GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2015 REGULAR SESSION

HOUSE BILL NO. 402

AS ENACTED

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SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to human services.

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

3 ➔Section 1. KRS 210.770 is amended to read as follows:

4 As used in KRS 210.770 to 210.795, unless the context otherwise requires:

5 (1) "Mental impairment" includes an intellectual disability, organic brain syndrome,
6 emotional or mental illness, and specific learning disabilities;

7 (2) "Person with a disability" means someone with a physical or mental impairment and
8 includes individuals who have a record or history of an impairment, or are regarded
9 as having a physical or mental impairment that substantially limits one (1) or more
10 major life activities;

11 (3) "Physical impairment" means any physiological disorder or corrective, cosmetic
12 disfigurement, or an anatomical loss affecting one (1) or more of the following body
13 systems: neurological, musculo-skeletal, special sense organs, respiratory including
14 speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and
15 lymphatic, skin, and endocrine;

16 (4) "Substantial limitation of a major life activity" includes limiting such things as
17 walking, talking, seeing, hearing, caring for oneself, or working;

18 (5) "Hart-Supported Living Program" means grants which provide a broad category of
19 highly flexible, individualized services which, when combined with natural unpaid
20 or other eligible paid supports, provide the necessary assistance to do the following:

21 (a) Provide the support necessary to enable a person who is disabled to live in a
22 home of the person's choice which is typical of those living arrangements in
23 which persons without disabilities reside;

24 (b) Encourage the individual's integrated participation in the community with
25 persons who are members of the general citizenry;

26 (c) Promote the individual's rights and autonomy;

27 (d) Enhance the individual's skills and competences in living in the community;

1 and
2 (e) Enable the individual's acceptance in the community by promoting home
3 ownership or leasing arrangements in the name of the individual or the
4 individual's family or guardian;
5 (6) "Hart-Supported Living Program" does not include any services that support the
6 following arrangements:
7 (a) Segregated living models such as any housing situation which physically or
8 socially isolates people with disabilities from general citizens of the
9 community;
10 (b) Segregated programs or activities which physically or socially isolate people
11 with disabilities from general citizens of the community;
12 (c) Congregate living models such as any housing situation which groups
13 individuals with disabilities as an enclave within an integrated setting;
14 (d) Any model where the individual, as an adult, does not have maximum control
15 of the home environment commensurate with the individual's disabilities; and
16 (e) Any single living unit where more than three (3) people with disabilities live;
17 (7) "Hart-Supported Living Council" means a supported living council appointed by the
18 Governor and recognized by the ***secretary***[~~commissioner of the Department for~~
19 ~~Behavioral Health, Developmental and Intellectual Disabilities~~]; and
20 (8) "***Hart-***supported living services" include but are not limited to:
21 (a) ***Hart-***supported living community resource developers;
22 (b) Homemaker services;
23 (c) Personal care services;
24 (d) In-home training and home management assistance;
25 (e) Start-up grants;
26 (f) Transportation;
27 (g) Home modifications;

1 (h) Adaptive and therapeutic equipment; and
2 (i) Facilitation by an independent and trained facilitator to develop and
3 implement individualized life planning.
4 ➔Section 2. KRS 210.775 is amended to read as follows:
5 (1) There is hereby created the Hart-Supported Living Council for services to persons
6 with a disability and their families.
7 (2) (a) The Hart-Supported Living Council shall be composed of eleven (11)
8 members. The ***secretary***[~~commissioner of the Department for Behavioral~~
9 ~~Health, Developmental and Intellectual Disabilities~~] and the executive director
10 of the Kentucky Housing Corporation or their designees shall be ex officio
11 members.
12 (b) Nine (9) of the members shall be volunteers and shall be appointed by the
13 Governor from a list of nominees in the following manner:
14 1. Three (3) of the appointed members shall represent family members of
15 persons with a disability;
16 2. Two (2) of the appointed members shall be persons with a disability;
17 3. One (1) of the appointed members shall represent professionals and
18 providers of services to persons with a disability;
19 4. One (1) of the appointed members shall represent advocates for persons
20 with a disability; and
21 5. Two (2) of the appointed members shall represent the community at
22 large.
23 (3) The appointed members may serve on the council for three (3) years from the date
24 of appointment. Members may be reappointed for one (1) additional consecutive
25 three (3) year term. The Governor shall fill any vacancy occurring in the council in
26 the manner prescribed in subsection (2) of this section.
27 (4) The ***cabinet***[~~Department for Behavioral Health, Developmental and Intellectual~~

1 ~~Disabilities~~] shall provide staff assistance to the Hart-Supported Living Council.
2 (5) The chairman of the Hart-Supported Living Council shall be elected from among
3 the members. A majority of the members shall constitute a quorum.
4 (6) The Hart-Supported Living Council shall meet as often as necessary but no less
5 frequently than every other month.
6 ➔Section 3. KRS 210.780 is amended to read as follows:
7 (1) The Hart-Supported Living Council shall be responsible for making
8 recommendations to the ***cabinet***[~~Department for Behavioral Health, Developmental~~
9 ~~and Intellectual Disabilities~~] for:
10 (a) A budget and priorities for fund allocations for supported living services for
11 persons with disabilities within the Commonwealth;
12 (b) Standards for quality assurance for persons with a disability who receive
13 supported living services in accordance with KRS 210.770 to 210.795; and
14 (c) The procedure for annual review and approval of and funding
15 recommendations for individual plans for Hart-Supported Living Program
16 grants submitted by any person with a disability, and for the amendment of
17 individual plans during a fiscal year.
18 (2) The Hart-Supported Living Council shall be responsible for:
19 (a) Disseminating information about Hart-Supported Living Program grants
20 available under KRS 210.770 to 210.795;
21 (b) Hearing grievances and providing due process for consumers and providers of
22 supported living services;
23 (c) Monitoring the overall effectiveness and quality of the program; and
24 (d) Developing recommendations for improvements.
25 (3) The Hart-Supported Living Council may recommend necessary administrative
26 regulations under KRS Chapter 13A to carry out the purposes of KRS 210.770 to
27 210.795.

1 ➔Section 4. KRS 210.795 is amended to read as follows:

2 (1) The ***cabinet***[~~Department for Behavioral Health, Developmental and Intellectual~~
3 ~~Disabilities~~], in cooperation with the Hart-Supported Living Council, shall establish
4 standards for the administration of the Hart-Supported Living Program. The purpose
5 of these standards is to ensure that a person with a disability receives supported
6 living services in a manner that empowers the person to exercise choice and
7 enhances the quality of that person's life. These standards shall promote the
8 following:

9 (a) Choice over how, when, and by whom supports are provided and over where
10 and with whom a person with a disability lives;

11 (b) Responsibility of the person with a disability and his or her representative for
12 managing grants and the provision of supports under the grant;

13 (c) Freedom to live a meaningful life and to participate in activities in the
14 community with members of the general citizenry;

15 (d) Enhancement of health and safety;

16 (e) Flexibility of services that change as the person's needs change without the
17 individual having to move elsewhere for services;

18 (f) Use of generic options and natural supports;

19 (g) Well-planned and proactive opportunities to determine the kinds and amounts
20 of support desired, with the meaningful participation of the individual, the
21 individual's family or guardian where appropriate, friends, and professionals;
22 and

23 (h) Home ownership or leasing with the home belonging to the person with a
24 disability, that person's family, or to a landlord to whom rent is paid.

25 (2) The individual supported living plan shall be developed by the person with a
26 disability and that person's family or guardian where appropriate, and, as
27 appropriate, the proposed or current provider.

