the
23 chief medical officer and who is working under his or her specific
24 direction, or a physician designee if the hospital or facility has no chief
25 medical officer, if the officer, employee, or designee certifies that the
26 requested information is for the purpose of providing medical or
27 pharmaceutical treatment to a bona fide current or prospective patient or

resident in the hospital or facility;

7. In addition to the purposes authorized under subparagraph 1. of this paragraph, the Kentucky Board of Medical Licensure, for any physician who is:

- a. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing or dispensing practices;
- b. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or
- c. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;

8. In addition to the purposes authorized under subparagraph 1. of this paragraph, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:

- a. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing or dispensing practices;
- b. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper prescribing practices;
- c. In a designated geographic area for which a trend report indicates

1 a substantial likelihood that inappropriate prescribing or
2 dispensing may be occurring; or
3 d. In a designated geographic area for which a report on a physician
4 or another advanced practice registered nurse in that area indicates
5 a substantial likelihood that inappropriate prescribing or
6 dispensing may be occurring in that area;
7 9. A judge or a probation or parole officer administering a diversion or
8 probation program of a criminal defendant arising out of a violation of
9 this chapter or of a criminal defendant who is documented by the court
10 as a substance abuser who is eligible to participate in a court-ordered
11 drug diversion or probation program; or
12 10. A medical examiner engaged in a death investigation pursuant to KRS
13 72.026;

14 (g) The Department for Medicaid Services shall use any data or reports from the
15 system for the purpose of identifying Medicaid providers or recipients whose
16 prescribing, dispensing, or usage of controlled substances may be:
17 1. Appropriately managed by a single outpatient pharmacy or primary care
18 physician; or
19 2. Indicative of improper, inappropriate, or illegal prescribing or
20 dispensing practices by a practitioner or drug seeking by a Medicaid
21 recipient;

22 (h) A person who receives data or any report of the system from the cabinet shall
23 not provide it to any other person or entity except as provided in this
24 subsection, in another statute, or by order of a court of competent jurisdiction
25 and only to a person or entity authorized to receive the data or the report
26 under this section, except that:
27 1. A person specified in paragraph (f)2. of this subsection who is

1 authorized to receive data or a report may share that information with
2 any other persons specified in paragraph (f)2. of this subsection
3 authorized to receive data or a report if the persons specified in
4 paragraph (f)2. of this subsection are working on a bona fide specific
5 investigation involving a designated person. Both the person providing
6 and the person receiving the data or report under this subparagraph shall
7 document in writing each person to whom the data or report has been
8 given or received and the day, month, and year that the data or report
9 has been given or received. This document shall be maintained in a file
10 by each agency engaged in the investigation;

11 2. A representative of the Department for Medicaid Services may share
12 data or reports regarding overutilization by Medicaid recipients with a
13 board designated in paragraph (f)1. of this subsection, or with a law
14 enforcement officer designated in paragraph (f)2. of this subsection;

15 3. The Department for Medicaid Services may submit the data as evidence
16 in an administrative hearing held in accordance with KRS Chapter 13B;

17 4. If a state licensing board as defined in KRS 218A.205 initiates formal
18 disciplinary proceedings against a licensee, and data obtained by the
19 board is relevant to the charges, the board may provide the data to the
20 licensee and his or her counsel, as part of the notice process required by
21 KRS 13B.050, and admit the data as evidence in an administrative
22 hearing conducted pursuant to KRS Chapter 13B, with the board and
23 licensee taking all necessary steps to prevent further disclosure of the
24 data; and

25 5. A practitioner, pharmacist, or employee who obtains data under
26 paragraph (f)5. of this subsection may share the report with the patient
27 or person authorized to act on the patient's behalf. Any practitioner,

1 pharmacist, or employee who obtains data under paragraph (f)5. of this
2 subsection may place the report in the patient's medical record, in which
3 case the individual report shall then be deemed a medical record subject
4 to disclosure on the same terms and conditions as an ordinary medical
5 record in lieu of the disclosure restrictions otherwise imposed by this
6 section;

