

CHAPTER 20

(SB 11)

AN ACT relating to long-term care facilities.

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

➔Section 1. KRS 194A.700 is amended to read as follows:

As used in KRS 194A.700 to 194A.729:

- (1) "Activities of daily living" means normal daily activities, including *but not limited to* bathing, dressing, grooming, transferring, toileting, and eating;
- (2) "*Ambulatory*" means *able to walk, transfer, or move from place to place with or without hands-on assistance of another person, and with or without an assistive device, including but not limited to a walker or a wheelchair*;
- (3)~~(2)~~ "Assistance with activities of daily living and instrumental activities of daily living" means any assistance provided by the *assisted living*~~[assisted living]~~ community staff with the *resident*~~[client]~~ having at least minimal ability to verbally direct or physically participate in the activity with which assistance is being provided;
- (4)~~(3)~~ "Assistance with self-administration of medication," unless subject to more restrictive provisions in an *assisted living*~~[assisted living]~~ community's policies that are communicated in writing to *residents*~~[clients]~~ and prospective *residents*~~[clients]~~, means:
 - (a) Assistance with medication that is prepared or directed by the *resident*~~[client]~~, the *resident's*~~[client's]~~ designated representative, or a licensed health care professional who is not the owner, manager, or employee of the *assisted living*~~[assisted living]~~ community. The medication shall:
 1. Except for ointments, be preset in a medication organizer or be in a single dose unit;
 2. Include the *resident's*~~[client's]~~ name on the medication organizer or container in which the single dose unit is stored; and
 3. Be stored in a manner requested in writing by the *resident*~~[client]~~ or the *resident's*~~[client's]~~ designated representative and permitted by the *assisted living*~~[assisted living]~~ community's policies;
 - (b) Assistance by an *assisted living*~~[assisted living]~~ community staff person, which includes:
 1. Reminding a *resident*~~[client]~~ when to take medications and observing to ensure that the *resident*~~[client]~~ takes the medication as directed;
 2. Handing the *resident's*~~[client's]~~ medication to the *resident*~~[client]~~, or if it is difficult for the *resident*~~[client]~~ or the *resident*~~[client]~~ requests assistance, opening the unit dose or medication organizer, removing the medication from a medication organizer or unit dose container, closing the medication organizer for the *resident*~~[client]~~, placing the dose in a container, and placing the medication or the container in the *resident's*~~[client's]~~ hand;
 3. Steadying or guiding a *resident's*~~[client's]~~ hand while the *resident*~~[client]~~ is self-administering medications; or
 4. Applying over-the-counter topical ointments and lotions;
 - (c) Making available the means of communication by telephone, facsimile, *computer*, or other electronic device with a licensed health care professional and pharmacy regarding a prescription for medication;
 - (d) At the request of the *resident*~~[client]~~ or the *resident's*~~[client's]~~ designated representative, facilitating the filling of a preset medication container by a designated representative or licensed health care professional who is not the owner, manager, or employee of the assisted living community; and
 - (e) None of the following:
 1. Instilling eye, ear, or nasal drops;

2. Mixing compounding, converting, or calculating medication doses;
 3. Preparing syringes for injection or administering medications by any injection method;
 4. Administering medications through intermittent positive pressure breathing machines or a nebulizer;
 5. Administering medications by way of a tube inserted in a cavity of the body;
 6. Administering parenteral preparations;
 7. Administering irrigations or debriding agents used in the treatment of a skin condition; or
 8. Administering rectal, urethral, or vaginal preparations;
- (5){(4)} **"Assisted living**~~[Assisted living]~~ **community"** means a **licensed facility that provides sleeping accommodations and assisted living services set forth in the assisted living community's lease and policies**~~[series of living units on the same site certified under KRS 194A.707 to provide services]~~ for five (5) or more adult persons not related within the third degree of consanguinity to the owner or manager;
- (6) **"Assisted living community with dementia care"** means an assisted living community that is advertised, marketed, or otherwise promoted as providing specialized care for individuals with Alzheimer's disease or other dementia illnesses and disorders. An assisted living community with a secured dementia care unit shall be licensed as an assisted living community with dementia care;
- (7) **"Assisted living services"** means one (1) or more of the following services:
- (a) *Assisting with activities of daily living, including but not limited to bathing, dressing, grooming, transferring, toileting, and eating;*
 - (b) *Assisting with instrumental activities of daily living that support independent living, including but not limited to housekeeping, shopping, laundry, chores, transportation, and clerical assistance;*
 - (c) *Providing standby assistance;*
 - (d) *Providing verbal or visual reminders to the resident to take regularly scheduled medication, including bringing the resident previously set up medication, medication in original containers, or liquid or food to accompany the medication;*
 - (e) *Providing verbal or visual reminders to the resident to perform regularly scheduled treatments and exercises;*
 - (f) *Preparing and serving three (3) meals per day consisting of regular or modified diets ordered by a licensed health professional;*
 - (g) *Providing the services of an advanced practice registered nurse, registered nurse, licensed practical nurse, physical therapist, respiratory therapist, occupational therapist, speech pathologist, dietitian or nutritionist, or social worker;*
 - (h) *Tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed health professional within the person's scope of practice;*
 - (i) *Assistance with self-administration of medication;*
 - (j) *Medication management;*
 - (k) *Hands-on assistance with transfers and mobility, including use of gait belts;*
 - (l) *Treatments and therapies;*
 - (m) *Assisting residents with eating when the residents have complicated eating problems such as difficulty swallowing or recurrent lung aspirations as identified in the resident record or through an assessment;*
 - (n) *Scheduled daily social activities that address the general preferences of residents; and*
 - (o) *Other basic health and health-related services;*
- (8) **"Basic health and health-related services"** means:
- (a) *Monitoring and providing for the resident's health care needs;*