1 (3) The ***cabinet***[~~Department for Behavioral Health, Developmental and Intellectual~~
2 ~~Disabilities~~], in concert with the Hart-Supported Living Council, shall promulgate
3 administrative regulations under KRS Chapter 13A, if necessary, to establish the
4 methods of awarding Hart-Supported Living Program grants for individual
5 supported living plans and monitoring the quality of service delivery, and to provide
6 for administrative appeal of decisions. Administrative hearings conducted on
7 appeals shall be conducted in accordance with KRS Chapter 13B.
8 ➔Section 5. The General Assembly hereby confirms Executive Order 2014-988,
9 dated December 17, 2014, which reorganizes the Cabinet for Health and Family Services
10 by establishing the Division of Program Integrity within the Department for Behavioral
11 Health, Developmental and Intellectual Disabilities.
12 ➔Section 6. KRS 164.298 is amended to read as follows:
13 (1) The governing board as defined in KRS 164.001 of each eligible postsecondary
14 education institution and college as defined in KRS 164.945 ***that offers***[~~shall~~
15 ~~collaborate with the Kentucky Board of Nursing to ensure that each university~~
16 ~~offering~~] an advanced practice doctoral degree in nursing ***shall be accredited by a***
17 ***national nursing accrediting body that includes but is not limited to the***
18 ***Accreditation Commission for Education in Nursing, the National League for***
19 ***Nursing Commission for Nursing Education Accreditation, the Council on***
20 ***Accreditation of Nurse Anesthesia Educational Programs, the Accreditation***
21 ***Commission for Midwifery Education,***[~~complies with the accreditation standards~~
22 ~~of the National League for Nursing Accrediting Commission~~] or the Commission
23 on Collegiate Nursing Education and with minimal education and licensure
24 standards for admission to and graduation from an advanced practice doctoral
25 program in nursing.
26 (2) Each university offering an advanced nursing practice doctoral program shall refer
27 to the degree as the "doctor of nursing practice," with the degree being abbreviated

1 as "DNP." Any advertisement about the advanced nursing practice doctoral program
2 shall not refer to graduates using the term "doctor." Graduates of the program shall
3 accurately portray their academic credentials as well as their registered nurse and
4 advanced practice registered nurse credentials, if applicable, subject to sanction
5 under KRS 311.375(4).
6 ➔Section 7. KRS 217.015 is amended to read as follows:
7 For the purposes of KRS 217.005 to 217.215:
8 (1) "Advertisement" means all representations, disseminated in any manner or by any
9 means, other than by labeling, for the purpose of inducing, or which are likely to
10 induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;
11 (2) "Bread" and "enriched bread" mean only the foods commonly known and described
12 as white bread, white rolls, white buns, enriched white bread, enriched rolls, and
13 enriched white buns, as defined under the federal act. For the purposes of KRS
14 217.136 and 217.137, "bread" or "enriched bread" also means breads that may
15 include vegetables or fruit as an ingredient;
16 (3) "Cabinet" means the Cabinet for Health and Family Services or its designee;
17 (4) "Color" means but is not limited to black, white, and intermediate grays;
18 (5) "Color additive" means a material that:
19 (a) Is a dye, pigment, or other substance made by a process of synthesis or similar
20 artifice, or extracted, isolated, or otherwise derived, with or without
21 intermediate or final change of identity, from a vegetable, animal, mineral, or
22 other source. Nothing in this paragraph shall be construed to apply to any
23 pesticide chemical, soil or plant nutrient, or other agricultural chemical solely
24 because of its effect in aiding, retarding, or otherwise affecting, directly or
25 indirectly, the growth or other natural physiological process of produce of the
26 soil and thereby affecting its color, whether before or after harvest; or
27 (b) When added or applied to a food, drug, or cosmetic, or to the human body or

1 any part thereof, is capable, alone or through reaction with another substance,
2 of imparting color. "Color additive" does not include any material that has
3 been or may in the future be exempted under the federal act;
4 (6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not
5 securely protected from dust, dirt, and as far as may be necessary by all reasonable
6 means, from all foreign or injurious contaminants;
7 (7) "Cosmetic" means:
8 (a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into,
9 or otherwise applied to the human body or any part thereof for cleansing,
10 beautifying, promoting attractiveness, or altering the appearance; and
11 (b) Articles intended for use as a component of those articles, except that the term
12 shall not include soap;
13 (8) "Device," except when used in subsection (48) of this section, KRS 217.035(6),
14 KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments,
15 apparatus, and contrivances, including their components, parts, and accessories,
16 intended:
17 (a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease
18 in man or other animals; or
19 (b) To affect the structure or any function of the body of man or other animals;
20 (9) "Dispense" means to deliver a drug or device to an ultimate user or research subject
21 by or pursuant to the lawful order of a practitioner, including the packaging,
22 labeling, or compounding necessary to prepare the substance for that delivery;
23 (10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the
24 use of an ultimate user;
25 (11) "Drug" means:
26 (a) Articles recognized in the official United States pharmacopoeia, official
27 homeopathic pharmacopoeia of the United States, or official national

1 formulary, or any supplement to any of them;
2 (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or
3 prevention of disease in man or other animals;
4 (c) Articles, other than food, intended to affect the structure or any function of the
5 body of man or other animals; and
6 (d) Articles intended for use as a component of any article specified in this
7 subsection but does not include devices or their components, parts, or
8 accessories;
9 (12) "Enriched," as applied to flour, means the addition to flour of vitamins and other
10 nutritional ingredients necessary to make it conform to the definition and standard
11 of enriched flour as defined under the federal act;
12 (13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental
13 Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;
14 (14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it
15 relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments
16 thereto;
17 (15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301
18 et seq., 52 Stat. 1040 et seq., or amendments thereto;
19 (16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed,
20 evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been
21 added, or which has been blended or compounded with, any fat or oil other than
22 milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of
23 substances used for flavoring purposes only, so that the resulting product is an
24 imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or
25 frozen desserts, whether or not condensed, evaporated, concentrated, frozen,
26 powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed
27 or unsealed. This definition does not mean or include any milk or cream from which

1 no part of the milk or butter fat has been extracted, whether or not condensed,
2 evaporated, concentrated, powdered, dried, or desiccated, to which has been added
3 any substance rich in vitamins, nor any distinctive proprietary food compound not
4 readily mistaken for milk or cream or for condensed, evaporated, concentrated,
5 powdered, dried, or desiccated milk or cream, if the compound is prepared and
6 designed for the feeding of infants or young children, sick or infirm persons, and
7 customarily used on the order of a physician, and is packed in individual containers
8 bearing a label in bold type that the contents are to be used for those purposes; nor
9 shall this definition prevent the use, blending, or compounding of chocolate as a
10 flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in
11 containers, hermetically sealed or unsealed, to or with which has been added,
12 blended or compounded no other fat or oil other than milk or butter fat;
13 (17) "Flour" means only the foods commonly known as flour, white flour, wheat flour,
14 plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising
15 wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour,
16 defined under the federal act;
17 (18) "Food" means:
18 (a) Articles used for food or drink for man or other animals;
19 (b) Chewing gum; and
20 (c) Articles used for components of any such article;
21 (19) "Food additive" means any substance the intended use of which results or may be
22 reasonably expected to result, directly or indirectly, in its becoming a component or
23 otherwise affecting the characteristics of any food, including any substance intended
24 for use in producing, manufacturing, packing, processing, preparing, treating,
25 packaging, transporting, or holding food; and including any source of radiation
26 intended for any of these uses, if the substance is not generally recognized, among
27 experts qualified by scientific training and experience to evaluate its safety, as

