

1 AN ACT relating to access to the records and meetings of public agencies.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 61.870 TO 61.884 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Agency-designated email account" means an email account hosted by a*
7 *third-party provider that has been created in accordance with subsection (4)*
8 *of this section; and*

9 *(b) "Agency-furnished email account" means an email account that is created,*
10 *established, furnished, maintained, or supported by the Commonwealth*
11 *Office of Technology or another department, office, agency, or vendor that*
12 *is accountable to a public agency or the appointing authority of a public*
13 *agency.*

14 *(2) Except as provided in subsection (3) or (4) of this section, a public agency shall*
15 *cause to be furnished to each of its officers, employees, board members, and*
16 *commission members an agency-furnished email account for the purpose of*
17 *conducting the business of the public agency.*

18 *(3) The governing body of a public agency or its appointing authority shall have the*
19 *authority to identify, in writing, the names of specific personnel whose job*
20 *functions and responsibilities are not compatible with, or do not require, the use*
21 *of an agency-furnished email account. Nothing in this section shall require a*
22 *public agency to furnish an email account to those personnel who are identified*
23 *under this subsection.*

24 *(4) In the event that a public agency does not have a department, agency, office, or*
25 *vendor accountable to it that is capable of, or its appointing authority is incapable*
26 *of, providing agency-furnished email accounts, the public agency may approve*
27 *the use of a third-party provider for the purpose of creating an agency-designated*

1 email account for the member or employee to conduct public business, as follows:

2 (a) A public agency acting pursuant to this subsection shall:

3 1. Cause the creation of the agency-designated email account with the
4 third-party provider and assign and provide access to it to the member
5 or employee; or

6 2. Require the member or employee to create the agency-designated
7 email account with the third-party provider and to register the account
8 address with the official records custodian of the public agency; and

9 (b) The public agency shall maintain a log containing the addresses of any
10 agency-designated email accounts assigned or registered pursuant to this
11 subsection. The log of agency-designated email account addresses shall be
12 subject to disclosure pursuant to KRS 61.870 to 61.884. Emails and other
13 documents contained within an agency-designated email account shall be
14 deemed to be in the possession of the public agency for the purposes of KRS
15 61.870 to 61.884.

16 (5) An employee of a public agency shall not use an email account other than an
17 agency-furnished email account or agency-designated email account to conduct
18 the business of the public agency.

19 (6) An employee who violates subsection (5) of this section shall be subject to
20 appropriate discipline by his or her agency's appointing authority or governing
21 body, in addition to other remedies prescribed by law.

22 (7) A member of a board, commission, or public agency shall not use an email
23 account other than an agency-furnished email account or agency-designated
24 email account to conduct the business of the board, commission, or public
25 agency.

26 (8) In addition to other remedies provided by law, a member of a board, commission,
27 or other public agency who violates subsection (7) of this section shall be subject

1 *to removal by the officer or the governing authority who appointed that member*
2 *or otherwise has the authority to remove the member.*

3 ➔Section 2. KRS 61.870 is amended to read as follows:

4 As used in KRS 61.870 to 61.884, unless the context requires otherwise:

- 5 (1) "Public agency" means:
- 6 (a) Every state or local government officer;
- 7 (b) Every state or local government department, division, bureau, board,
8 commission, and authority;
- 9 (c) Every state or local legislative board, commission, committee, and officer;
- 10 (d) Every county and city governing body, council, school district board, special
11 district board, and municipal corporation;
- 12 (e) Every state or local court or judicial agency;
- 13 (f) Every state or local government agency, including the policy-making board of
14 an institution of education, created by or pursuant to state or local statute,
15 executive order, ordinance, resolution, or other legislative act;
- 16 (g) Any body created by state or local authority in any branch of government;
- 17 (h) Any body which, within any fiscal year, derives at least twenty-five percent
18 (25%) of its funds expended by it in the Commonwealth of Kentucky from
19 state or local authority funds. However, any funds derived from a state or
20 local authority in compensation for goods or services that are provided by a
21 contract obtained through a public competitive procurement process shall not
22 be included in the determination of whether a body is a public agency under
23 this subsection;
- 24 (i) Any entity where the majority of its governing body is appointed by a public
25 agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j), or (k) of
26 this subsection; by a member or employee of such a public agency; or by any
27 combination thereof;

1 (j) Any board, commission, committee, subcommittee, ad hoc committee,
 2 advisory committee, council, or agency, except for a committee of a hospital
 3 medical staff, established, created, and controlled by a public agency as
 4 defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (k) of this
 5 subsection; and

6 (k) Any interagency body of two (2) or more public agencies where each public
 7 agency is defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (j) of
 8 this subsection;

9 (2) (a) "Public record" means a book, paper, map, photograph, card, tape, disk,
 10 recording, electronic datafile~~[all books, papers, maps, photographs, cards,~~
 11 ~~tapes, discs, diskettes, recordings, software]~~, or other documentation
 12 regardless of physical form or characteristics, which ~~is~~^{are} prepared, owned,
 13 used, in the possession of, or retained by a public agency and which
 14 documents, records, memorializes, or gives notice to a person outside the
 15 public agency of a transaction or final action, such as:

16 1. Awarding, issuing, or amending a contract;
 17 2. Spending agency funds;
 18 3. Issuing a fine or penalty; or
 19 4. Issuing a public declaration or announcement of an event,
 20 occurrence, determination, or decision of the public agency.

21 (b) "Public record" does not include:

22 1. Preliminary drafts;
 23 2. Notes;
 24 3. Correspondence with private individuals, other than correspondence
 25 which is intended to give notice of a transaction or a final action;
 26 4. Preliminary recommendations or discussions;
 27 5. Scheduling matters;

1 6. Communications of a purely personal nature unrelated to any
 2 governmental function;

3 7. Memoranda, emails, or text messages in which opinions are expressed
 4 or policies formulated or recommended;

5 8. Information or documents stored or retained on a device or email
 6 account that is the personal property of a current or former employee,
 7 officer, board member, or commission member; or

8 9. ~~["Public record" shall not include]~~Any records owned or maintained
 9 by or for a body referred to in subsection (1)(h) of this section that are
 10 not related to functions, activities, programs, or operations funded by
 11 state or local authority;

12 (3) ~~{(a) "Software" means the program code which makes a computer system~~
 13 ~~function, but does not include that portion of the program code which contains~~
 14 ~~public records exempted from inspection as provided by KRS 61.878 or~~
 15 ~~specific addresses of files, passwords, access codes, user identifications, or~~
 16 ~~any other mechanism for controlling the security or restricting access to~~
 17 ~~public records in the public agency's computer system.~~

18 ~~(b) "Software" consists of the operating system, application programs,~~
 19 ~~procedures, routines, and subroutines such as translators and utility programs,~~
 20 ~~but does not include that material which is prohibited from disclosure or~~
 21 ~~copying by a license agreement between a public agency and an outside entity~~
 22 ~~which supplied the material to the agency;~~

23 ~~(4)~~ ~~{(a)~~ "Commercial purpose" means the direct or indirect use of any part of a public
 24 record or records, in any form, for sale, resale, solicitation, rent, or lease of a
 25 service, or any use by which the user expects a profit either through
 26 commission, salary, or fee.