- (b) *Storage and control of medications, other than as requested by a resident or a resident's designated representative;*
 - (c) *Administration of medications; and*
 - (d) *Arranging for therapeutic services ordered by the resident's health care practitioner, if the services are not available in the assisted living community;*
- (9) *"Cabinet" means the Cabinet for Health and Family Services;*
- ~~(5)~~ *"Client," "resident," or "tenant" means an adult person who has entered into a lease agreement with an assisted living community;*
- ~~(6)~~ *"Danger" means physical harm or threat of physical harm to one's self or others;*
- ~~(7)~~ *"Department" means the Department for Aging and Independent Living;*
- ~~(8)~~(10) *"Dementia" means the loss of cognitive function, including the ability to think, remember, problem solve, or reason, of sufficient severity to interfere with an individual's daily functioning;*
- (11) *"Dementia care services" means ongoing care for behavioral and psychological symptoms of dementia, including but not limited to planned group and individual programming and person-centered care practices to support daily living activities for people living with dementia;*
- (12) *"Dementia-trained staff" means any employee who has completed the minimum training required by Section 21 of this Act and has demonstrated knowledge and the ability to support individuals with dementia;*
- (13) *"Hands-on assistance" means physical help by another person without which the resident is not able to perform the activity;*
- (14) *"Health services" has the same meaning as in KRS 216B.015;*
- ~~(15)~~~~(9)~~ *"Instrumental activities of daily living" means activities to support independent living including but not limited to housekeeping, shopping, laundry, chores, transportation, and clerical assistance;*
- ~~(16)~~~~(10)~~ *"Living unit" means a portion of an **assisted living**~~[assisted living]~~ community occupied as the living quarters of a **resident**~~[client]~~ under a lease agreement;*
- (17) *"Medication administration" means:*
- (a) *Checking the resident's medication record;*
 - (b) *Preparing the medication as necessary;*
 - (c) *Administering the medication to the resident;*
 - (d) *Documenting the administration or reason for not administering the medication; and*
 - (e) *Reporting to a nurse or appropriate licensed health professional any concerns about the medication, the resident, or the resident's refusal to take the medication;*
- (18) *"Medication management" means the provision of any of the following medication-related services to a resident:*
- (a) *Performing medication setup;*
 - (b) *Administering medications;*
 - (c) *Storing and securing medications;*
 - (d) *Documenting medication activities;*
 - (e) *Verifying and monitoring the effectiveness of systems to ensure safe handling and administration;*
 - (f) *Coordinating refills;*
 - (g) *Handling and implementing changes to prescriptions;*
 - (h) *Communicating with the pharmacy about the resident's medications; and*
 - (i) *Coordinating and communicating with the prescriber;*