1 having been adequately shown through scientific procedures or, in the case of a
2 substance used in a food prior to January 1, 1958, through either scientific
3 procedures or experience based on common use in food to be safe under the
4 conditions of its intended use; except that the term does not include:
5 (a) A pesticide chemical in or on a raw agricultural commodity;
6 (b) A pesticide chemical to the extent that it is intended for use or is used in the
7 production, storage, or transportation of any raw agricultural commodity;
8 (c) A color additive; or
9 (d) Any substance used in accordance with a sanction or approval granted prior to
10 the enactment of the Food Additives Amendment of 1958, pursuant to the
11 federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or
12 the Meat Inspection Act of 1907; and amendments thereto;
13 (20) "Food processing establishment" means any commercial establishment in which
14 food is manufactured, processed, or packaged for human consumption, but does not
15 include retail food establishments, home-based processors, or home-based
16 microprocessors;
17 (21) "Food service establishment" means any fixed or mobile commercial establishment
18 that engages in the preparation and serving of ready-to-eat foods in portions to the
19 consumer, including but not limited to: restaurants; coffee shops; cafeterias; short
20 order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains;
21 taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding
22 establishments; private, public or nonprofit organizations or institutions routinely
23 serving food; catering kitchens; commissaries; charitable food kitchens; or similar
24 places in which food is prepared for sale or service on the premises or elsewhere
25 with or without charge. It does not include food vending machines, establishments
26 serving beverages only in single service or original containers, or retail food stores
27 which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

1 (22) "Food storage warehouse" means any establishment in which food is stored for
2 subsequent distribution;
3 (23) "Immediate container" does not include package liners;
4 (24) "Imminent health hazard" means a significant threat or danger to health that is
5 considered to exist when there is evidence sufficient to show that a product,
6 practice, circumstance, or event creates a situation that requires immediate
7 correction or cessation of operation to prevent illness or injury based on:
8 (a) The number of potential illnesses or injuries; or
9 (b) The nature, severity, and duration of the anticipated illness or injury;
10 (25) "Interference" means threatening or otherwise preventing the performance of lawful
11 inspections or duties by agents of the cabinet during all reasonable times of
12 operation;
13 (26) "Label" means a display of written, printed, or graphic matter upon the immediate
14 container of any article; and a requirement made by or under authority of KRS
15 217.005 to 217.215 that any word, statement, or other information appearing on the
16 label shall not be considered to be complied with unless the word, statement, or
17 other information also appears on the outside container or wrapper, if any there be,
18 of the retail package of the article, or is easily legible through the outside container
19 or wrapper;
20 (27) "Labeling" means all labels and other written, printed, or graphic matter:
21 (a) Upon an article or any of its containers or wrappers; or
22 (b) Accompanying the article;
23 (28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act,
24 as amended, and under which definition its label is required to bear the statement
25 "Caution: Federal law prohibits dispensing without prescription.";
26 (29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et
27 seq., 34 Stat. 1260 et seq., including any amendments thereto;

1 (30) "New drug" means:
2 (a) Any drug the composition of which is such that the drug is not generally
3 recognized among experts qualified by scientific training and experience to
4 evaluate the safety of drugs as safe for use under the conditions prescribed,
5 recommended, or suggested in the labeling thereof; or
6 (b) Any drug the composition of which is such that the drug, as a result of
7 investigations to determine its safety for use under prescribed conditions, has
8 become so recognized, but which has not, otherwise than in the investigations,
9 been used to a material extent or for a material time under the conditions;
10 (31) "Official compendium" means the official United States pharmacopoeia, official
11 homeopathic pharmacopoeia of the United States, official national formulary, or any
12 supplement to any of them;
13 (32) "Person" means an individual, firm, partnership, company, corporation, trustee,
14 association, or any public or private entity;
15 (33) "Pesticide chemical" means any substance that alone in chemical combination, or in
16 formulation with one or more other substances, is an "economic poison" within the
17 meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments
18 thereto, and that is used in the production, storage, or transportation of raw
19 agricultural commodities;
20 (34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products
21 Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any
22 amendments thereto;
23 (35) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and
24 veterinarians who are licensed under the professional licensing laws of Kentucky to
25 prescribe and administer drugs and devices. "Practitioner" includes optometrists
26 when administering or prescribing pharmaceutical agents authorized in KRS
27 320.240(12) to (14), advanced practice registered nurses as authorized in KRS

1 314.011 and 314.042, physician assistants when administering or prescribing
2 pharmaceutical agents as authorized in KRS 311.858, and health care professionals
3 who are residents of and actively practicing in a state other than Kentucky and who
4 are licensed and have prescriptive authority under the professional licensing laws of
5 another state, unless the person's Kentucky license has been revoked, suspended,
6 restricted, or probated, in which case the terms of the Kentucky license shall
7 prevail;
8 (36) "Prescription" means a written or oral order for a drug or medicine, or combination
9 or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or
10 authorized by a medical, ***advanced practice registered nurse,*** dental, chiropody,
11 veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure,
12 mitigation, treatment, or prevention of disease in man or other animals;
13 (37) "Prescription blank" means a document that conforms with KRS 217.216 and is
14 intended for prescribing a drug to an ultimate user;
15 (38) "Raw agricultural commodity" means any food in its raw or natural state, including
16 all fruits that are washed, colored, or otherwise treated in their unpeeled natural
17 form prior to marketing;
18 (39) "Retail food establishment" means any food service establishment, retail food store,
19 or a combination of both within the same establishment;
20 (40) "Retail food store" means any fixed or mobile establishment where food or food
21 products, including prepackaged, labeled sandwiches or other foods to be heated in
22 a microwave or infrared oven at the time of purchase, are offered for sale to the
23 consumer, and intended for off-premises consumption, but does not include
24 establishments which handle only prepackaged, snack-type, nonpotentially
25 hazardous foods, markets that offer only fresh fruits and vegetables for sale, food
26 service establishments, food and beverage vending machines, vending machine
27 commissaries, or food processing establishments;

1 (41) "Salvage distributor" means a person who engages in the business of distributing,
2 peddling, or otherwise trafficking in any salvaged merchandise;
3 (42) "Salvage processing plant" means an establishment operated by a person engaged in
4 the business of reconditioning, labeling, relabeling, repackaging, recoopering,
5 sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or
6 distributes for human or animal consumption or use any salvaged food, beverage,
7 including beer, wine and distilled spirits, vitamins, food supplements, dentifices,
8 cosmetics, single-service food containers or utensils, containers and packaging
9 materials used for foods and cosmetics, soda straws, paper napkins, or any other
10 product of a similar nature that has been damaged or contaminated by fire, water,
11 smoke, chemicals, transit, or by any other means;
12 (43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;
13 (44) "Secretary" means the secretary of the Cabinet for Health and Family Services;
14 (45) "Temporary food service establishment" means any food service establishment
15 which operates at a fixed location for a period of time, not to exceed fourteen (14)
16 consecutive days;
17 (46) "Traffic" has the same meaning as it does in KRS 218A.010;
18 (47) "Ultimate user" has the same meaning as it does in KRS 218A.010;
19 (48) If an article is alleged to be misbranded because the labeling is misleading, or if an
20 advertisement is alleged to be false because it is misleading, in determining whether
21 the labeling or advertisement is misleading, there shall be taken into account,
22 among other things, not only representations made or suggested by statement, word,
23 design, device, sound, or in any combination thereof, but also the extent to which
24 the labeling or advertisement fails to reveal facts that are material in the light of the
25 representations or material with respect to consequences which may result from the
26 use of the article to which the labeling or advertisement relates under the conditions
27 of use prescribed in the labeling or advertisement thereof or under the conditions of

