AN ACT relating to physician assistants.

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

➔Section 1. KRS 311.842 is amended to read as follows:

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

(a) Temporary licensing~~[, of physician assistants]~~***;***

(b) Professional standards for prescribing and dispensing controlled substances; and

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

(2) The board shall establish a nine (9) member Physician Assistant Advisory Committee that shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board, including but not limited to:

(a) Applications for physician assistant licensing;

(b) Licensing renewal requirements;

(c) Approval of supervising physicians;

(d) Disciplinary actions; and

(e) Promulgation and revision of administrative regulations.

(3) Members of the Physician Assistant Advisory Committee shall be appointed by the board for four (4) year terms and shall consist of:

(a) Five (5) practicing physician assistants;

(b) Two (2) supervising physicians;

(c) One (1) member of the board; and

(d) One (1) citizen at large.

(4) The chairperson of the committee shall be elected by a majority vote of the

committee members and shall be responsible for presiding over meetings that shall be held on a regular basis.

(5) Members shall receive reimbursement for expenditures relating to attendance at committee meetings consistent with state policies for reimbursement of travel expenses for state employees.

(6) Nothing in this chapter shall be construed to require licensing of a physician assistant student enrolled in a physician assistant or surgeon assistant program accredited by the Accreditation Review Commission on Education for Physician Assistants or its successor agencies or of a physician assistant employed in the service of the federal government while performing duties relating to that employment.

➔Section 2. KRS 311.844 is amended to read as follows:

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

(a) Submit a completed application form with the required fee;

(b) Be of good character and reputation;

(c) Be a graduate of an approved program; and

(d) Have passed an examination approved by the board within three (3) attempts.

(2) A physician assistant who is authorized to practice in another state and who is in good standing may apply for licensure by endorsement from the state of his or her credentialing if that state has standards substantially equivalent to those of this Commonwealth.

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

(a) The holder shall be of good character and reputation;

(b) The holder shall provide evidence of completion, during the previous two (2) years, of a minimum of one hundred (100) hours of continuing education approved by the American Medical Association, the American Osteopathic

Association, the American Academy of Family Physicians, the American Academy of Physician Assistants, or by another entity approved by the board;**.** ***The one hundred (100) hours of continuing education required by this paragraph shall include:***

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

a. One (1) continuing education course on the human immunodeficiency virus and acquired immunodeficiency syndrome; and

b. 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; and

2. If the license holder is authorized, pursuant to subsection (5) of Section 6 of this Act, to prescribe and dispense controlled substances, a minimum of five (5) hours of approved continuing education relating to controlled substance diversion, pain management, addiction disorders, use of the electronic system for monitoring Schedules II, III, IV, and V controlled substances established in KRS 218A.202, or any combination of two (2) or more of these subjects; and

(c) ~~[The holder shall provide evidence of completion of a continuing education course on the human immunodeficiency virus and acquired immunodeficiency syndrome;~~

~~(d) As a part of the continuing education requirements that the board adopts to ensure continuing competency of present and future licensees the board shall ensure that physician's assistants shall demonstrate completion of a one-time training course of one and one-half (1.5) hours of training covering the~~

~~prevention and recognition of pediatric abusive head trauma, as defined in KRS 620.020. The one and one-half (1.5) hours of continuing education required under this section shall be included in the current number of required continuing education hours; and~~

~~(e) [~~The holder shall provide proof of current certification with the National Commission on Certification of Physician Assistants.

➔Section 3. KRS 311.850 is amended to read as follows:

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

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

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

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

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

(e) Become addicted to ***a controlled substance, as defined in KRS 311.550(26)***~~[or is an abuser of alcohol, drugs, or any illegal substance]~~;

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

(g)~~[(e)]~~ ***Been unable or is unable to practice medicine according to acceptable and prevailing standards of care by reason of mental or physical illness or***

other condition including but not limited to physical deterioration that adversely affects cognitive, motor, or perceptive skills, or by reason of an extended absence from the active practice of medicine~~[Developed a physical or mental disability or other condition that presents a danger in continuing to practice medicine to patients, the public, or other health care personnel]~~;

(h) ~~[(f)]~~ Knowingly made or caused to be made or aided or abetted in the making of a false statement in any document executed in connection with the practice of medicine or osteopathy;