27 (b) "Commercial purpose" does~~shall~~ not include:

- 1 1. Publication or related use of a public record by a newspaper or
- 2 periodical;
- 3 2. Use of a public record by a radio or television station in its news or
- 4 other informational programs; or
- 5 3. Use of a public record in the preparation for prosecution or defense of
- 6 litigation, or claims settlement by the parties to such action, or the
- 7 attorneys representing the parties;

8 ~~(4)~~~~(5)~~ "Official custodian" means the chief administrative officer or any other officer
9 or employee of a public agency who is responsible for the maintenance, care and
10 keeping of public records, regardless of whether ~~the~~~~[such]~~ records are in his or her
11 actual personal custody and control;

12 ~~(5)~~~~(6)~~ "Custodian" means the official custodian or any authorized person having
13 personal custody and control of public records;

14 ~~(6)~~~~(7)~~ "Media" means the physical material in or on which records may be stored or
15 represented, and which may include, but is not limited to paper, microform, disks,
16 diskettes, optical disks, magnetic tapes, and cards;

17 ~~(7)~~~~(8)~~ "Mechanical processing" means any operation or other procedure which is
18 transacted on a machine, and which may include, but is not limited to a copier,
19 computer, recorder or tape processor, or other automated device;

20 ~~(8)~~~~(9)~~ "Booking photograph and photographic record of inmate" means a
21 photograph or image of an individual generated by law enforcement for
22 identification purposes when the individual is booked into a detention facility as
23 defined in KRS 520.010 or photograph and image of an inmate taken pursuant to
24 KRS 196.099; and

25 ~~(9)~~~~(10)~~ "Resident of the Commonwealth" means:

- 26 (a) An individual residing in the Commonwealth;
- 27 (b) A domestic business entity with a location in the Commonwealth;

- 1 (c) A foreign business entity registered with the Secretary of State;
- 2 (d) An individual that is employed and works at a location or locations within the
3 Commonwealth;
- 4 (e) An individual or business entity that owns real property within the
5 Commonwealth;
- 6 (f) Any individual or business entity that has been authorized to act on behalf of
7 an individual or business entity defined in paragraphs (a) to (e) of this
8 subsection; or
- 9 (g) A news-gathering organization as defined in KRS 189.635(8)(b)1.a. to e..

10 ➔Section 3. KRS 61.878 is amended to read as follows:

11 (1) The following ~~public~~ records are excluded from the application of KRS 61.870 to
12 61.884 and shall be subject to inspection only upon order of a court of competent
13 jurisdiction, except that no court shall authorize the inspection by any party of any
14 materials pertaining to civil litigation beyond that which is provided by the Rules of
15 Civil Procedure governing pretrial discovery:

- 16 (a) ~~Public~~ Records containing information of a personal nature where the public
17 disclosure thereof would constitute a clearly unwarranted invasion of personal
18 privacy;
- 19 (b) Records confidentially disclosed to an agency and compiled and maintained
20 for scientific research. This exemption shall not, however, apply to records the
21 disclosure or publication of which is directed by another statute;
- 22 (c) 1. Records confidentially disclosed to an agency or required by an agency
23 to be disclosed to it, generally recognized as confidential or proprietary,
24 which if openly disclosed would permit an unfair commercial advantage
25 to competitors of the entity that disclosed the records;
- 26 2. Records confidentially disclosed to an agency or required by an agency
27 to be disclosed to it, generally recognized as confidential or proprietary,

- 1 which are compiled and maintained:
- 2 a. In conjunction with an application for or the administration of a
- 3 loan or grant;
- 4 b. In conjunction with an application for or the administration of
- 5 assessments, incentives, inducements, and tax credits as described
- 6 in KRS Chapter 154;
- 7 c. In conjunction with the regulation of commercial enterprise,
- 8 including mineral exploration records, unpatented, secret
- 9 commercially valuable plans, appliances, formulae, or processes,
- 10 which are used for the making, preparing, compounding, treating,
- 11 or processing of articles or materials which are trade commodities
- 12 obtained from a person; or
- 13 d. For the grant or review of a license to do business.
- 14 3. The exemptions provided for in subparagraphs 1. and 2. of this
- 15 paragraph shall not apply to records the disclosure or publication of
- 16 which is directed by another statute;
- 17 (d) ~~Public~~ Records pertaining to a prospective location of a business or industry
- 18 where no previous public disclosure has been made of the business' or
- 19 industry's interest in locating in, relocating within or expanding within the
- 20 Commonwealth. This exemption shall not include those records pertaining to
- 21 application to agencies for permits or licenses necessary to do business or to
- 22 expand business operations within the state, except as provided in paragraph
- 23 (c) of this subsection;
- 24 (e) ~~Public~~ Records which are developed by an agency in conjunction with the
- 25 regulation or supervision of financial institutions, including but not limited to
- 26 banks, savings and loan associations, and credit unions, which disclose the
- 27 agency's internal examining or audit criteria and related analytical methods;

- 1 (f) The contents of real estate appraisals, engineering or feasibility estimates and
2 evaluations made by or for a public agency relative to acquisition of property,
3 until such time as all of the property has been acquired. The law of eminent
4 domain shall not be affected by this provision;
- 5 (g) Test questions, scoring keys, and other examination data used to administer a
6 licensing examination, examination for employment, or academic
7 examination before the exam is given or if it is to be given again;
- 8 (h) Records of law enforcement agencies or agencies involved in administrative
9 adjudication that were compiled in the process of detecting and investigating
10 statutory or regulatory violations if the disclosure of the information would
11 harm the agency by revealing the identity of informants not otherwise known
12 or by premature release of information to be used in a prospective law
13 enforcement action or administrative adjudication. Unless exempted by other
14 provisions of KRS 61.870 to 61.884, ~~public~~ records exempted under this
15 provision shall be open after enforcement action is completed or a decision is
16 made to take no action; however, records or information compiled and
17 maintained by county attorneys or Commonwealth's attorneys pertaining to
18 criminal investigations or criminal litigation shall be exempted from the
19 provisions of KRS 61.870 to 61.884 and shall remain exempted after
20 enforcement action, including litigation, is completed or a decision is made to
21 take no action. The exemptions provided by this subsection shall not be used
22 by the custodian of the records to delay or impede the exercise of rights
23 granted by KRS 61.870 to 61.884;
- 24 (i) ~~[Preliminary drafts, notes, correspondence with private individuals, other than~~
25 ~~correspondence which is intended to give notice of final action of a public~~
26 ~~agency;~~
- 27 (j) ~~Preliminary recommendations, and preliminary memoranda in which opinions~~