1 use as are customary or usual;
2 (49) The representation of a drug in its labeling or advertisement as an antiseptic shall be
3 considered to be a representation that it is a germicide, except in the case of a drug
4 purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing,
5 ointment, dusting powder, or other use involving prolonged contact with the body;
6 (50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs,
7 devices, or cosmetics shall be considered to include the manufacture, production,
8 processing, packing, exposure, offer, possession, and holding of those articles for
9 sale, the sale, dispensing, and giving of those articles, and the supplying or applying
10 of those articles in the conduct of any food, drug, or cosmetic establishment;
11 (51) "Home" means a primary residence occupied by the processor, that contains only
12 two (2) ranges, ovens, or double-ovens, and no more than three (3) refrigerators
13 used for cold storage. This equipment shall have been designed for home use and
14 not for commercial use, and shall be operated in the kitchen within the residence;
15 (52) "Formulated acid food product" means an acid food in which the addition of a small
16 amount of low-acid food results in a finished equilibrium pH of 4.6 or below that
17 does not significantly differ from that of the predominant acid or acid food;
18 (53) "Acidified food product" means a low-acid food to which acid or acidic food is
19 added and which has a water activity value greater than 0.85, and a finished
20 equilibrium pH of 4.6 or below;
21 (54) "Low-acid food" means foods, other than alcoholic beverages, with a finished
22 equilibrium pH greater than 4.6, and a water activity value greater than 0.85;
23 (55) "Acid food" means foods that have a natural pH of 4.6 or below;
24 (56) "Home-based processor" means a farmer who, in the farmer's home, produces or
25 processes whole fruit and vegetables, mixed-greens, jams, jellies, sweet sorghum
26 syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies;
27 (57) "Home-based microprocessor" means a farmer who, in the farmer's home or

1 certified or permitted kitchen, produces or processes acid foods, formulated acid
2 food products, acidified food products, or low-acid canned foods, and who has a net
3 income of less than thirty-five thousand dollars ($35,000) annually from the sale of
4 the product;
5 (58) "Certified" means any person or home-based microprocessor who:
6 (a) Has attended the Kentucky Cooperative Extension Service's microprocessing
7 program or pilot microprocessing program and has been identified by the
8 Kentucky Cooperative Extension Service as having satisfactorily completed
9 the prescribed course of instruction; or
10 (b) Has attended some other school pursuant to 21 C.F.R. sec. 114.10;
11 (59) "Farmer" means a person who is a resident of Kentucky and owns or rents
12 agricultural land pursuant to subsection (9) of KRS 132.010 or horticultural land
13 pursuant to subsection (10) of KRS 132.010. For the purposes of KRS 217.136 to
14 217.139, "farmer" also means any person who is a resident of Kentucky and has
15 grown the primary horticultural and agronomic ingredients used in the home-based
16 processed products which they have produced; and
17 (60) "Farmers market temporary food service establishment" means any temporary food
18 service establishment operated by a farmer who is a member of the market which
19 operates within the confines of a farmers market registered with the Kentucky
20 Department of Agriculture for the direct-to-consumer marketing of Kentucky-grown
21 farm products from approved sources for a period of time not to exceed two (2)
22 days per week for any consecutive six (6) months period in a calendar year.
23 ➔Section 8. KRS 314.011 is amended to read as follows:
24 As used in this chapter, unless the context thereof requires otherwise:
25 (1) "Board" means Kentucky Board of Nursing;
26 (2) "Delegation" means directing a competent person to perform a selected nursing
27 activity or task in a selected situation under the nurse's supervision and pursuant to

1 administrative regulations promulgated by the board in accordance with the
2 provisions of KRS Chapter 13A;
3 (3) "Nurse" means a person who is licensed or holds the privilege to practice under the
4 provisions of this chapter as a registered nurse or as a licensed practical nurse;
5 (4) "Nursing process" means the investigative approach to nursing practice utilizing a
6 method of problem-solving by means of:
7 (a) Nursing diagnosis, a systematic investigation of a health concern, and an
8 analysis of the data collected in order to arrive at an identifiable problem; and
9 (b) Planning, implementation, and evaluation based on nationally accepted
10 standards of nursing practice;
11 (5) "Registered nurse" means one who is licensed or holds the privilege under the
12 provisions of this chapter to engage in registered nursing practice;
13 (6) "Registered nursing practice" means the performance of acts requiring substantial
14 specialized knowledge, judgment, and nursing skill based upon the principles of
15 psychological, biological, physical, and social sciences in the application of the
16 nursing process in:
17 (a) The care, counsel, and health teaching of the ill, injured, or infirm;
18 (b) The maintenance of health or prevention of illness of others;
19 (c) The administration of medication and treatment as prescribed by a physician,
20 physician assistant, dentist, or advanced practice registered nurse and as
21 further authorized or limited by the board, and which are consistent either
22 with American Nurses' Association ***Scope and*** Standards of Practice or with
23 ***standards of practice***~~[Standards of Practice]~~ established by nationally
24 accepted organizations of registered nurses. Components of medication
25 administration include but are not limited to:
26 1. Preparing and giving medications in the prescribed dosage, route, and
27 frequency, including dispensing medications only as defined in

1 subsection (17)(b) of this section;
2 2. Observing, recording, and reporting desired effects, untoward reactions,
3 and side effects of drug therapy;
4 3. Intervening when emergency care is required as a result of drug therapy;
5 4. Recognizing accepted prescribing limits and reporting deviations to the
6 prescribing individual;
7 5. Recognizing drug incompatibilities and reporting interactions or
8 potential interactions to the prescribing individual; and
9 6. Instructing an individual regarding medications;
10 (d) The supervision, teaching of, and delegation to other personnel in the
11 performance of activities relating to nursing care; and
12 (e) The performance of other nursing acts which are authorized or limited by the
13 board, and which are consistent either with American Nurses' Association
14 Standards of Practice or with Standards of Practice established by nationally
15 accepted organizations of registered nurses;
16 (7) "Advanced practice registered nurse" ***or "APRN"*** means a certified nurse
17 practitioner, certified ***registered*** nurse anesthetist, certified nurse midwife, or
18 clinical nurse specialist, who is licensed to engage in advance practice registered
19 nursing pursuant to KRS 314.042 and certified in at least one (1) population focus;
20 (8) "Advanced practice registered nursing" means the performance of additional acts by
21 registered nurses who have gained ***advanced clinical***[~~added~~] knowledge and skills
22 through an ***accredited education program that prepares the registered nurse for***
23 ***one (1) of the four (4) APRN roles***[~~approved organized postbasic program of study~~
24 ~~and clinical experience~~]; who are certified by the American Nurses' Association or
25 other nationally established organizations or agencies recognized by the board to
26 certify registered nurses for advanced practice registered nursing as a certified nurse
27 practitioner, certified ***registered*** nurse anesthetist, certified nurse midwife, or