(i) ~~[(g)]~~ Performed any act or service as a physician assistant without a designated supervising physician;

(j) ~~[(h)]~~ Exceeded the scope of medical services described by the supervising physician in the applications required under KRS 311.854;

(k) ~~[(i)]~~ Exceeded the scope of practice for which the physician assistant was credentialed by the governing board of a hospital or licensed health care facility under KRS 311.856 and 311.858;

(l) ~~[(j)]~~ Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any healing art, including the unlawful practice of physician assistants;

(m) ~~[(k)]~~ Willfully violated a confidential communication;

(n) ~~[(l)]~~ Performed the services of a physician assistant in an unprofessional, incompetent, or grossly or chronically negligent manner;

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

(p) ~~[(n)]~~ Violated any applicable provision of administrative regulations relating to physician assistant practice;

(q)~~[(o)]~~ Violated any term of probation or other discipline imposed by the board;~~[or]~~

(r)~~[(p)]~~ Failed to complete the required number of hours of approved continuing education***; or***

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

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

➔Section 4. KRS 311.854 is amended to read as follows:

(1) A physician shall not supervise a physician assistant without approval of the board. Failure to obtain board approval as a supervising physician or failure to comply with the requirements of KRS 311.840 to 311.862 or related administrative regulations shall be considered unprofessional conduct and shall be subject to disciplinary action by the board that may include revocation, suspension, restriction, or placing on probation the supervising physician's right to supervise a physician assistant.

(2) To be approved by the board as a supervising physician, a physician shall:

(a) Be currently licensed and in good standing with the board;

(b) Maintain a practice primarily within this Commonwealth. The board in its discretion may modify or waive this requirement;

(c) Submit a completed application and the required fee to the board. The application shall include but is not limited to:

1. A description of the nature of the physician's practice;

2. A statement of assurance by the supervising physician that the scope of

medical services and procedures described in the application or in any supplemental information shall not exceed the normal scope of practice of the supervising physician;

3. A description of the means by which the physician shall maintain communication with the physician assistant when they are not in the same physical location;

4. The name, address, and area of practice of one (1) or more physicians who agree in writing to accept responsibility for supervising the physician assistant in the absence of the supervising physician;

5. A description of the scope of medical services and procedures to be performed by the physician assistant for which the physician assistant has been trained in an approved program; and

6. An outline of the specific parameters for review of countersignatures.

(3) Prior to a physician assistant performing any service or procedure beyond those described in the initial application submitted to the board under subsection (2)(c) of this section, the supervising physician shall supplement that application with information that includes but is not limited to:

(a) A description of the additional service or procedure;

(b) A description of the physician assistant's education, training, experience, and institutional credentialing;

(c) A description of the level of supervision to be provided for the additional service or procedure;

(d) The location or locations where the additional service or procedure will be provided; and

(e) Any changes to the specific parameters for review of countersignatures.

The initial and supplemental applications required under this section may be submitted to the board at the same time.

(4) A physician who has been supervising a physician assistant prior to July 15, 2002, may continue supervision and the physician assistant may continue to perform all medical services and procedures that were provided by the physician assistant prior to July 15, 2002. The supervising physician shall submit the initial application and any supplemental application as required in this section by October 15, 2002.

(5) A physician may enter into supervision agreements with no more than four (4) physician assistants and shall not supervise more than four (4) physician assistants at any one (1) time. Application for board approval to be a supervising physician shall be obtained individually for each physician assistant.

(6) The board may impose restrictions on the scope of practice of a physician assistant or on the methods of supervision by the supervising physician upon consideration of recommendations of the Physician Assistant Advisory Committee established in KRS 311.842 after providing the applicant with reasonable notice of its intended action and after providing a reasonable opportunity to be heard.

(7) The executive director of the board, within thirty (30) calendar days of receiving a completed initial, or supplemental, application submitted under this section, shall review the application and may temporarily approve the application if the applicant clearly meets the requirements established in subsection (1) of Section 2 of this Act. The board, at its next meeting, shall review and approve or deny any initial, or supplemental, applications submitted under this section since the board's last meeting. The board may deny an initial, or supplemental, application temporarily approved by the executive director.