1 are expressed or policies formulated or recommended;

2 ~~(k)~~ ~~—~~ All ~~public~~ records or information the disclosure of which is prohibited by
3 federal law or regulation or state law;

4 ~~(j)~~ ~~(1)~~ ~~Public~~ Records or information the disclosure of which is prohibited or
5 restricted or otherwise made confidential by enactment of the General
6 Assembly, including any information acquired by the Department of Revenue
7 in tax administration that is prohibited from divulgence or disclosure under
8 KRS 131.190;

9 ~~(k)~~ ~~(m)~~ 1. ~~Public~~ Records the disclosure of which would have a reasonable
10 likelihood of threatening the public safety by exposing a vulnerability in
11 preventing, protecting against, mitigating, or responding to a terrorist act
12 and limited to:

- 13 a. Criticality lists resulting from consequence assessments;
- 14 b. Vulnerability assessments;
- 15 c. Antiterrorism protective measures and plans;
- 16 d. Counterterrorism measures and plans;
- 17 e. Security and response needs assessments;
- 18 f. Infrastructure records that expose a vulnerability referred to in this
19 subparagraph through the disclosure of the location, configuration,
20 or security of critical systems, including public utility critical
21 systems. These critical systems shall include but not be limited to
22 information technology, communication, electrical, fire
23 suppression, ventilation, water, wastewater, sewage, and gas
24 systems;

25 g. The following records when their disclosure will expose a
26 vulnerability referred to in this subparagraph: detailed drawings,
27 schematics, maps, or specifications of structural elements, floor

1 plans, and operating, utility, or security systems of any building or
2 facility owned, occupied, leased, or maintained by a public
3 agency; and

4 h. Records when their disclosure will expose a vulnerability referred
5 to in this subparagraph and that describe the exact physical
6 location of hazardous chemical, radiological, or biological
7 materials.

8 2. As used in this paragraph, "terrorist act" means a criminal act intended
9 to:

10 a. Intimidate or coerce a public agency or all or part of the civilian
11 population;

12 b. Disrupt a system identified in subparagraph 1.f. of this paragraph;
13 or

14 c. Cause massive destruction to a building or facility owned,
15 occupied, leased, or maintained by a public agency.

16 3. On the same day that a public agency denies a request to inspect a ~~public~~
17 ~~public~~ record for a reason identified in this paragraph, that public
18 agency shall forward a copy of the written denial of the request, referred
19 to in KRS 61.880(1), to the executive director of the Kentucky Office of
20 Homeland Security and the Attorney General.

21 4. Nothing in this paragraph shall affect the obligations of a public agency
22 with respect to disclosure and availability of ~~public~~ records under state
23 environmental, health, and safety programs.

24 5. The exemption established in this paragraph shall not apply when a
25 member of the Kentucky General Assembly seeks to inspect a ~~public~~
26 record identified in this paragraph under the Open Records Law;

27 ~~(U)~~ ~~(n)~~ ~~Public or private~~ Records, including books, papers, maps,

1 photographs, cards, tapes, disks~~[dises, diskettes]~~, recordings, electronic
2 datafiles~~[software]~~, or other documentation regardless of physical form or
3 characteristics, having historic, literary, artistic, or commemorative value
4 accepted by the archivist of a public university, museum, or government
5 depository from a donor or depositor other than a public agency. This
6 exemption shall apply to the extent that nondisclosure is requested in writing
7 by the donor or depositor of such records, but shall not apply to records the
8 disclosure or publication of which is mandated by another statute or by federal
9 law;

10 ~~(m)~~~~(e)~~ Records of a procurement process under KRS Chapter 45A or 56. This
11 exemption shall not apply after:

- 12 1. A contract is awarded; or
- 13 2. The procurement process is canceled without award of a contract and
14 there is a determination that the contract will not be resolicited;

15 ~~(n)~~~~(p)~~ Client and case files maintained by the Department of Public Advocacy
16 or any person or entity contracting with the Department of Public Advocacy
17 for the provision of legal representation under KRS Chapter 31;

18 ~~(o)~~~~(q)~~ Except as provided in KRS 61.168, photographs or videos that depict
19 the death, killing, rape, or sexual assault of a person. However, such
20 photographs or videos shall be made available by the public agency to the
21 requesting party for viewing on the premises of the public agency, or a
22 mutually agreed upon location, at the request of;

- 23 1. a. Any victim depicted in the photographs or videos, his or her
24 immediate family, or legal representative;
- 25 b. Any involved insurance company or its representative; or
- 26 c. The legal representative of any involved party;
- 27 2. Any state agency or political subdivision investigating official

1 misconduct; or

2 3. A legal representative for a person under investigation for, charged with,
3 pled guilty to, or found guilty of a crime related to the underlying
4 incident. The person under investigation for, charged with, pled guilty
5 to, or found guilty of a crime related to the underlying incident or their
6 immediate family shall not be permitted to have access to the
7 photographs or videos; ***and***

8 ~~(p)~~~~(r)~~ Records confidentially maintained by a law enforcement agency in
9 accordance with a wellness program, including an early intervention system,
10 as described in KRS 15.409~~;~~ ~~and~~

11 ~~(s) Communications of a purely personal nature unrelated to any governmental~~
12 ~~function].~~

13 (2) No exemption in this section shall be construed to prohibit disclosure of statistical
14 information not descriptive of any readily identifiable person.

15 (3) No exemption in this section shall be construed to deny, abridge, or impede the
16 right of a public agency employee, including university employees, an applicant for
17 employment, or an eligible on a register to inspect and to copy any record including
18 preliminary and other supporting documentation that relates to him or her. The
19 records shall include but not be limited to work plans, job performance, demotions,
20 evaluations, promotions, compensation, classification, reallocation, transfers, lay-
21 offs, disciplinary actions, examination scores, and preliminary and other supporting
22 documentation. A public agency employee, including university employees,
23 applicant, or eligible shall not have the right to inspect or to copy any examination
24 or any documents relating to ongoing criminal or administrative investigations by
25 an agency.

26 (4) If any ~~public~~ record contains material which is not excepted under this section, the
27 public agency shall separate the excepted and make the nonexcepted material

1 available for examination.

2 (5) The provisions of this section shall in no way prohibit or limit the exchange of
3 ~~public~~ records or the sharing of information between public agencies when the
4 exchange is serving a legitimate governmental need or is necessary in the
5 performance of a legitimate government function.