1 clinical nurse specialist; and who certified in at least one (1) population focus. The
2 additional acts shall, subject to approval of the board, include but not be limited to
3 prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced
4 practice registered nurses who engage in these additional acts shall be authorized to
5 issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS
6 217.905 and to issue prescriptions for but not to dispense Schedules II through V
7 controlled substances as classified in KRS 218A.060, 218A.070, 218A.080,
8 218A.090, 218A.100, 218A.110, 218A.120, and 218A.130, under the conditions set
9 forth in KRS 314.042 and regulations promulgated by the Kentucky Board of
10 Nursing on or before August 15, 2006.
11 (a) Prescriptions issued by advanced practice registered nurses for Schedule II
12 controlled substances classified under KRS 218A.060 shall be limited to a
13 seventy-two (72) hour supply without any refill. Prescriptions issued under
14 this subsection for psychostimulants may be written for a thirty (30) day
15 supply only by an advanced practice registered nurse certified in psychiatric-
16 mental health nursing who is providing services in a health facility as defined
17 in KRS Chapter 216B or in a regional services program for mental health or
18 individuals with an intellectual disability as defined in KRS Chapter 210.
19 (b) Prescriptions issued by advanced practice registered nurses for Schedule III
20 controlled substances classified under KRS 218A.080 shall be limited to a
21 thirty (30) day supply without any refill. Prescriptions issued by advanced
22 practice registered nurses for Schedules IV and V controlled substances
23 classified under KRS 218A.100 and 218A.120 shall be limited to the original
24 prescription and refills not to exceed a six (6) month supply.
25 (c) Limitations for specific controlled substances which are identified as having
26 the greatest potential for abuse or diversion, based on the best available
27 scientific and law enforcement evidence, shall be established in an

1 administrative regulation promulgated by the Kentucky Board of Nursing. The
2 regulation shall be based on recommendations from the Controlled Substances
3 Formulary Development Committee, which is hereby created. The committee
4 shall be composed of two (2) advanced practice registered nurses appointed by
5 the Kentucky Board of Nursing, one (1) of whom shall be designated as a
6 committee co-chair; two (2) physicians appointed by the Kentucky Board of
7 Medical Licensure, one (1) of whom shall be designated as a committee co-
8 chair; and one (1) pharmacist appointed by the Kentucky Board of Pharmacy.
9 The initial regulation shall be promulgated on or before August 15, 2006, and
10 shall be reviewed at least annually thereafter by the committee.
11 Nothing in this chapter shall be construed as requiring an advanced practice
12 registered nurse designated by the board as a certified ***registered*** nurse anesthetist to
13 obtain prescriptive authority pursuant to this chapter or any other provision of law
14 in order to deliver anesthesia care. The performance of these additional acts shall be
15 consistent with the certifying organization or agencies' scopes and standards of
16 practice recognized by the board by administrative regulation;
17 (9) "Licensed practical nurse" means one who is licensed or holds the privilege under
18 the provisions of this chapter to engage in licensed practical nursing practice;
19 (10) "Licensed practical nursing practice" means the performance of acts requiring
20 knowledge and skill such as are taught or acquired in approved schools for practical
21 nursing in:
22 (a) The observing and caring for the ill, injured, or infirm under the direction of a
23 registered nurse, ***advanced practice registered nurse, physician assistant,***~~[a]~~
24 licensed physician, or dentist;
25 (b) The giving of counsel and applying procedures to safeguard life and health, as
26 defined and authorized by the board;
27 (c) The administration of medication or treatment as authorized by a physician,

1 physician assistant, dentist, or advanced practice registered nurse and as
2 further authorized or limited by the board which is consistent with the
3 National Federation of Licensed Practical Nurses or with Standards of
4 Practice established by nationally accepted organizations of licensed practical
5 nurses;
6 (d) Teaching, supervising, and delegating except as limited by the board; and
7 (e) The performance of other nursing acts which are authorized or limited by the
8 board and which are consistent with the National Federation of Practical
9 Nurses' Standards of Practice or with Standards of Practice established by
10 nationally accepted organizations of licensed practical nurses;
11 (11) "School of nursing" means a nursing education program preparing persons for
12 licensure as a registered nurse or a practical nurse;
13 (12) "Continuing education" means offerings beyond the basic nursing program that
14 present specific content planned and evaluated to meet competency based
15 behavioral objectives which develop new skills and upgrade knowledge;
16 (13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed
17 nursing personnel for compensation under supervision of a nurse;
18 (14) "Sexual assault nurse examiner" means a registered nurse who has completed the
19 required education and clinical experience and maintains a current credential from
20 the board as provided under KRS 314.142 to conduct forensic examinations of
21 victims of sexual offenses under the medical protocol issued by the Justice and
22 Public Safety Cabinet in consultation with the Sexual Assault Response Team
23 Advisory Committee pursuant to KRS 216B.400(4);
24 (15) "Competency" means the application of knowledge and skills in the utilization of
25 critical thinking, effective communication, interventions, and caring behaviors
26 consistent with the nurse's practice role within the context of the public's health,
27 safety, and welfare;

1 (16) "Credential" means a current license, registration, certificate, or other similar
2 authorization that is issued by the board;
3 (17) "Dispense" means:
4 (a) To receive and distribute noncontrolled legend drug samples from
5 pharmaceutical manufacturers to patients at no charge to the patient or any
6 other party; or
7 (b) To distribute noncontrolled legend drugs from a local, district, and
8 independent health department, subject to the direction of the appropriate
9 governing board of the individual health department;
10 (18) "Dialysis care" means a process by which dissolved substances are removed from a
11 patient's body by diffusion, osmosis, and convection from one (1) fluid
12 compartment to another across a semipermeable membrane;
13 (19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a
14 physician and who provides dialysis care in a licensed renal dialysis facility under
15 the direct, on-site supervision of a registered nurse or a physician;
16 (20) "Population focus" means the section of the population within which the advanced
17 practice registered nurse has targeted to practice. The categories of population foci
18 are:
19 (a) Family ***and***[~~or~~] individual across the lifespan;
20 (b) Adult [~~health and~~]gerontology;
21 (c) ***Neonatal***[~~Neonatology~~];
22 (d) Pediatrics;
23 (e) Women's health and gender-related health; and
24 (f) Psychiatric mental health; and
25 (21) "Conviction" means but is not limited to:
26 (a) An unvacated adjudication of guilt;
27 (b) Pleading no contest or nolo contendere or entering an Alford plea; or

1 (c) Entering a guilty plea pursuant to a pretrial diversion order;
2 Regardless of whether the penalty is rebated, suspended, or probated.
3 ➔Section 9. KRS 314.025 is amended to read as follows:
4 (1) There is hereby created the Kentucky nursing incentive scholarship fund.
5 (2) It is the intent of the General Assembly of the Commonwealth of Kentucky to
6 address the nursing workforce needs throughout the Commonwealth; further it is
7 the intent of the General Assembly to give preference for these scholarships to
8 financially needy residents, registered nurses pursuing graduate nursing education,
9 and licensed practical nurses of the Commonwealth.~~[The fund also may issue~~
10 ~~grants for nursing workforce competency development.]~~
11 (3) It further is the intent of the General Assembly that an applicant who has been listed
12 on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or
13 misappropriation of property may not be eligible for a Kentucky nursing incentive
14 scholarship.
15 ➔Section 10. KRS 314.026 is amended to read as follows:
16 (1) The board shall make nursing scholarships in schools of nursing and graduate
17 programs in nursing available to Kentucky residents through the Kentucky nursing
18 incentive scholarship fund, as set forth by KRS 314.025 to 314.027 and by
19 administrative regulations of the board promulgated pursuant to KRS Chapter 13A.
20 (2) The board shall administer the Kentucky nursing incentive scholarship fund and
21 may recover reasonable costs for administering the fund. The board shall be
22 responsible for receiving and evaluating all applications for the scholarship made by
23 persons who are bona fide residents of the Commonwealth and who desire to
24 become nurses. The board shall evaluate each application to determine if the
25 applicant complies with criteria for such scholarships as set forth in KRS 314.025 to
26 314.027 and in administrative regulations of the board.
27 (3) Applications from all persons determined to be qualified shall be forwarded to the