➔Section 5. KRS 311.856 is amended to read as follows:

A supervising physician shall:

(1) Restrict the services of a physician assistant to ***the scope of medical services and procedures described in the initial, or any supplemental, application received by the board under Section 4 of this Act***~~[services within the physician assistant's~~

~~scope of practice]~~ and to the provisions of KRS 311.840 to 311.862;

(2) Prohibit a physician assistant from prescribing or dispensing controlled substances**,** ***except as provided in subsection (5) of Section 6 of this Act***;

(3) Inform all patients in contact with a physician assistant of the status of the physician assistant;

(4) Post a notice stating that a physician assistant practices medicine or osteopathy in all locations where the physician assistant may practice;

(5) Require a physician assistant to wear identification that clearly states that he or she is a physician assistant;

(6) Prohibit a physician assistant from independently billing any patient or other payor for services rendered by the physician assistant;

(7) If necessary, participate with the governing body of any hospital or other licensed health care facility in a credentialing process established by the facility;

(8) Not require a physician assistant to perform services or other acts that the physician assistant feels incapable of carrying out safely and properly;

(9) Maintain adequate, active, and continuous supervision of a physician assistant's activities to assure that the physician assistant is performing as directed and complying with the requirements of KRS 311.840 to 311.862 and all related administrative regulations;

(10) Review and countersign a sufficient number of overall medical notes written by the physician assistant to ensure quality of care provided by the physician assistant and outline the specific parameters for review of countersignatures in the application required by KRS 311.854. Countersignature requirements shall be determined by the supervising physician, practice, or institution. As used in this subsection:

(a) "Practice" means a medical practice composed of two (2) or more physicians organized to provide patient care services, regardless of its legal form or ownership; and

(b) "Institution" means all or part of any public or private facility, place, building, or agency, whether organized for profit or not, that is used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care;

(11) (a) Reevaluate the reliability, accountability, and professional knowledge of a physician assistant two (2) years after the physician assistant's original licensure in this Commonwealth and every two (2) years thereafter; and

(b) Based on the reevaluation, recommend approval or disapproval of licensure or renewal to the board; and

(12) Notify the board within three (3) business days if the supervising physician:

(a) Ceases to supervise or employ the physician assistant; or

(b) Believes in good faith that a physician assistant violated any disciplinary rule of KRS 311.840 to 311.862 or related administrative regulations.

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

(1) A physician assistant may perform medical services and procedures within the scope of medical services and procedures described in the initial or any supplemental application received by the board under KRS 311.854.

(2) A physician assistant shall be considered an agent of the supervising physician in performing medical services and procedures described in the initial application or any supplemental application received by the board under KRS 311.854.

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

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

(5) ***(a) A physician assistant who has been approved by the board, or its executive director, pursuant to paragraph (b) of this subsection and Section 4(7) of this Act, may prescribe and administer Schedules II, III, IV, and V controlled substances, as described in KRS Chapter 218A, to the extent delegated by the supervising physician and as permitted under paragraphs (c), (d), (e), and (f) of this subsection.***

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

1. Submit to the board a completed application for prescriptive authority for controlled substances signed by the physician assistant's supervising physician in accordance with Section 4 of this Act;

2. Provide evidence of completion of at least thirty (30) contact hours in didactic clinical pharmacology;

3. Receive from the board, or its executive director, a notice that the application for prescriptive authority has been approved; and

4. Obtain a Controlled Substance Registration Certificate through the United States Drug Enforcement Administration and register with the electronic system for monitoring controlled substances established in KRS 218A.202 and any other applicable state controlled substance regulatory authority.

(c) Prescriptions issued by a physician assistant for narcotic Schedule II controlled substances shall be limited to a three (3) day supply without any refill.

(d) Prescriptions issued by a physician assistant for nonnarcotic Schedule II controlled substances or Schedule III controlled substances, as described in KRS 218A.060 and 218A.080, shall be limited to a thirty (30) day supply without any refill.

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

(f) Notwithstanding paragraph (e) of this subsection, prescriptions issued by a physician assistant for Diazepam, Lorazepam, Alprazolam, and Carisoprodol are limited to a thirty (30) day supply without any refill.