6 (6) When material is made available pursuant to a request under subsection (1)(~~o~~)(~~q~~)
7 of this section, the public agency shall not be required to make a copy of the
8 recording except as provided in KRS 61.169, and the requesting parties shall not be
9 limited in the number of times they may view the material.

10 ➔Section 4. KRS 61.848 is amended to read as follows:

11 (1) The Circuit Court of the county where the public agency has its principal place of
12 business or where the alleged violation occurred shall have jurisdiction to enforce
13 the provisions of KRS 61.805 to 61.850, as they pertain to that public agency, by
14 injunction or other appropriate order on application of any person.

15 (2) A person alleging a violation of the provisions of KRS 61.805 to 61.850 shall not
16 have to exhaust his ***or her*** remedies under KRS 61.846 before filing suit in a Circuit
17 Court. However, he ***or she*** shall file suit within sixty (60) days from his ***or her***
18 receipt of the written denial referred to in subsections (1) and (2) of KRS 61.846 or,
19 if the public agency refuses to provide a written denial, within sixty (60) days from
20 the date the written complaint was submitted to the presiding officer of the public
21 agency.

22 (3) In an appeal of an Attorney General's decision, where the appeal is properly filed
23 pursuant to subsection (4)(a) of KRS 61.846, the court shall determine the matter de
24 novo.

25 (4) Except as otherwise provided by law or rule of court, proceedings arising under this
26 section take precedence on the docket over all other causes and shall be assigned for
27 hearing and trial at the earliest practicable date.

1 (5) Any rule, resolution, regulation, ordinance, or other formal action of a public
2 agency without substantial compliance with the requirements of KRS 61.810,
3 61.815, 61.820,~~and KRS~~ 61.823, and 61.840 shall be voidable by a court of
4 competent jurisdiction.

5 (6) Any person who prevails against any agency in any action in the courts regarding a
6 violation of KRS 61.805 to 61.850, where the violation is found to be willful, may
7 be awarded costs, including reasonable attorneys' fees, incurred in connection with
8 the legal action. In addition, it shall be within the discretion of the court to award
9 the person an amount not to exceed one hundred dollars (\$100) for each instance in
10 which the court finds a violation. Attorneys' fees, costs, and awards under this
11 subsection shall be paid by the agency responsible for the violation.

12 ➔Section 5. KRS 61.810 is amended to read as follows:

13 (1) All meetings of a quorum of the members of any public agency at which any public
14 business is discussed or at which any action is taken by the agency, shall be public
15 meetings, open to the public at all times, except for the following:

16 (a) Deliberations for decisions of the Kentucky Parole Board;

17 (b) Deliberations on the future acquisition or sale of real property by a public
18 agency, but only when publicity would be likely to affect the value of a
19 specific piece of property to be acquired for public use or sold by a public
20 agency;

21 (c) Discussions of proposed or pending litigation against or on behalf of the
22 public agency;

23 (d) Grand and petit jury sessions;

24 (e) Collective bargaining negotiations between public employers and their
25 employees or their representatives;

26 (f) Discussions or hearings which might lead to the appointment, discipline, or
27 dismissal of an individual employee, member, or student without restricting

- 1 that employee's, member's, or student's right to a public hearing if requested.
- 2 This exception shall not be interpreted to permit discussion of general
- 3 personnel matters in secret;
- 4 (g) Discussions between a public agency and a representative of a business entity
- 5 and discussions concerning a specific proposal, if open discussions would
- 6 jeopardize the siting, retention, expansion, or upgrading of the business;
- 7 (h) State and local cabinet meetings and executive cabinet meetings;
- 8 (i) Committees of the General Assembly other than standing committees;
- 9 (j) Deliberations of judicial or quasi-judicial bodies regarding individual
- 10 adjudications or appointments, at which neither the person involved, his or
- 11 her representatives, nor any other individual not a member of the agency's
- 12 governing body or staff is present, but not including any meetings of planning
- 13 commissions, zoning commissions, or boards of adjustment;
- 14 (k) Meetings which federal or state law specifically require to be conducted in
- 15 privacy;
- 16 (l) Meetings which the Constitution provides shall be held in secret;
- 17 (m) That portion of a meeting devoted to a discussion of a specific public record
- 18 exempted from disclosure under KRS 61.878(1)(~~k~~)(~~m~~). However, that
- 19 portion of any public agency meeting shall not be closed to a member of the
- 20 Kentucky General Assembly; and
- 21 (n) Meetings of any selection committee, evaluation committee, or other similar
- 22 group established under KRS Chapter 45A or 56 or other state or local law, to
- 23 select a successful bidder for award of a state or local contract.
- 24 (2) Any series of less than quorum meetings, where the members attending one (1) or
- 25 more of the meetings collectively constitute at least a quorum of the members of the
- 26 public agency and where the meetings are held for the purpose of avoiding the
- 27 requirements of subsection (1) of this section, shall be subject to the requirements

1 of subsection (1) of this section. Nothing in this subsection shall be construed to
2 prohibit discussions between individual members where the purpose of the
3 discussions is to educate the members on specific issues.

4 ➔Section 6. KRS 61.872 is amended to read as follows:

5 (1) All public records shall be open for inspection by any resident of the
6 Commonwealth, except as otherwise provided by KRS 61.870 to 61.884, and
7 suitable facilities shall be made available by each public agency for the exercise of
8 this right. No resident of the Commonwealth shall remove original copies of public
9 records from the offices of any public agency without the written permission of the
10 official custodian of the record.

11 (2) (a) Any resident of the Commonwealth shall have the right to inspect public
12 records. The official custodian may require a written application, signed by
13 the applicant and with his or her name printed legibly on the application,
14 describing the records to be inspected. The official custodian may require the
15 applicant to provide a statement in the written application of the manner in
16 which the applicant is a resident of the Commonwealth under KRS
17 61.870~~(9)~~~~(10)~~(a) to (f).

18 (b) The written application shall be:

- 19 1. Hand delivered;
- 20 2. Mailed;
- 21 3. Sent via facsimile; or
- 22 4. Sent via email~~[e-mail]~~ to the public agency's official custodian of public
23 records or his or her designee at the email~~[e-mail]~~ address designated in
24 the public agency's rules and regulations adopted pursuant to KRS
25 61.876.

26 (c) A public agency shall not require the use of any particular form for the
27 submission of an open records request, but shall accept for any request the

1 standardized form developed under KRS 61.876(4).