7 (i) The cabinet, all peace officers specified in paragraph (f)2. of this subsection,
8 all officers of the court, and all regulatory agencies and officers, in using the
9 data for investigative or prosecution purposes, shall consider the nature of the
10 prescriber's and dispenser's practice and the condition for which the patient is
11 being treated;

12 (j) Intentional failure to comply with the reporting requirements of this
13 subsection shall be a Class B misdemeanor for the first offense and a Class A
14 misdemeanor for each subsequent offense; and

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

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

21 (a) Every medicinal cannabis practitioner who is authorized pursuant to KRS
22 218B.050 to provide written certifications for the use of medicinal cannabis
23 and every cannabis business licensed under KRS 218B.080, 218B.085, and
24 218B.090 shall register with the cabinet to use the system provided for in this
25 section and shall maintain such registration continuously during the medicinal
26 cannabis practitioner's authorization to provide written certifications or a
27 cannabis business's term of licensure and shall not have to pay a fee or tax

1 specifically dedicated to the operation of the system;

2 (b) ~~{No later than July 1, 2024, }~~ The cabinet shall ensure that the system provided
3 for in this section allows:

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

6 2. The cabinet, law enforcement personnel, and dispensary agents to verify
7 the validity of registry identification cards issued by the cabinet. When
8 verifying the validity of an identification card, the system shall only
9 disclose whether the identification card is valid and whether the
10 cardholder is a registered qualified patient, visiting qualified patient, or
11 designated caregiver;

12 3. Dispensary agents to record the amount of medicinal cannabis that is
13 dispensed to a cardholder during each transaction, as required by KRS
14 218B.110;

15 4. Law enforcement personnel and dispensary agents to access medicinal
16 cannabis sales data recorded by dispensary agents pursuant to KRS
17 218B.110;

18 5. The sharing of dispensing data recorded by dispensary agents, pursuant
19 to KRS 218B.110, with all licensed dispensaries in real time;

20 6. Licensed cannabis businesses to record data required by administrative
21 regulations promulgated pursuant to KRS 218B.140 to facilitate the
22 tracking of medicinal cannabis from the point of cultivation to the point
23 of sale to cardholders; and

24 7. The cabinet to track all medicinal cannabis in the state from the point of
25 cultivation to the point of sale to a cardholder;

26 (c) The cabinet shall only disclose data related to the cultivation, production,
27 recommending, and dispensing of medicinal cannabis to persons and entities

1 authorized to receive that data under this subsection. Disclosure to any other
2 person or entity, including disclosure in the context of a civil action where the
3 disclosure is sought either for the purpose of discovery or for evidence, is
4 prohibited unless specifically authorized by this subsection. The cabinet shall
5 be authorized to provide data to:

1. Any person or entity authorized to receive data pursuant to paragraph
2. (b) of this subsection;
3. A designated representative of a state licensing board responsible for the
4. licensure, regulation, or discipline of medicinal cannabis practitioners
5. and who is involved in a bona fide specific investigation involving a
6. designated person;
7. 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, Kentucky Commonwealth's
10. attorneys and assistant Commonwealth's attorneys, and county attorneys
11. and assistant county attorneys who are engaged in a bona fide specific
12. investigation involving a designated person;
13. A properly convened grand jury pursuant to a subpoena properly issued
14. for the records;
15. A medicinal cannabis practitioner or an employee of a medicinal
16. cannabis practitioner's practice acting under the specific direction of the
17. medicinal cannabis practitioner, who certifies that the request for
18. information is for the purpose of complying with KRS 218B.050(4)(c);
19. The chief medical officer of a hospital or long-term-care facility, an
20. employee of the hospital or long-term-care facility as designated by the
21. chief medical officer and who is working under his or her specific
22. direction, or a physician designee if the hospital or facility has no chief
23. medical officer;