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

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

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

(9)~~[(8)]~~ A physician assistant shall not practice medicine or osteopathy independently. Each physician assistant shall practice under supervision as defined in KRS 311.840.

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

(1) When a hearing or inquiry panel, as described in KRS 311.591, has probable cause to believe a physician assistant is suffering from a physical or mental condition that might impede his or her ability to practice competently, the panel may order the physician assistant to undergo a physical or mental examination

by person designated by the panel.

(2) Failure of a physician assistant to submit to such an examination when directed, unless the failure is due to circumstances beyond his or her control, shall constitute an admission that the concerned physician assistant has developed such a physical or mental disability, or other condition, that continued practice is dangerous to patients or to the public; said failure shall constitute a default and a final order may be entered without the taking of testimony or presentation of evidence.

(3) A physician assistant whose license has been suspended, limited, restricted, or revoked under this section and Section 3 of this Act, shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

➔SECTION 8. A NEW SECTION OF KRS 311.840 TO 311.862 IS CREATED TO READ AS FOLLOWS:

(1) When a hearing or inquiry panel, as described in KRS 311.591, receives information that a physician assistant has not been engaged in the active practice of medicine for at least two (2) years, the panel may order the physician assistant to successfully complete a board-approved clinical competency examination or a board-approved clinical skills assessment program at the expense of the physician assistant. The panel shall review the results of the examination or assessment and determine whether the physician assistant may resume the practice of medicine without undue risk or danger to patients or the public.

(2) Failure of a physician assistant to successfully complete a clinical competency examination or the clinical skills assessment when directed shall constitute an admission that the physician assistant is unable to practice medicine according to accepted and prevailing standards, unless the failure was due to circumstances beyond the control of the physician assistant. The failure shall constitute a

default and a final order may be entered without additional testimony or without presentation of additional evidence.

(3) A physician assistant whose license has been suspended, limited, restricted, or revoked under this section or Section 3 of this Act shall be afforded an opportunity at reasonable intervals to demonstrate that he or she has the competency and skill to resume the practice of medicine.

➔Section 9. KRS 311.616 is amended to read as follows:

(1) The board may establish by contract or otherwise an impaired physicians ***and physician assistants*** program to promote the early identification, intervention, treatment, and rehabilitation of physicians ***and physician assistants*** who may be impaired by reason of illness, alcohol or drug abuse, or as a result of any physical or mental condition.

(2) The board may promulgate administrative regulations under the provisions of KRS Chapter 13A to implement any program formed under this section and may expend any funds necessary to provide for operational expenses of a program formed under this section.

➔Section 10. KRS 311.617 is amended to read as follows:

The board may enter into a contractual agreement with a nonprofit corporation or a medical professional association for the purpose of creating, supporting, and maintaining a program to be designated as the Kentucky Physicians ***and Physician Assistants*** Health Foundation. The board may promulgate administrative regulations subject to the provisions of KRS Chapter 13A to effectuate and implement any program formed pursuant to this section. The board may expend any funds it deems necessary to adequately provide for operational expenses of any program formed pursuant to this section.

➔Section 11. KRS 311.619 is amended to read as follows:

(1) All information, interviews, reports, statements, memoranda, or other documents

furnished to or produced by the program formed under KRS 311.616, as well as all communications to or from the program, and any findings, conclusions, interventions, treatment, or rehabilitation, or other proceedings of the program which in any way pertain or refer to a physician ***or physician assistant*** who may be, or who is actually, impaired shall be privileged and confidential.

(2) All records and proceedings of the program which pertain or refer to a physician ***or physician assistant*** who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the program and its members only in the exercise of the proper function of the program and shall not be considered public records nor shall they be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as described in subsection (3) of this section.

(3) The program may disclose information relative to an impaired physician ***or physician assistant*** only:

(a) When it is essential to disclose such information to further the intervention, treatment, or rehabilitation needs of the impaired physician ***or physician assistant***, and then only to those persons or organizations with a need to know;

(b) When its release is authorized in writing by the impaired physician ***or physician assistant***; or

(c) When the program is required to make a report to the board.

(4) The program shall report any suspected violation of KRS 311.595 to the board.