- 2 (3) A resident of the Commonwealth may inspect the public records:
- 3 (a) During the regular office hours of the public agency; or
- 4 (b) By receiving copies of the public records from the public agency through the
- 5 mail. The public agency shall mail copies of the public records to a person
- 6 whose residence or principal place of business is outside the county in which
- 7 the public records are located after he or she precisely describes the public
- 8 records which are readily available within the public agency. If the resident of
- 9 the Commonwealth requesting the public records requests that copies of the
- 10 records be mailed, the official custodian shall mail the copies upon receipt of
- 11 all fees and the cost of mailing.
- 12 (4) If the person to whom the application is directed does not have custody or control
- 13 of the public record requested, that person shall notify the applicant and shall
- 14 furnish the name and location of the official custodian of the agency's public
- 15 records.
- 16 (5) If the public record is in active use, in storage or not otherwise available, the
- 17 official custodian shall immediately notify the applicant and shall designate a place,
- 18 time, and date for inspection of the public records, not to exceed five (5) days from
- 19 receipt of the application, unless a detailed explanation of the cause is given for
- 20 further delay and the place, time, and earliest date on which the public record will
- 21 be available for inspection.
- 22 (6) If the application places an unreasonable burden in producing public records or if
- 23 the custodian has reason to believe that repeated requests are intended to disrupt
- 24 other essential functions of the public agency, the official custodian may refuse to
- 25 permit inspection of the public records or mail copies thereof. However, refusal
- 26 under this section shall be sustained by clear and convincing evidence.
- 27 ➔Section 7. KRS 61.876 is amended to read as follows:

- 1 (1) Each public agency shall adopt rules and regulations in conformity with the
2 provisions of KRS 61.870 to 61.884 to provide full access to public records, to
3 protect public records from damage and disorganization, to prevent excessive
4 disruption of its essential functions, to provide assistance and information upon
5 request and to ensure efficient and timely action in response to application for
6 inspection, and such rules and regulations shall include but shall not be limited to:
- 7 (a) The principal office of the public agency and its regular office hours;
 - 8 (b) The title, mailing address, and ~~email~~~~e-mail~~ address of the official custodian
9 of the public agency's records;
 - 10 (c) The fees, to the extent authorized by KRS 61.874 or other statute, charged for
11 copies;
 - 12 (d) The procedures to be followed in requesting public records.
- 13 (2) Each public agency shall display in a prominent location accessible to the public,
14 including on its ~~website~~~~Web site~~:
- 15 (a) A copy of its rules and regulations pertaining to public records;
 - 16 (b) The mailing address, ~~email~~~~e-mail~~ address, and phone number of the official
17 custodian of the records or his or her designee to which all requests for public
18 records shall be made; and
 - 19 (c) The form developed by the Attorney General under subsection (4) of this
20 section that may be used to request public records.
- 21 (3) The Finance and Administration Cabinet may promulgate administrative
22 regulations pursuant to KRS Chapter 13A, pertaining to public records, for all state
23 administrative agencies, except for the Legislative Research Commission and the
24 Administrative Office of the Courts, each of which may promulgate administrative
25 regulations for their respective agencies, pertaining to public records.
- 26 (4) The Attorney General shall promulgate by administrative regulation under KRS
27 Chapter 13A a standardized form that may be used to request public records from a

1 public agency. The form shall not allow any request for information other than the
2 following:

- 3 (a) The name of the requesting party;
- 4 (b) The mailing or email~~[e-mail]~~ address of the requesting party, if copies of
5 records are requested;
- 6 (c) Whether the request is for a commercial purpose;
- 7 (d) A description of the documents requested;
- 8 (e) A statement that the person making the request:
 - 9 1. Is a resident of the Commonwealth under KRS 61.870~~(9)~~~~[(10)]~~; and
 - 10 2. The statement includes the manner in which the requester is a resident of
11 the Commonwealth under KRS 61.870~~(9)~~~~[(10)]~~(a) to (f); and
- 12 (f) The signature of the requesting party.

13 (5) The Attorney General shall make the form readily available to the public, including
14 on the Attorney General's website~~[Web site]~~. The form shall be accepted by every
15 public agency for any request for public records made on or after June 29, 2021.

16 ➔Section 8. KRS 158.4410 is amended to read as follows:

- 17 (1) There is established within the Department of Criminal Justice Training the office
18 of the state school security marshal. The state school security marshal shall enhance
19 school safety by monitoring school safety and security initiatives, developing
20 reasonable training and other guidelines, developing a school security risk
21 assessment tool pursuant to subsection (5) of this section, and ensuring compliance
22 with the provisions of subsection (7) of this section and KRS 158.162(3).
- 23 (2) The office of the state school security marshal shall conduct on-site reviews to
24 ensure compliance with subsection (7) of this section and KRS 158.162(3) as
25 deemed necessary by the state school security marshal.
- 26 (3) The state school security marshal shall be appointed by and report to the
27 commissioner of the Department of Criminal Justice Training.

- 1 (4) By September 1 of each year the state school security marshal shall present an
2 annual report to the board of the Center for School Safety which shall consist of a
3 summary of the findings and recommendations made regarding the school safety
4 and security activity of the previous school year and other items of significance as
5 determined by the Center for School Safety or the Department of Criminal Justice
6 Training. Once presented, the annual report information shall also be submitted to
7 the Legislative Research Commission and the Kentucky Board of Education.
- 8 (5) By July 1, 2020, the state school security marshal shall develop and update as
9 necessary a school security risk assessment tool in collaboration with the Center for
10 School Safety and the Kentucky Department of Education to be used by local
11 school districts to identify threats, vulnerabilities, and appropriate safety controls
12 for each school within the district. The tool shall be approved by the board of
13 directors of the Center for School Safety pursuant to KRS 158.443(9)(b) and used
14 by local school administrators when completing a school security risk assessment in
15 accordance with this section.
- 16 (6) The assessment tool shall enable administrators to evaluate school security
17 compared to best practices and standards in a minimum of the following areas:
- 18 (a) School emergency and crisis preparedness planning;
 - 19 (b) Security, crime, and violence prevention policies and procedures;
 - 20 (c) Physical security measures;
 - 21 (d) Professional development training needs;
 - 22 (e) Support service roles in school safety, security, and emergency and crisis
23 preparedness planning;
 - 24 (f) School resource officer staffing, operational practices, and related services;
 - 25 (g) School and community collaboration on school security; and
 - 26 (h) An analysis of the cost effectiveness of recommended physical security
27 controls.

1 (7) No later than July 15, 2021, and each subsequent year, the local district
2 superintendent shall send verification to the state school security marshal and the
3 Kentucky Department of Education that all schools within the district have
4 completed the school security risk assessment for the previous year. School security
5 risk assessments shall be excluded from the application of KRS 61.870 to 61.884
6 pursuant to KRS 61.878(1)(~~k~~)(~~m~~).

7 (8) Beginning with the 2021-2022 school year and each subsequent year, any school
8 that has not completed a school security risk assessment in the previous year shall
9 be required to provide additional mandatory training as established by the
10 Department of Criminal Justice Training for all staff employed at the school.