1 board. The board shall designate the persons to receive assistance and the amount
2 thereof. Decisions of the board in these matters shall be final. Disbursement of
3 funds shall be pursuant to a written contract between the board and the applicant.
4 (4) The yearly individual nursing scholarship award granted shall be determined
5 annually by the board. In determining the amount of the award and the number of
6 scholarships to be granted, the board shall use its best judgment and shall seek to
7 maintain the scholarship funds for future use.
8 (5) Each recipient of a scholarship shall agree in the written contract to practice as a
9 nurse in Kentucky for at least one (1) year for each academic year funded.
10 ~~[(6) The board shall establish a Kentucky Nursing Incentive Scholarship Fund Grant~~
11 ~~Review Committee composed of two (2) registered nurses and one (1) licensed~~
12 ~~practical nurse appointed by the board and one (1) member of the board who shall~~
13 ~~serve as chair of the committee. The committee shall review all proposals for~~
14 ~~nursing workforce competency development grants and make recommendations to~~
15 ~~the board. The board shall make the final decision on all grant proposals.]~~
16 ➔Section 11. KRS 314.041 is amended to read as follows:
17 (1) An applicant for a license to practice as a registered nurse shall file with the board a
18 written application for a license and submit evidence, verified by oath, that the
19 applicant:
20 (a) Has completed the basic curriculum for preparing registered nurses in an
21 approved school of nursing and has completed requirements for graduation
22 therefrom;
23 (b) Has fulfilled the requirements of KRS 214.615(1);
24 (c) Is able to understandably speak and write the English language and to read the
25 English language with comprehension; and
26 (d) Has passed the jurisprudence examination approved by the board as provided
27 by subsection (4) of this section.

1 (2) An applicant shall be required to pass a licensure examination in any subjects as the
2 board may determine. Application for licensure by examination shall be received by
3 the board at the time determined by the board by administrative regulation.
4 (3) Upon request, an applicant who meets the requirements of subsection (1) of this
5 section shall be issued a provisional license that shall expire no later than six (6)
6 months from the date of issuance.
7 (4) The jurisprudence examination shall be prescribed by the board and be conducted
8 on the licensing requirements under this chapter and board regulations and
9 requirements applicable to the nursing profession in this Commonwealth. The board
10 shall promulgate an administrative regulation in accordance with KRS Chapter 13A
11 establishing the provisions to meet this requirement.
12 (5) An individual who holds a provisional license shall have the right to use the title
13 "registered nurse applicant" and the abbreviation "R.N.A." An R.N.A. shall only
14 work under the direct supervision of a registered nurse and shall not engage in
15 independent nursing practice.
16 (6) Upon the applicant's successful completion of all requirements for registered nurse
17 licensure, the board may issue to the applicant a license to practice nursing as a
18 registered nurse, if in the determination of the board the applicant is qualified to
19 practice as a registered nurse in this state.
20 (7) The board may issue a license to practice nursing as a registered nurse to any
21 applicant who has passed the licensure examination and the jurisprudence
22 examination prescribed by the board or their equivalent and been licensed as a
23 registered nurse under the laws of another state, territory, or foreign country, if in
24 the opinion of the board the applicant is qualified to practice as a registered nurse in
25 this state.
26 (8) The applicant for licensure to practice as a registered nurse shall pay a licensure
27 application fee, and licensure examination fees if applicable, as set forth in a

1 regulation by the board promulgated pursuant to the provisions of KRS Chapter
2 13A.
3 (9) Any person who holds a license to practice as a registered nurse in this state shall
4 have the right to use the title "registered nurse" and the abbreviation "R.N." No
5 other person shall assume the title or use the abbreviation or any other words,
6 letters, signs, or figures to indicate that the person using the same is a registered
7 nurse. No person shall practice as a registered nurse unless licensed under this
8 section.
9 (10) (a) On November 1, 2006, and thereafter, a registered nurse who is retired, upon
10 payment of a one-time fee, may apply for a special license in recognition of
11 the nurse's retired status. A retired nurse may not practice nursing but may use
12 the title "registered nurse" and the abbreviation "R.N."
13 (b) A retired registered nurse who wishes to return to the practice of nursing shall
14 apply for reinstatement.
15 (c) The board shall promulgate an administrative regulation pursuant to KRS
16 Chapter 13A to specify the fee required in paragraph (a) of this subsection and
17 reinstatement under paragraph (b) of this subsection.
18 (11) Any person heretofore licensed as a registered nurse under the licensing laws of this
19 state who has allowed the license to lapse by failure to renew may apply for
20 reinstatement of the license under the provisions of this chapter. A person whose
21 license has lapsed for one (1) year or more shall pass the jurisprudence examination
22 approved by the board as provided in subsection (4) of this section.
23 (12) A license to practice registered nursing may be limited by the board in accordance
24 with regulations promulgated by the board and as defined in this chapter.
25 (13) ~~[A graduate of an approved prelicensure registered nurse program who has not~~
26 ~~successfully completed the licensure examination for registered nurses shall be~~
27 ~~eligible for admission to the licensure examination for licensed practical nurses~~

1 ~~following successful completion of a board-approved practical nursing role~~
2 ~~delineation course. This course shall include content on the roles and~~
3 ~~responsibilities of a licensed practical nurse and direct supervised clinical~~
4 ~~instruction.~~
5 ~~(14)~~]A person who has completed a prelicensure registered nurse program and holds a
6 current, active licensed practical nurse license from another jurisdiction may apply
7 for licensure by endorsement as a licensed practical nurse in this state.
8 ➔Section 12. KRS 314.042 is amended to read as follows:
9 (1) An applicant for licensure to practice as an advanced practice registered nurse shall
10 file with the board a written application for licensure and submit evidence, verified
11 by oath, that the applicant has completed an approved organized postbasic program
12 of study and clinical experience; has fulfilled the requirements of KRS 214.615(1);
13 is certified by a nationally established organization or agency recognized by the
14 board to certify registered nurses for advanced practice registered nursing; and is
15 able to understandably speak and write the English language and to read the English
16 language with comprehension.
17 (2) The board may issue a license to practice advanced practice registered nursing to an
18 applicant who holds a current active registered nurse license issued by the board or
19 holds the privilege to practice as a registered nurse in this state and meets the
20 qualifications of subsection (1) of this section. An advanced practice registered
21 nurse shall be:
22 (a) Designated by the board as a certified ***registered*** nurse anesthetist, certified
23 nurse midwife, certified nurse practitioner, or clinical nurse specialist; and
24 (b) Certified in at least one (1) population focus.
25 (3) The applicant for licensure or renewal thereof to practice as an advanced practice
26 registered nurse shall pay a fee to the board as set forth in regulation by the board.
27 (4) An advanced practice registered nurse shall maintain a current active registered