➔Section 12. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or

(b) The patient or research subject at the direction and in the presence of the practitioner;

(2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances classified as Schedule III controlled substances pursuant to KRS 218A.020 but does not include estrogens, progestins, and anticosteroids;

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

(4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of its salts, isomers, or salts of isomers;

(5) "Certified community based palliative care program" means a palliative care program which has received certification from the Joint Commission;

(6) "Child" means any person under the age of majority as specified in KRS 2.015;

(7) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;

(8) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;

(9) (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:

1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and

2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. Any substance for which there is an approved new drug application;

2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or

3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;

(10) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(11) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(12) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;

(13) "Distribute" means to deliver other than by administering or dispensing a controlled substance;

(14) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of

administration available as a single unit;

(15) "Drug" means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories;

(16) "Fentanyl" means a substance containing any quantity of fentanyl, or any of its salts, isomers, or salts of isomers;

(17) "Fentanyl derivative" means a substance containing any quantity of any chemical compound, except compounds specifically scheduled as controlled substances by statute or by administrative regulation pursuant to this chapter, which is structurally derived from 1-ethyl-4-(N-phenylamido) piperadine:

(a) By substitution:

1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or ethyloxotetrazole ring system; and

2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl, or furanyl group; and

(b) Which may be further modified in one (1) or more of the following ways:

1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy, haloalkyl, hydroxyl, or halide substituents;

2. By substitution on the piperadine ring to any extent with alkyl, allyl,

alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-positions;

3. By substitution on the piperadine ring to any extent with a phenyl, alkoxy, or carboxylate ester substituent at the 4- position; or

4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or hydroxy substituents;

(18) "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;

(19) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:

(a) Poses an explosion hazard;

(b) Poses a fire hazard; or

(c) Is poisonous or injurious if handled, swallowed, or inhaled;

(20) "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;

(21) "Hydrocodone combination product" means a drug with:

(a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; or

(b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(22) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;

(23) "Industrial hemp" has the same meaning as in KRS 260.850;

(24) "Industrial hemp products" has the same meaning as in KRS 260.850;

(25) "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;

(26) "Isomer" means the optical isomer, except the Cabinet for Health and Family Services may include the optical, positional, or geometric isomer to classify any substance pursuant to KRS 218A.020;

(27) "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his or her administering or dispensing of a

controlled substance in the course of his or her professional practice;

(b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;

(28) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "marijuana" does not include:

(a) Industrial hemp that is in the possession, custody, or control of a person who holds a license issued by the Department of Agriculture permitting that person to cultivate, handle, or process industrial hemp;

(b) Industrial hemp products that do not include any living plants, viable seeds, leaf materials, or floral materials;

(c) The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine;

(d) For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;

(e) A cannabidiol product derived from industrial hemp, as defined in KRS 260.850; or

(f) A cannabidiol product approved as a prescription medication by the United States Food and Drug Administration;

(29) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;

(30) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;

(31) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;

(32) "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;

(33) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

(g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;

(34) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.020, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

(35) "Opium poppy" means the plant of the species papaver somniferum L., except its seeds;

(36) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

(37) "Physical injury" has the same meaning it has in KRS 500.080;

(38) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

(39) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;

(40) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, ***physician assistant as authorized under Section 4 of this Act,*** or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for

controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

(41) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;

(42) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(43) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;

(44) "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;

(45) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;

(46) "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and

other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;

(47) "Salvia" means Salvia divinorum or Salvinorin A and includes all parts of the plant presently classified botanically as Salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus salvia;

(48) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;

(49) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;

(50) "Serious physical injury" has the same meaning it has in KRS 500.080;

(51) "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-

naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:

(a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;

(b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;

(c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;

(d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,

cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);

(e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;

(f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;

(g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;

(h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropoyl)indole structure with substitution at the nitrogen

atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;

(i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or

(j) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;

(52) "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:

(a) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-

Methylenedioxycathinone (bk-MDA);

(b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);

(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and α-Pyrrolidinopropiophenone (α-PPP); or

(d) Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;

(53) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;

(54) "Telehealth" has the same meaning it has in KRS 311.550;

(55) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;

(b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and

(c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

(56) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;

(57) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and

(58) "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.