11 ➔Section 9. KRS 313.100 is amended to read as follows:

12 (1) If it is determined that an entity regulated by the board, a dentist, dental hygienist,
13 dental specialist, or dental assistant has violated a statute, administrative regulation,
14 or practice standard relating to serving as an entity regulated by the board, a dentist,
15 dental hygienist, dental specialist, or dental assistant, the Office of the Board may
16 impose any of the sanctions provided in subsection (2) of this section. Any party to
17 the complaint shall have the right to propose findings of fact and conclusions of
18 law, and to recommend sanctions.

19 (2) The Office of the Board shall require an acceptable plan of correction and may use
20 any one (1) or more of the following sanctions when disciplining a dentist, dental
21 hygienist, dental specialist, or dental assistant or any entity regulated by the board:

- 22 (a) Private admonishment;
- 23 (b) Public reprimand;
- 24 (c) Fines;
- 25 (d) Revocation of licensure or registration;
- 26 (e) Suspension of licensure or registration until a time certain;
- 27 (f) Suspension until a certain act or acts are performed;

- 1 (g) Limitation of practice permanently;
- 2 (h) Limitation of practice until a time certain;
- 3 (i) Limitation of practice until a certain act or acts are performed;
- 4 (j) Repassing a portion of the clinical examination;
- 5 (k) Probation for a specified time and conditions of probation; or
- 6 (l) Costs of the disciplinary action as defined by administrative regulation.
- 7 (3) A private admonishment shall not be subject to disclosure to the public under KRS
8 61.878(1)(~~j~~)(~~l~~). A private admonishment shall not constitute disciplinary action
9 but may be used by the board for statistical purposes or in subsequent disciplinary
10 action against the same licensee, certificate holder, or applicant.
- 11 (4) The filing of criminal charges or a criminal conviction for violation of the
12 provisions of this chapter or the administrative regulations promulgated thereunder
13 shall not preclude the Office of the Board from instituting or imposing board
14 disciplinary action authorized by this chapter against any person or organization
15 violating this chapter or the administrative regulations promulgated thereunder.
- 16 (5) The institution or imposition of disciplinary action by the Office of the Board
17 against any person or organization violating the provisions of this chapter or the
18 administrative regulations promulgated thereunder shall not preclude the filing of
19 criminal charges against or a criminal conviction of any person or organization for
20 violation of the provisions of this chapter or the administrative regulations
21 promulgated thereunder.
- 22 (6) The board may maintain an action to enjoin the practice of or the attempt to practice
23 as a dentist, dental hygienist, or dental assistant without a license or registration to
24 do so.
- 25 (7) In case of a violation of any injunction granted under this section, the court may use
26 its inherent powers for adequate relief.
- 27 (8) (a) Any licensee or certificate holder who has received a private admonishment

1 may request in writing for the board to expunge the private admonishment
2 from the licensee or certificate holder's permanent record.

3 (b) The request for expungement may be filed no sooner than three (3) years after
4 the date on which the licensee or certificate holder has completed disciplinary
5 sanctions imposed and if the licensee or certificate holder has not been
6 disciplined for any subsequent violation of the same nature within this period
7 of time.

8 (c) No person may have his ***or her*** record expunged under this chapter more than
9 once.

10 (9) If it is found the person who is licensed or registered by the board has been
11 convicted of, pled guilty to, or entered an Alford plea to a Class A, B, or C felony
12 offense, or has completed a diversion program for a Class A, B, or C felony
13 offense, the license or registration shall be revoked.

14 (10) A licensee subject to any disciplinary proceeding under this chapter shall be
15 afforded an administrative hearing conducted in accordance with KRS Chapter 13B
16 and may appeal any final order of the board to the Franklin Circuit Court.

17 ➔Section 10. KRS 319.082 is amended to read as follows:

18 (1) The board may suspend, revoke, or refuse to issue or renew a license; may accept
19 an assurance of voluntary compliance; restrict, or place a credential holder on
20 probation; or issue an administrative reprimand or private admonishment upon
21 proof that the credential holder has:

22 (a) Committed any act involving moral turpitude, dishonesty, or corruption,
23 relating to the practice of psychology, whether the act constitutes a crime or
24 not, if in accordance with KRS Chapter 335B. If the act constitutes a crime,
25 conviction in a criminal proceeding is not a condition precedent to
26 disciplinary action. Upon conviction of such a crime, the judgment and
27 sentence is presumptive evidence at the ensuing disciplinary hearing of the

- 1 guilt of the licensee or applicant of the crime described in the indictment or
2 information and of the person's violation of the statute on which it is based.
3 For the purpose of this subsection, conviction includes all instances in which a
4 plea of guilty or nolo contendere is the basis for the conviction and all
5 proceedings in which the sentence has been deferred or suspended;
- 6 (b) Misrepresented or concealed a material fact in obtaining a license, or in
7 reinstatement thereof;
- 8 (c) Committed any unfair, false, misleading, or deceptive act or practice;
- 9 (d) Been incompetent or negligent in the practice of psychology;
- 10 (e) Practiced psychology while under the suspension, revocation, or restriction of
11 the individual's license to practice by competent authority in any state, federal,
12 or foreign jurisdiction;
- 13 (f) Violated any state statute or administrative regulation governing the practice
14 of psychology, which shall include violation of KRS 304.39-215 and conduct
15 that is subject to the penalties under KRS 304.99-060(4) or (5);
- 16 (g) Unlawfully failed to cooperate with the board by:
- 17 1. Not furnishing any papers or documents requested by the board;
- 18 2. Not furnishing in writing a complete explanation covering the matter
19 contained in the complaint filed with the board;
- 20 3. Not appearing before the board at the time and place designated; or
- 21 4. Not properly responding to subpoenas issued by the board;
- 22 (h) Failed to comply with an order issued by the board or an assurance of
23 voluntary compliance;
- 24 (i) Aided or abetted an unlicensed person to practice when a license or certificate
25 is required;
- 26 (j) Grossly overcharged for professional services;
- 27 (k) Practiced beyond the scope demonstrated by an appropriate combination of

- 1 knowledge, skill, experience, training, and education;
- 2 (l) Failed to provide adequate supervision for certified psychologists, licensed
3 psychological associates, applicants for licensure, or other staff;
- 4 (m) Been convicted of any misdemeanor or felony relating to the practice of
5 psychology, if in accordance with KRS Chapter 335B. For the purposes of
6 this subsection, conviction includes all instances in which a plea of guilty or
7 nolo contendere is the basis for conviction and all proceedings in which the
8 sentence has been deferred or suspended;
- 9 (n) Physically abused or had sexual contact with a patient, client, student, or
10 supervisee;
- 11 (o) Been convicted of a misdemeanor offense under KRS Chapter 510 involving
12 a client, patient, or student, or a felony offense under KRS Chapter 510,
13 530.064(1)(a), or 531.310, or been found by the board to have had sexual
14 contact as defined in KRS 510.010 with a client, patient, student, or
15 supervisee;
- 16 (p) Improperly divulged confidential information;
- 17 (q) Exercised undue influence in such a manner as to exploit the client, patient,
18 student, or supervisee for financial or other personal advantage to the
19 practitioner or a third party;
- 20 (r) Showed an inability to practice psychology with reasonable skill and safety to
21 patients or clients by reason of illness, misuse of drugs, narcotics, alcohol,
22 chemicals, or any other substance, or as a result of any mental or physical
23 condition; or
- 24 (s) Failed to comply with the requirements of the board for continuing education.
- 25 (2) Private admonishment shall not be subject to disclosure to the public under KRS
26 61.878(1)(~~j~~)(~~l~~) and shall not constitute disciplinary action, but may be used by the
27 board for statistical purposes or in subsequent disciplinary action against the

1 credential holder or applicant.