- (19) *"Medication setup" means arranging medications by a nurse, pharmacy, or authorized prescriber for later administration by the resident or by facility staff;*
- ~~{(11) "Mobile nonambulatory" means unable to walk without assistance, but able to move from place to place with the use of a device including but not limited to a walker, crutches, or wheelchair;~~
- ~~(12) "Plan of correction" means a written response from the assisted living community addressing an instance cited in the statement of noncompliance;~~
- ~~(13) "Statement of danger" means a written statement issued by the department detailing an instance where a client is a danger; and~~
- ~~(14) "Statement of noncompliance" means a written statement issued by the department detailing an instance when the department considers the assisted living community to have been in violation of a statutory or regulatory requirement.}~~
- (20) *"Nonambulatory" means unable to walk, transfer, or move from place to place with or without hands-on assistance of another person, and with or without an assistive device, including but not limited to a walker or a wheelchair;*
- (21) *"Person-centered care" means respecting and valuing the individual, providing individualized care that reflects the individual's changing needs, understanding the perspective of the person, and providing supportive opportunities for social engagement;*
- (22) *"Resident" means an adult person who has entered into a lease agreement with an assisted living community;*
- (23) *"Secured dementia care unit" means a designated area or setting designed for individuals with dementia that is secured in compliance with the applicable life safety code to prevent or to limit a resident's ability to exit the secured area or setting. A secured dementia care unit is not solely an individual resident's living area;*
- (24) *"Service plan" means the written plan agreement between the resident and the licensee about services that will be provided to the resident;*
- (25) *"Standby assistance" means minimizing the risk of injury to a resident who is performing daily activities by a person who is within arm's reach providing physical intervention, cueing, or oversight;*
- (26) *"Temporary condition" means a condition that affects a resident as follows:*
- (a) *The resident is not ambulatory before or after entering a lease agreement with the assisted living community but is expected to regain ambulatory ability within six (6) months of loss of ambulation, as documented by a licensed health care professional, and the assisted living community has a written plan in place to mitigate risk; or*
- (b) *The resident is not ambulatory after entering a lease agreement with the assisted living community but is not expected to regain ambulatory ability, hospice services are provided by a hospice program licensed under KRS Chapter 216B or other end-of-life services are provided by a licensed health care provider in accordance with Section 3 of this Act, as documented by a licensed hospice program or other licensed health care professional, and the assisted living community has a written plan in place to mitigate risk; and*
- (27) *"Unlicensed personnel" means individuals not otherwise licensed or certified by a governmental health board or agency who provide services to a resident.*

➔Section 2. KRS 194A.703 is amended to read as follows:

- (1) Each living unit in an *assisted living*~~{assisted living}~~ community shall:
- (a) Be at least two hundred (200) square feet for single occupancy, or for double occupancy if the room is shared with a spouse or another individual by mutual agreement;
- (b) Include at least one (1) unfurnished room, ~~{with}~~ a lockable *entry* door~~{,}~~ *unless in a secured dementia care unit, a private bathroom with a tub or shower, provisions for emergency response, a window to the outdoors, and a telephone jack;*
- (c) *Unless living units are in a secured dementia care unit, have an individual thermostat control if the assisted living*~~{assisted living}~~ community has more than twenty (20) units; and

- (d) Have temperatures that are not under a **resident's**~~{client's}~~ direct control at a minimum of seventy-one (71) degrees Fahrenheit in winter conditions and a maximum of eighty-one (81) degrees Fahrenheit in summer conditions if the **assisted living**~~{assisted living}~~ community has twenty (20) or fewer units, **or the living units are in a secured dementia care unit.**
- (2) Each **resident**~~{client}~~ shall be provided access to central dining, a laundry facility, and a central living room.
- (3) Each **assisted living**~~{assisted living}~~ community shall comply with applicable building and life safety codes as determined by the building code or life safety code enforcement authority with jurisdiction.

➔Section 3. KRS 194A.705 is amended to read as follows:

- (1) The **assisted living**~~{assisted living}~~ community shall provide each **resident**~~{client}~~ with access to the following services according to the lease agreement:
- (a) Assistance with activities of daily living and instrumental activities of daily living;
 - (b) Three (3) meals and snacks made available each day, **with flexibility in a secured dementia care unit to meet the needs of residents with cognitive impairments who may eat outside of scheduled dining hours;**
 - (c) Scheduled daily social activities that address the general preferences of **residents**~~{clients}~~; ~~and~~
 - (d) Assistance with self-administration of medication; **and**
 - (e) **Housing.**
- (2) (a) **The assisted living community may provide residents with access to basic health and health-related services.**
- (b) **If an assisted living community chooses to provide basic health and health-related services, the assisted living community shall supervise the residents.**
- (3) (a) **Residents**~~{Clients}~~ of an **assisted living**~~{assisted living}~~ community may arrange for additional services under direct contract or arrangement with an outside agent, professional, provider, or other individual designated by the **resident**~~{client}~~ if permitted by the policies of the **assisted living**~~{assisted living}~~ community.
- (b) **Permitted services for which a resident may arrange or contract include but are not limited to health services, hospice services provided by a hospice program licensed under KRS Chapter 216B, and other end-of-life services.**
- (4)~~{3}~~ Upon entering into a lease agreement, an **assisted living**~~{assisted living}~~ community shall inform the **resident**~~{client}~~ in writing about policies relating to the **provision of services by the assisted living community and the** contracting or arranging for additional services.
- (5)~~{4}~~ A **resident**~~{client}~~ issued a move-out notice shall receive the notice in writing and the **assisted living**~~{assisted living}~~ community shall assist each **resident**~~{client}~~ upon a move-out notice to find appropriate living arrangements. Each **assisted living**~~{assisted living}~~ community shall share information provided from the **cabinet**~~{department}~~ regarding options for alternative living arrangements at the time a move-out notice is given to the **resident**~~{client}~~.
- (6)~~{5}~~ An **assisted living**~~{assisted living}~~ community shall complete and provide to the **resident**~~{client}~~:
- (a) Upon move-in, a copy of a functional needs assessment pertaining to the **resident's**~~{client's}~~ ability to perform activities of daily living and instrumental activities of daily living **and any other topics the assisted living community determines to be necessary;** and
 - (b) After move-in, a copy of an updated functional needs assessment pertaining to the **resident's**~~{client's}~~ ability to perform activities of daily living and instrumental activities of daily living, **the service plan designed to meet identified needs, and any other topics the assisted living community determines to be necessary.**

➔Section 4. KRS 194A.707 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish by the promulgation of administrative regulation under KRS Chapter 13A, an initial and~~{annual}~~ **re-licensure**~~{certification}~~ review process for **assisted living**~~{assisted living}~~ communities. This administrative regulation shall establish procedures related to

applying for, reviewing, and approving, denying, or revoking *licensure*~~[certification]~~, as well as the conduct of hearings upon appeals as governed by KRS Chapter ~~216B~~~~[13B]~~.

- (2) *Notwithstanding the timeframe in Section 27 of this Act*, an on-site visit of an *assisted living*~~[assisted living]~~ community shall be conducted by the cabinet:
- (a) As part of the initial *licensure*~~[certification]~~ review process;
 - (b) *Twenty-four (24) months following the date of the previous licensure review, if during the previous licensure review an assisted living community was not found to have violated an administrative regulation set forth by the cabinet that presented imminent danger to a resident that created substantial risk of death or serious mental or physical harm; and*
 - (c) *Twelve (12) months following the date of the previous licensure review, if during the previous licensure review an assisted living community was found to have violated an administrative regulation set forth by the cabinet that presented imminent danger to a resident that created substantial risk of death or serious mental or physical harm*~~[On a biennial basis as part of the certification review process if during or since the previous certification review an assisted living community has not received:~~
 1. ~~Any statement of danger, unless withdrawn by the cabinet; or~~
 2. ~~A finding substantiated by the cabinet that the assisted living community delivered a health service; and~~
 - (e) ~~Within one (1) year of the date of the previous certification review if during or since the last certification review an assisted living community has received:~~
 1. ~~Any statement of danger that was not withdrawn by the cabinet; or~~
 2. ~~A finding substantiated by the cabinet that the assisted living community delivered a health service].~~
- (3) No business shall market its service as an *assisted living*~~[assisted living]~~ community unless it has:
- (a) Filed a current application for the business to be *licensed*~~[certified]~~ by the *cabinet*~~[department]~~ as an *assisted living*~~[assisted living]~~ community; or
 - (b) Received *licensure*~~[certification]~~ by the *cabinet*~~[department]~~ as an *assisted living*~~[assisted living]~~ community.
- (4) No business that has been denied or had its *license*~~[certification]~~ revoked shall operate or market its service as an *assisted living*~~[assisted living]~~ community unless it has:
- (a) Filed a current application for the business to be *licensed*~~[certified]~~ by the *cabinet*~~[department]~~ as an *assisted living*~~[assisted living]~~ community; and
 - (b) Received *licensure*~~[certification]~~ as an *assisted living*~~[assisted living]~~ community from the *cabinet*~~[department]~~. Revocation of *licensure*~~[certification]~~ may be grounds for the *cabinet*~~[department]~~ to not reissue *a license for that property*~~[certification]~~ for *seven (7) years*~~[one (1) year]~~ if ownership remains substantially the same.
- (5) No business shall operate as an *assisted living*~~[assisted living]~~ community unless its owner or manager has:
- (a) Filed a current application for the business to be *licensed*~~[certified]~~ as an *assisted living*~~[assisted living]~~ community by the *cabinet*~~[department]~~; and
 - (b) Received *licensure*~~[certification]~~ as an *assisted living*~~[assisted living]~~ community from the *cabinet*~~[department]~~.
- (6) By September 1 of each year, each *assisted living*~~[assisted living]~~ community *licensed*~~[certified]~~ pursuant to this chapter may provide residents with educational information or education opportunities on influenza disease.
- (7) The *cabinet*~~[department]~~ shall determine the feasibility of recognizing accreditation by other organizations in lieu of *licensure*~~[certification]~~ *review by*~~[from]~~ the *cabinet*~~[department]~~.
- (8) Individuals designated by the *cabinet*~~[department]~~ to conduct *licensure*~~[certification]~~ reviews shall have the skills, training, experience, and ongoing education, *including understanding that assisted living is not subject*