1 nurse license issued by the board or hold the privilege to practice as a registered
2 nurse in this state and maintain current certification by the appropriate national
3 organization or agency recognized by the board.
4 (5) Any person who holds a license to practice as an advanced practice registered nurse
5 in this state shall have the right to use the title "advanced practice registered nurse"
6 and the abbreviation "APRN." No other person shall assume the title or use the
7 abbreviation or any other words, letters, signs, or figures to indicate that the person
8 using the same is an advanced practice registered nurse. No person shall practice as
9 an advanced practice registered nurse unless licensed under this section.
10 (6) Any person heretofore licensed as an advanced practice registered nurse under the
11 provisions of this chapter who has allowed the license to lapse may be reinstated on
12 payment of the current fee and by meeting the provisions of this chapter and
13 regulations promulgated by the board pursuant to the provisions of KRS Chapter
14 13A.
15 (7) The board may authorize a person to practice as an advanced practice registered
16 nurse temporarily and pursuant to applicable regulations promulgated by the board
17 pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results
18 of the national certifying examination for the first time or is awaiting licensure by
19 endorsement. A person awaiting the results of the national certifying examination
20 shall use the title "APRN Applicant" or "APRN App."
21 (8) (a) Except as authorized by KRS 314.196 and subsection (9) of this section,
22 before an advanced practice registered nurse engages in the prescribing or
23 dispensing of nonscheduled legend drugs as authorized by KRS 314.011(8),
24 the advanced practice registered nurse shall enter into a written "Collaborative
25 Agreement for the Advanced Practice Registered Nurse's Prescriptive
26 Authority for Nonscheduled Legend Drugs" (CAPA-NS) with a physician
27 ***licensed in Kentucky*** that defines the scope of the prescriptive authority for

1 nonscheduled legend drugs.
2 (b) The advanced practice registered nurse shall notify the Kentucky Board of
3 Nursing of the existence of the CAPA-NS and the name of the collaborating
4 physician and shall, upon request, furnish to the board or its staff a copy of the
5 completed CAPA-NS. The Kentucky Board of Nursing shall notify the
6 Kentucky Board of Medical Licensure that a CAPA-NS exists and furnish the
7 collaborating physician's name.
8 (c) The CAPA-NS shall be in writing and signed by both the advanced practice
9 registered nurse and the collaborating physician. A copy of the completed
10 collaborative agreement shall be available at each site where the advanced
11 practice registered nurse is providing patient care.
12 (d) The CAPA-NS shall describe the arrangement for collaboration and
13 communication between the advanced practice registered nurse and the
14 collaborating physician regarding the prescribing of nonscheduled legend
15 drugs by the advanced practice registered nurse.
16 (e) The advanced practice registered nurse who is prescribing nonscheduled
17 legend drugs and the collaborating physician shall be qualified in the same or
18 a similar specialty.
19 (f) The CAPA-NS is not intended to be a substitute for the exercise of
20 professional judgment by the advanced practice registered nurse or by the
21 collaborating physician.
22 (g) The CAPA-NS shall be reviewed and signed by both the advanced practice
23 registered nurse and the collaborating physician and may be rescinded by
24 either party upon written notice via registered mail to the other party, the
25 Kentucky Board of Nursing, and the Kentucky Board of Medical Licensure.
26 (9) (a) Before an advanced practice registered nurse may discontinue or be exempt
27 from a CAPA-NS required under subsection (8) of this section, the advanced

1 practice registered nurse shall have completed four (4) years of prescribing as
2 a nurse practitioner, clinical nurse specialist, nurse midwife, or as a nurse
3 anesthetist. For nurse practitioners and clinical nurse specialists, the four (4)
4 years of prescribing shall be in a population focus of adult-gerontology,
5 pediatrics, ***neonatal***[~~neonatology~~], family, women's health, acute care, or
6 psychiatric-mental health.
7 (b) After four (4) years of prescribing with a CAPA-NS in collaboration with a
8 physician:
9 1. An advanced practice registered nurse whose license is in good standing
10 at that time with the Kentucky Board of Nursing and who will be
11 prescribing nonscheduled legend drugs without a CAPA-NS shall notify
12 that board that the four (4) year requirement has been met and that he or
13 she will be prescribing nonscheduled legend drugs without a CAPA-NS;
14 2. The advanced practice registered nurse will no longer be required to
15 maintain a CAPA-NS and shall not be compelled to maintain a CAPA-
16 NS as a condition to prescribe after the four (4) years have expired, but
17 an advanced practice registered nurse may choose to maintain a CAPA-
18 NS indefinitely after the four (4) years have expired; and
19 3. If the advanced practice registered nurse's license is not in good
20 standing, the CAPA-NS requirement shall not be removed until the
21 license is restored to good standing.
22 (c) An advanced practice registered nurse wishing to practice in Kentucky
23 through licensure by endorsement is exempt from the CAPA-NS requirement
24 if the advanced practice registered nurse:
25 1. Has met the prescribing requirements in a state that grants independent
26 prescribing to advanced practice registered nurses; and
27 2. Has been prescribing for at least four (4) years.

1 (d) An advanced practice registered nurse wishing to practice in Kentucky
2 through licensure by endorsement who had a collaborative prescribing
3 agreement with a physician in another state for at least four (4) years is
4 exempt from the CAPA-NS requirement.
5 (e) After July 15, 2014:
6 1. An advanced practice registered nurse whose license is in good standing
7 at that time with the Kentucky Board of Nursing and who will be
8 prescribing nonscheduled legend drugs without a CAPA-NS shall notify
9 that board that the four (4) year requirement has been met and that he or
10 she will be prescribing nonscheduled legend drugs without a CAPA-NS;
11 2. An advanced practice registered nurse who has maintained a CAPA-NS
12 for four (4) years or more will no longer be required to maintain a
13 CAPA-NS and shall not be compelled to maintain a CAPA-NS as a
14 condition to prescribe after the four (4) years have expired, but an
15 advanced practice registered nurse may choose to maintain a CAPA-NS
16 indefinitely after the four (4) years have expired; and
17 3. An advanced practice registered nurse who has maintained a CAPA-NS
18 for less than four (4) years shall be required to continue to maintain a
19 CAPA-NS until the four (4) year period is completed, after which the
20 CAPA-NS will no longer be required.
21 (10) (a) Before an advanced practice registered nurse engages in the prescribing of
22 Schedules II through V controlled substances as authorized by KRS
23 314.011(8), the advanced practice registered nurse shall enter into a written
24 "Collaborative Agreement for the Advanced Practice Registered Nurse's
25 Prescriptive Authority for Controlled Substances" (CAPA-CS) with a
26 physician ***licensed in Kentucky*** that defines the scope of the prescriptive
27 authority for controlled substances.

1 (b) The advanced practice registered nurse shall notify the Kentucky Board of
2 Nursing of the existence of the CAPA-CS and the name of the collaborating
3 physician and shall, upon request, furnish to the board or its staff a copy of the
4 completed CAPA-CS. The Kentucky Board of Nursing shall notify the
5 Kentucky Board of Medical Licensure that a CAPA-CS exists and furnish the
6 collaborating physician's name.
7 (c) The CAPA-CS shall be in writing and signed by both the advanced practice
8 registered nurse and the collaborating physician. A copy of the completed
9 collaborative agreement shall be available at each site where the advanced
10 practice registered nurse is providing patient care.
11 (d) The CAPA-CS shall describe the arrangement for collaboration and
12 communication between the advanced practice registered nurse and the
13 collaborating physician regarding the prescribing of controlled substances by
14 the advanced practice registered nurse.
15 (e) The advanced practice registered nurse who is prescribing controlled
16 substances and the collaborating physician shall be qualified in the same or a
17 similar specialty.
18 (f) The CAPA-CS is not intended to be a substitute for the exercise of
19 professional judgment by the advanced practice registered nurse or by the
20 collaborating physician.
21 (g) Before engaging in the prescribing of controlled substances, the advanced
22 practice registered nurse shall:
23 1. Have been licensed to practice as an advanced practice registered nurse
24 for one (1) year with the Kentucky Board of Nursing; or
25 2. Be nationally certified as an advanced practice registered nurse and be
26 registered, certified, or licensed in good standing as an advanced
27 practice registered nurse in another state for one (1) year prior to