2 (3) No unlawful act or violation of any provision of this chapter by any credential
3 holder employed or supervised by a licensed psychologist shall be cause for the
4 revocation of the supervisor's license, unless the board finds that the licensed
5 psychologist had knowledge of it.

6 (4) Three (3) years from the date of a revocation, any person whose license has been
7 revoked may petition the board for reinstatement. The board shall investigate his or
8 her petition and may reinstate his or her license upon finding that the former
9 licensee has complied with the provisions of this chapter and administrative
10 regulations promulgated by the board and is again able to engage in the practice of
11 psychology with reasonable skill, competency, and safety to the public.

12 (5) The board may, at its own discretion, reconsider, modify, or reverse its probations,
13 suspensions, revocations, restrictions, or refusals to issue or renew licenses at any
14 time.

15 ➔Section 11. KRS 319C.110 is amended to read as follows:

16 (1) The board, after due notice and an opportunity for an administrative hearing
17 conducted in accordance with KRS Chapter 13B, may take any one (1) or a
18 combination of the following actions against any applied behavior analyst or
19 applied assistant behavior analyst licensee or applicant:

20 (a) Refuse to license or certify any applicant;

21 (b) Refuse to renew the license or certificate of any person;

22 (c) Suspend or revoke or place on probation the license or certificate of any
23 person;

24 (d) Impose restrictions on the scope of practice of any person;

25 (e) Issue an administrative reprimand to any person;

26 (f) Issue a private admonishment to any person; and

27 (g) Impose fines for violations of this chapter, not to exceed two thousand five

1 hundred dollars (\$2,500).

- 2 (2) The following acts by a licensee may be considered cause for disciplinary action:
- 3 (a) Indulgence in excessive use of alcoholic beverages or abusive use of
4 controlled substances that impairs the licensee's ability to practice applied
5 behavior analysis;
- 6 (b) Engaging in, permitting, or attempting to engage in or permit the performance
7 of substandard patient care by himself or herself or by persons working under
8 his or her supervision due to a deliberate or negligent act or failure to act,
9 regardless of whether actual injury to the patient is established;
- 10 (c) Having engaged in or attempted to engage in a course of lewd or immoral
11 conduct with any person while that person is a patient or client of the behavior
12 analyst or assistant behavior analyst;
- 13 (d) Having sexual contact, as defined by KRS 510.010(7), without the consent of
14 both parties, with an employee or coworker of the licensee;
- 15 (e) Sexually harassing an employee or coworker of the licensee;
- 16 (f) Conviction of a felony or misdemeanor in the courts of this state or any other
17 state, territory, or country which affects his or her ability to continue to
18 practice competently and safely on the public. "Conviction," as used in this
19 paragraph, shall include a finding or verdict of guilt, an admission of guilt, or
20 a plea of nolo contendere;
- 21 (g) Obtaining or attempting to obtain a license by fraud or material
22 misrepresentation or making any other false statement to the board;
- 23 (h) Engaging in fraud or material deception in the delivery of professional
24 services, including reimbursement, or in advertising services in a false or
25 misleading manner;
- 26 (i) Evidence of gross negligence or gross incompetence in his or her practice of
27 behavior analysis;

- 1 (j) Documentation of being declared mentally disabled by a court of competent
2 jurisdiction and not thereafter having had his or her rights restored;
- 3 (k) Failing or refusing to obey any lawful order or administrative regulation of the
4 board;
- 5 (l) Promoting for personal gain an unnecessary device, treatment, procedure, or
6 service, or directing or requiring a patient to purchase a device, treatment,
7 procedure, or service from a facility or business in which he or she has a
8 financial interest; and
- 9 (m) Being impaired by reason of a mental, physical, or other condition that
10 impedes his or her ability to practice competently.

11 (3) A private admonishment shall not be subject to disclosure to the public under KRS
12 61.878(1)(~~j~~)(~~l~~). A private admonishment shall not constitute disciplinary action
13 but may be used by the board for statistical purposes or in subsequent disciplinary
14 action against the same licensee or applicant.

15 ➔Section 12. KRS 325.340 is amended to read as follows:

16 (1) After notice and hearing as provided in KRS Chapter 13B, the board may revoke,
17 suspend, impose a fine not to exceed one thousand dollars (\$1,000) for each
18 violation of a provision of this chapter or administrative regulations promulgated by
19 the board under this chapter, refuse to issue or renew any license, censure, place on
20 probation, or issue a private reprimand to any person or firm, all with or without
21 terms, for any one (1) or any combination of the following causes:

- 22 (a) Fraud or deceit in obtaining a license issued under this chapter;
- 23 (b) Dishonesty, fraud, or negligence while performing any regulated activity,
24 including fiscal dishonesty or an intentional breach of fiduciary responsibility
25 of any kind, and also including but not limited to the following:
- 26 1. Knowing preparation, publication, or dissemination of false, fraudulent,
27 or materially misleading financial statements, reports, or information;

- 1 and
- 2 2. Embezzlement, theft, misappropriation of funds or property, or
- 3 obtaining money, property, or other valuable consideration by fraudulent
- 4 means or false pretenses;
- 5 (c) Violation of any of the provisions of this chapter or administrative regulations
- 6 promulgated by the board under this chapter or violation of any order of the
- 7 board;
- 8 (d) Violation of a rule of professional conduct promulgated by the board;
- 9 (e) Conviction of any felony, or of any crime in which dishonesty or fraud is an
- 10 element, under the laws of any state or of the United States. Conviction
- 11 includes, but is not limited to, pleading no contest, entering an Alford plea, or
- 12 entry of a court order suspending the imposition of a criminal penalty to a
- 13 crime, if in accordance with KRS Chapter 335B;
- 14 (f) Cancellation, revocation, suspension, or refusal to renew the authority to
- 15 practice as a certified public accountant or a public accountant in any state;
- 16 (g) Suspension or revocation of the right to practice before any state or federal
- 17 agency or the Public Company Accounting Oversight Board or its successor;
- 18 (h) Conduct discreditable to the accounting profession; or
- 19 (i) Failure to respond to a board inquiry regarding any licensing or complaint
- 20 matter.
- 21 (2) In any proceeding in which a remedy provided by subsection (1) of this section is
- 22 imposed, the board may also require the respondent to pay the costs of the
- 23 investigation and all proceedings.
- 24 (3) A private reprimand shall not be subject to disclosure to the public under KRS
- 25 61.878(1)(~~j~~)(~~4~~). A private reprimand shall not constitute disciplinary action, but
- 26 may be used by the board for statistical purposes, or in subsequent disciplinary
- 27 actions against the same licensee.