1 medical officer, if the officer, employee, or designee certifies that the
2 requested information is for the purpose of providing medical or
3 pharmaceutical treatment to a bona fide current or prospective patient or
4 resident in the hospital or facility;

5 7. In addition to the purposes authorized under subparagraph 2. of this
6 paragraph, the Kentucky Board of Medical Licensure, for any physician
7 who is:

8 a. Associated in a partnership, other business entity, or
9 collaboration~~[supervision]~~ agreement established pursuant to
10 Section 7 of this Act~~[KRS 311.854]~~ with a physician who is
11 already under investigation by the Board of Medical Licensure for
12 improper issuance of written certifications;

13 b. Associated in a partnership or other business entity with an
14 advanced practice registered nurse who is already under
15 investigation by the Board of Nursing for improper issuance of
16 written certifications;

17 c. In a designated geographic area for which a trend report indicates
18 a substantial likelihood that inappropriate issuance of written
19 certifications may be occurring; or

20 d. In a designated geographic area for which a report on another
21 physician in that area indicates a substantial likelihood that
22 inappropriate issuance of written certifications may be occurring in
23 that area;

24 8. In addition to the purposes authorized under subparagraph 2. of this
25 paragraph, the Kentucky Board of Nursing, for any advanced practice
26 registered nurse who is:

27 a. Associated in a partnership or other business entity with a

1 physician who is already under investigation by the Kentucky
2 Board of Medical Licensure for improper issuance of written
3 certifications;

4 b. Associated in a partnership or other business entity with an
5 advanced practice registered nurse who is already under
6 investigation by the Board of Nursing for improper issuance of
7 written certifications;

8 c. In a designated geographic area for which a trend report indicates
9 a substantial likelihood that inappropriate issuance of written
10 certifications may be occurring; or

11 d. In a designated geographic area for which a report on another
12 advanced practice registered nurse in that area indicates a
13 substantial likelihood that inappropriate issuance of written
14 certifications may be occurring in that area;

15 9. A judge or a probation or parole officer administering a diversion or
16 probation program of a criminal defendant arising out of a violation of
17 this chapter or of a criminal defendant who is documented by the court
18 as a substance abuser who is eligible to participate in a court-ordered
19 drug diversion or probation program;

20 10. A medical examiner engaged in a death investigation pursuant to KRS
21 72.026; or

22 11. The Legislative Research Commission, the University of Kentucky
23 College of Medicine, or the Kentucky Center for Cannabis established
24 in KRS 164.983 if the cabinet determines that disclosing data related to
25 the cultivation, production, recommending, and dispensing of medicinal
26 cannabis to the Legislative Research Commission, the University of
27 Kentucky College of Medicine, or the Kentucky Center for Cannabis is

1 necessary to comply with the reporting requirements established in KRS
2 218B.020(8); and

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

8 1. A person specified in paragraph (c)3. of this subsection who is
9 authorized to receive data or a report may share that information with
10 any other persons specified in paragraph (c)3. of this subsection
11 authorized to receive data or a report if the persons specified in
12 paragraph (c)3. of this subsection are working on a bona fide specific
13 investigation involving a designated person. Both the person providing
14 and the person receiving the data or report under this subparagraph shall
15 document in writing each person to whom the data or report has been
16 given or received and the day, month, and year that the data or report
17 has been given or received. This document shall be maintained in a file
18 by each agency engaged in the investigation;

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

26 3. A medicinal cannabis practitioner or an employee of a medicinal
27 cannabis practitioner's practice acting under the specific direction of the

1 medicinal cannabis practitioner who obtains data under paragraph (c)5.
2 of this subsection may share the report with the patient or person
3 authorized to act on the patient's behalf. Any medicinal cannabis
4 practitioner or employee who obtains data under paragraph (c)5. of this
5 subsection may place the report in the patient's medical record, in which
6 case the individual report shall then be deemed a medical record subject
7 to disclosure on the same terms and conditions as an ordinary medical
8 record in lieu of the disclosure restrictions otherwise imposed by this
9 section.