1 applying for licensure by endorsement in Kentucky.
2 (h) Prior to prescribing controlled substances, the advanced practice registered
3 nurse shall obtain a Controlled Substance Registration Certificate through the
4 U.S. Drug Enforcement Agency.
5 (i) The CAPA-CS shall be reviewed and signed by both the advanced practice
6 registered nurse and the collaborating physician and may be rescinded by
7 either party upon written notice via registered mail to the other party, the
8 Kentucky Board of Nursing, and the Kentucky Board of Medical Licensure.
9 (j) The CAPA-CS shall state the limits on controlled substances which may be
10 prescribed by the advanced practice registered nurse, as agreed to by the
11 advanced practice registered nurse and the collaborating physician. The limits
12 so imposed may be more stringent than either the schedule limits on
13 controlled substances established in KRS 314.011(8) or the limits imposed in
14 regulations promulgated by the Kentucky Board of Nursing thereunder.
15 (11) Nothing in this chapter shall be construed as requiring an advanced practice
16 registered nurse designated by the board as a certified nurse anesthetist to enter into
17 a collaborative agreement with a physician, pursuant to this chapter or any other
18 provision of law, in order to deliver anesthesia care.
19 ➔Section 13. KRS 314.071 is amended to read as follows:
20 (1) The license of every person issued under the provisions of this chapter shall be
21 renewed for a period of time as determined by the board by administrative
22 regulation promulgated pursuant to KRS Chapter 13A, except as hereinafter
23 provided. The applicant shall fill in the application form ***truthfully and accurately***
24 and return it to the board with the renewal fee prescribed by the board in a
25 regulation before the expiration date of his current license. The board shall prescribe
26 by regulation the beginning and ending of the licensure period.
27 (2) Any licensee who allows his license to lapse by failing to renew the license as

1 provided above may be reinstated by the board on payment of current fee [~~for~~
2 ~~original licensure~~]and by meeting the regulations of the board.
3 (3) Notice that the license must be renewed shall be sent to the address of record
4 pursuant to KRS 314.107 of each licensee before the expiration date of the license.
5 (4) Any person practicing nursing during the time the license has lapsed shall be
6 considered an illegal practitioner and shall be subject to the penalties provided for
7 violations of the provisions of this chapter.
8 ➔Section 14. KRS 314.073 is amended to read as follows:
9 (1) As a prerequisite for license renewal, all individuals licensed under provisions of
10 this chapter shall be required to document continuing competency during the
11 immediate past licensure period as prescribed in regulations promulgated by the
12 board.
13 (2) The continuing competency requirement shall be documented and reported as set
14 forth by the board in administrative regulations promulgated in accordance with
15 KRS Chapter 13A.
16 (3) The board shall approve providers of continuing education. The approval may
17 include recognition of providers approved by national organizations and state
18 boards of nursing with comparable standards. Standards for these approvals shall be
19 set by the board in administrative regulations promulgated in accordance with the
20 provisions of KRS Chapter 13A.
21 (4) The board shall work cooperatively with professional nursing organizations,
22 approved nursing schools, and other potential sources of continuing education
23 programs to assure that adequate continuing education offerings are available
24 statewide. The board may enter into contractual agreements to implement the
25 provisions of this section.
26 (5) The board shall be responsible for notifying applicants for licensure and licensees
27 applying for license renewal, of continuing competency requirements.

1 (6) The continuing competency requirements shall include the completion of the course
2 described in KRS 214.610(1) at least one (1) time every ten (10) years, but the
3 board may in its discretion require completion of the course more frequently.
4 (7) As a part of the continuing education requirements that the board adopts to ensure
5 continuing competency of present and future licensees, the board shall ensure
6 practitioners licensed under KRS Chapter 314 complete a one-time training course
7 of at least one and one-half (1.5) hours covering the recognition and prevention of
8 pediatric abusive head trauma, as defined in KRS 620.020. The one and one-half
9 (1.5) hours required under this section shall be included in the current number of
10 required continuing education hours.~~[Current practicing nurses shall demonstrate~~
11 ~~completion of this course by December 31, 2013.]~~
12 (8) In order to offset administrative costs incurred in the implementation of the
13 mandatory continuing competency requirements, the board may charge reasonable
14 fees as established by regulation in accordance with the provisions of KRS Chapter
15 13A.
16 (9) The continuing competency requirements shall include at least five (5) contact
17 hours in pharmacology continuing education for any person ***licensed***~~[registered]~~ as
18 an advanced practice registered nurse.
19 ➔Section 15. KRS 314.085 is amended to read as follows:
20 (1) If the board has reasonable cause to believe that any licensee; applicant for licensure
21 by examination, endorsement, reinstatement, or change of status; holder of the
22 privilege to practice as a nurse; credential holder; or holder of a temporary work
23 permit is unable to practice with reasonable skill and safety or has abused alcohol or
24 drugs, it may require the person to submit to a mental health, ***neuropsychological,***
25 ***psychosocial, psychosexual, substance use disorder***~~[chemical dependency]~~, or
26 physical evaluation by a licensed or certified practitioner designated by the board.
27 Upon the failure of the person to submit to a mental health, chemical dependency or

1 physical evaluation, unless due to circumstances beyond the person's control, the
2 board may initiate an action for immediate temporary suspension pursuant to KRS
3 314.089 or deny the application until the person submits to the required evaluation.
4 (2) Every licensee; applicant for licensure by examination, endorsement, reinstatement,
5 or change of status; holder of the privilege to practice as a nurse; credential holder;
6 or holder of a temporary work permit shall be deemed to have given consent to
7 submit to a mental health, ***neuropsychological, psychosocial, psychosexual,***
8 ***substance use disorder***[~~chemical dependency~~], or physical evaluation when so
9 directed in writing by the board. The direction to submit to an evaluation shall
10 contain the basis of the board's reasonable cause to believe that the person is unable
11 to practice with reasonable skill and safety, or has abused alcohol or drugs. The
12 person shall be deemed to have waived all objections to the admissibility of the
13 examining practitioner's testimony or examination reports on the ground of
14 privileged communication.
15 (3) The licensee; applicant for licensure by examination, endorsement, reinstatement, or
16 change of status; holder of the privilege to practice as a nurse; credential holder; or
17 holder of a temporary work permit shall bear the cost of any mental health,
18 ***neuropsychological, psychosocial, psychosexual, substance use disorder***[~~chemical~~
19 ~~dependency~~], or physical evaluation ordered by the board.
20 ➔Section 16. KRS 314.109 is amended to read as follows:
21 Any person under the jurisdiction of the board shall, within ninety (90) days of entry of an
22 order or judgment, notify the board in writing of any misdemeanor or felony criminal
23 conviction, except traffic-related misdemeanors other than operating a motor vehicle
24 under the influence of drugs or alcohol, in this or any other jurisdiction. The person shall
25 submit a certified ***or attested*** copy of the order and a letter of explanation.
26 ➔Section 17. The following KRS sections are repealed:
27 314.043 Nurse midwifery permits not to be issued after January 1, 1986 -- Current

1 permits may be reissued -- Use of title "advanced practice registered nurse"
2 regulated.
3 314.061 Credential to bear seal of board -- Exhibit of credential on demand -- Effect of
4 refusal.
5 314.450 Legislative finding.
6 314.452 Nursing Workforce Foundation -- Board -- Membership -- Reimbursement --
7 Executive director -- Funding.
8 314.454 Powers and duties of board.
9 314.456 Trust and agency fund.
10 314.458 Grants -- Requirements for receipt of funds.
11 314.460 Matching fund program.
12 314.462 Scholarship program and loan repayment program -- Requirements.
13 314.464 Annual report.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 4-2-15