- 1 (4) (a) Any licensee disciplined under this section for a minor violation may request
2 in writing that the board expunge the minor violation from the licensee's
3 record.
- 4 (b) A request for expungement may be filed no sooner than ten (10) years after
5 the date on which the licensee completed the disciplinary sanctions imposed
6 and may only be filed if the licensee has not been disciplined, within this
7 same period of time, for any subsequent violation of the same nature.
- 8 (c) No licensee may have his, her, or its record expunged under this section more
9 than once.
- 10 (d) A minor violation is one that does not:
- 11 1. Demonstrate a serious inability to practice the profession;
12 2. Result in economic harm to a person; or
13 3. Create a significant threat of such harm.
- 14 (5) The board shall promulgate administrative regulations under KRS Chapter 13A to
15 establish procedures to expunge a minor violation.
- 16 ➔Section 13. KRS 327.070 is amended to read as follows:
- 17 (1) The board, after due notice and an opportunity for an administrative hearing
18 conducted in accordance with KRS Chapter 13B may take any one (1) or a
19 combination of the following actions against any licensee, certificate holder, or
20 applicant:
- 21 (a) Refuse to license or certify any applicant;
22 (b) Refuse to renew the license or certificate of any person;
23 (c) Suspend or revoke or place on probation the license or certificate of any
24 person;
25 (d) Impose restrictions on the scope of practice of any person;
26 (e) Issue an administrative reprimand to any person;
27 (f) Issue a private admonishment to any person; and

- 1 (g) Impose fines for violations of this chapter not to exceed two thousand five
2 hundred dollars (\$2,500).
- 3 (2) The following acts by a licensee, certificate holder, or applicant may be considered
4 cause for disciplinary action:
- 5 (a) Indulgence in excessive use of alcoholic beverages or abusive use of
6 controlled substances;
- 7 (b) Engaging in, permitting, or attempting to engage in or permit the performance
8 of substandard patient care by himself *or herself*, or by persons working
9 under his *or her* supervision due to a deliberate or negligent act or failure to
10 act, regardless of whether actual injury to the patient is established;
- 11 (c) Having engaged in or attempted to engage in a course of lewd or immoral
12 conduct with any person:
- 13 1. While that person is a patient of a health care facility defined by KRS
14 216B.015 where the physical therapist or physical therapist's assistant
15 provides physical therapy services; or
- 16 2. While that person is a patient or client of the physical therapist or
17 physical therapist's assistant;
- 18 (d) Having sexual contact, as defined by KRS 510.010(7), without the consent of
19 both parties, with an employee or coworker of the licensee or certificate
20 holder;
- 21 (e) Sexually harassing an employee or coworker of the licensee or certificate
22 holder;
- 23 (f) Conviction of a felony or misdemeanor in the courts of this state or any other
24 state, territory, or country which affects his *or her* ability to continue to
25 practice competently and safely on the public, if in accordance with KRS
26 Chapter 335B. "Conviction," as used in this paragraph, shall include a finding
27 or verdict of guilt, an admission of guilt, or a plea of nolo contendere;

- 1 (g) Obtaining or attempting to obtain a license or certificate by fraud or material
2 misrepresentation or making any other false statement to the board;
- 3 (h) Engaging in fraud or material deception in the delivery of professional
4 services, including reimbursement, or advertising services in a false or
5 misleading manner;
- 6 (i) Evidence of gross negligence or gross incompetence in his or her practice of
7 physical therapy;
- 8 (j) Documentation of being declared mentally disabled by a court of competent
9 jurisdiction and not thereafter having had his or her rights restored;
- 10 (k) Failing or refusing to obey any lawful order or administrative regulation of the
11 board;
- 12 (l) Promoting for personal gain an unnecessary device, treatment, procedure, or
13 service, or directing or requiring a patient to purchase a device, treatment,
14 procedure, or service from a facility or business in which he or she has a
15 financial interest;
- 16 (m) Being impaired by reason of a mental, physical, or other condition that
17 impedes his or her ability to practice competently;
- 18 (n) Violation of KRS 304.39-215; and
- 19 (o) Conduct that is subject to the penalties under KRS 304.99-060(4) or (5).
- 20 (3) A private admonishment shall not be subject to disclosure to the public under KRS
21 61.878(1)(~~j~~)(~~4~~). A private admonishment shall not constitute disciplinary action
22 but may be used by the board for statistical purposes or in subsequent disciplinary
23 action against the same licensee, certificate holder, or applicant.
- 24 ➔Section 14. KRS 342.347 is amended to read as follows:
- 25 (1) The commissioner or the commissioner's designee shall have power to examine the
26 financial condition and affairs related to workers' compensation of any individual
27 self-insureds and shall have free access to books and documents relating to the self-

1 insurance activities of the entity. The commissioner shall so examine each
2 individual self-insured not less frequently than once every four (4) years.
3 Information obtained through the examination shall be exempt from disclosure,
4 under KRS 61.878(1)(c)~~[-or (j)]~~.

5 (2) All individual self-insured employers shall file with the commissioner a statement
6 of financial condition audited by an independent certified public accountant on or
7 before one hundred twenty (120) days from the end of the self-insured's fiscal year
8 for the immediately preceding fiscal year.

9 (3) The expense of examination shall be borne by the entity examined and shall include
10 reasonable lodging and travel expenses of the commissioner's designees, and expert
11 assistance as necessarily incurred in the examination.

12 (4) The Department of Insurance shall approve the form and contents of excess
13 insurance policies and upon request of the commissioner shall review the
14 application for approval of any individual self-insured and render an opinion as to
15 the sufficiency of the excess insurance policies or other security posted by the
16 applicant.

17 (5) Not less often than biennially, the commissioner of the Department of Insurance
18 shall review the activities, procedures, administrative regulations, and policies of
19 the Department of Workers' Claims and make such recommendations to the
20 Governor and legislative committees as may be appropriate to strengthen the
21 oversight of individual self-insureds so that payment of liabilities to workers under
22 this chapter is assured.