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

14 (6) Intentional disclosure of transmitted data to a person not authorized by subsection
15 (3)(f) to (h) or (4)(c) and (d) of this section or authorized by KRS 315.121, or
16 obtaining information under this section not relating to a bona fide current or
17 prospective patient or a bona fide specific investigation, shall be a Class B
18 misdemeanor for the first offense and a Class A misdemeanor for each subsequent
19 offense.

20 (7) The cabinet may, by promulgating an administrative regulation, limit the length of
21 time that data remain in the electronic system. Any data removed from the system
22 shall be archived and subject to retrieval within a reasonable time after a request
23 from a person authorized to review data under this section.

24 (8) (a) The Cabinet for Health and Family Services shall work with each board
25 responsible for the licensure, regulation, or discipline of practitioners,
26 pharmacists, or other persons who are authorized to prescribe, administer, or
27 dispense controlled substances for the development of a continuing education

1 program about the purposes and uses of the electronic system for monitoring
2 established in this section.

3 (b) The cabinet shall work with each board responsible for the licensure,
4 regulation, or discipline of medicinal cannabis practitioners for the
5 development of a continuing education program about the purposes and uses
6 of the electronic system for monitoring established in this section.

7 (c) The cabinet shall work with the Kentucky Bar Association for the
8 development of a continuing education program for attorneys about the
9 purposes and uses of the electronic system for monitoring established in this
10 section.

11 (d) The cabinet shall work with the Justice and Public Safety Cabinet for the
12 development of a continuing education program for law enforcement officers
13 about the purposes and uses of the electronic system for monitoring
14 established in this section.

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

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

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

26 (a) An error resolution process allowing a patient to whom a report had been
27 disclosed under subsections (3) and (4) of this section to request the correction

1 of inaccurate information contained in the system relating to that patient; and

2 (b) A requirement that data be reported to the system under subsection (3)(b) of

3 this section within one (1) day of dispensing.

4 (11) (a) Before July 1, 2018, the Administrative Office of the Courts shall forward

5 data regarding any felony or Class A misdemeanor conviction that involves

6 the trafficking or possession of a controlled substance or other prohibited acts

7 under KRS Chapter 218A for the previous five (5) calendar years to the

8 cabinet for inclusion in the electronic monitoring system established under

9 this section. On or after July 1, 2018, such data shall be forwarded by the

10 Administrative Office of the Courts to the cabinet on a continuing basis. The

11 cabinet shall incorporate the data received into the system so that a query by

12 patient name indicates any prior drug conviction.

21 ➔Section 13. KRS 186.577 is amended to read as follows:

22 (1) (a) The following persons shall submit to a test of visual acuity and visual field at
23 the time of application or renewal:

24 1. All persons applying for an initial or renewal operator's license;

25 2. All persons applying for an initial or renewal instruction permit; and

26 3. Any person required to complete an examination under KRS 186.635.

27 (2) Vision testing under this section shall be administered to any person:

1 (a) Applying for an initial operator's license, an initial instruction permit, or
2 reinstatement of a license when vision must be tested as required in KRS
3 186.480:

4 1. Prior to the time of application under subsection (5) of this section; or
5 2. By **the Department of** Kentucky State Police at the time of application;

6 (b) Applying for operator's license renewal or instruction permit renewal:
7 1. Prior to the time of application under subsection (5) of this section; or
8 2. By the Transportation Cabinet at the time of application; or
9 (c) Identified in Kentucky administrative regulations promulgated by the
10 Transportation Cabinet or the **Department of** Kentucky State Police as being
11 required to undergo the exam required by KRS 186.480.

12 (3) (a) Persons whose visual acuity is 20/40 or better and who meet or exceed the
13 visual field standard established by the Transportation Cabinet without
14 corrective lenses shall not have a restriction placed on their driving privileges.
15 (b) Persons whose visual acuity is 20/40 or better and who meet or exceed the
16 visual field standard established by the Transportation Cabinet with corrective
17 lenses shall have their driving privileges restricted to mandate the use of the
18 corrective lenses.
19 (c) If a person fails to meet a 20/40 visual acuity standard or the visual field
20 standard established by the cabinet, the person shall be referred to a vision
21 specialist for examination.

22 (4) A person referred to a vision specialist under subsection (3) of this section whose
23 visual acuity is 20/60 or better and who meets or exceeds the visual field standard
24 established by the cabinet shall be eligible to test for an instruction permit or
25 operator's license, or shall be eligible for operator's license renewal. If corrective
26 lenses were prescribed by the vision specialist, the person's driving privileges shall
27 be restricted to mandate the use of the corrective lenses.

- 1 (5) Vision tests administered under subsection (2)(a) of this section shall be deemed to
2 meet the testing provisions outlined in subsection (3) or (4) of this section, if the
3 person submits a driver vision testing form that complies with the provisions of
4 subsection (6) of this section and the form has been completed by:
 - 5 (a) A vision specialist; or
 - 6 (b) An osteopath, physician, **physician assistant**, or advanced practice registered
7 nurse who is credentialed by the cabinet to perform vision testing under this
8 section.
- 9 (6) All driver vision testing forms completed under subsection (5) of this section shall:
 - 10 (a) Attest that the applicant meets or exceeds the visual acuity standard and visual
11 field standard established by the cabinet;
 - 12 (b) Only be valid if the vision specialist or the credentialed osteopath,
13 credentialed physician, or credentialed advanced practice registered nurse
14 signed and completed the vision testing form less than twelve (12) months
15 prior to the date of application or renewal;
 - 16 (c) State whether the driving privileges of the applicant shall be restricted to
17 mandate the use of corrective lenses; and
 - 18 (d) Clearly indicate that the vision testing under this section is a screening for
19 minimum vision standards established in this section and is not a complete
20 eye examination.
- 21 (7) Any person seeking application or permit under subsection (1) of this section shall
22 attest that he or she has submitted to and passed the visual acuity and visual field
23 tests required under this section.
- 24 (8) Any person renewing an operator's license under KRS 186.416 shall be exempt
25 from the vision testing requirements outlined in this section.
- 26 (9) Persons who meet the requirements of KRS 186.578 and are issued operator's
27 licenses under KRS 186.579 shall:

1 (a) Have their driving privileges restricted to the use of a bioptic telescopic
2 device; and

3 (b) Be exempt from this section.

4 (10) The Transportation Cabinet shall promulgate administrative regulations in
5 accordance with~~[pursuant to]~~ KRS Chapter 13A to implement ~~[the provisions of~~
6 ~~[t]his section, including but not limited to establishing visual field standards, the~~
7 ~~creation of a driver vision testing form, and establishing a credentialing process for~~
8 ~~osteopaths, physicians, physician assistants, and advanced practice registered~~
9 ~~nurses to conduct vision testing under this section.~~

10 (11) The Transportation Cabinet may promulgate administrative regulations in
11 accordance with~~[pursuant to]~~ KRS Chapter 13A to:

12 (a) Implement a system for electronic transmission of driver vision testing forms
13 and accompanying documentation; and

14 (b) Assess a fee to an applicant to cover the administrative costs of performing
15 on-site vision testing. Any funds received from this fee shall be deposited into
16 the photo license account established in KRS 174.056.

17 ➔ Section 14. The following KRS sections are repealed:

18 311.854 Approval of supervising physician -- Requirements -- Application -- Number of
19 assistants -- Restrictions on practice and supervision.

20 311.856 Duties of supervising physician -- Definitions.

21 311.860 Services performed in location separate from supervising physician --
22 Nonseparate location -- Definition and exceptions.