to the rules and regulations of the Centers for Medicare and Medicaid Services, to perform *assisted living community and assisted living community with dementia care licensure*~~[certification]~~ reviews.

- (9) The cabinet may promulgate administrative regulations to establish an *assisted living*~~[assisted living]~~ community *and assisted living community with dementia care licensure*~~[certification]~~ fee that shall not exceed costs of the program to the cabinet, to be assessed upon receipt of an application for *licensure*~~[certification]~~. The *cabinet*~~[department]~~ shall *provide*~~[submit]~~ a breakdown of fees assessed and costs incurred for conducting *licensure*~~[certification]~~ reviews upon request *of any interested person*.
- (10) The *cabinet*~~[department]~~ shall make findings from *the most recent licensure*~~[certification]~~ *review*~~[reviews]~~ conducted during the prior twelve (12) months~~]~~ available to *the public*~~[any interested person]~~.
- (11) Notwithstanding any provision of law to the contrary, the *cabinet*~~[department]~~ may request ~~[any]~~ additional *relevant* information from an *assisted living*~~[assisted living]~~ community or conduct additional on-site visits to ensure compliance with the provisions of KRS 194A.700 to 194A.729 *if the cabinet has reasonable cause to believe that the assisted living community is not in compliance*.
- (12) Failure to follow an *assisted living*~~[assisted living]~~ community's policies, practices, and procedures shall not result in a finding of noncompliance unless the *assisted living*~~[assisted living]~~ community is out of compliance with a related requirement under KRS 194A.700 to 194A.729.

➔Section 5. KRS 194A.709 is amended to read as follows:

- (1) ~~[The department shall report to the Division of Health Care any alleged or actual cases of health services being delivered by the staff of an assisted living community.~~
- ~~(2)]~~An *assisted living*~~[assisted living]~~ community shall have written policies on reporting and recordkeeping of alleged or actual cases of abuse, neglect, or exploitation of an adult under KRS 209.030. The only requisite components of a recordkeeping policy are the date and time of the report, the reporting method, and a brief summary of the alleged incident.
- ~~(2)~~~~(3)~~ Any *assisted living*~~[assisted living]~~ community staff member who has reasonable cause to suspect that a *resident*~~[client]~~ has suffered abuse, neglect, or exploitation shall report the abuse, neglect, or exploitation under KRS 209.030.

➔Section 6. KRS 194A.711 is amended to read as follows:

A *resident*~~[client]~~ shall ~~[meet the following criteria:~~

- ~~(1)]~~be ambulatory~~[or mobile nonambulatory]~~, unless due to a temporary condition~~]; and~~
- ~~(2)]~~Not be a danger~~].~~

➔Section 7. KRS 194A.713 is amended to read as follows:

A lease agreement, in no smaller type than twelve (12) point font, shall be executed by the *resident*~~[client]~~ and the *assisted living*~~[assisted living]~~ community and shall include but not be limited to:

- (1) *Resident*~~[Client]~~ data, for the purpose of providing service, to include:
 - (a) Emergency contact person's name;
 - (b) Name of responsible party or legal guardian, if applicable;
 - (c) Attending physician's name;
 - (d) Information regarding personal preferences and social factors; and
 - (e) Advance directive under KRS 311.621 to 311.643, if desired by the *resident*~~[client]~~;
- (2) *Assisted living*~~[Assisted living]~~ community's policy regarding termination of the lease agreement;
- (3) Terms of occupancy;
- (4) General services and fee structure;
- (5) Information regarding specific services provided, description of the living unit, and associated fees;
- (6) Provisions for modifying *resident*~~[client]~~ services and fees;

- (7) Minimum thirty (30) day notice provision for a change in the community's fee structure;
- (8) Minimum thirty (30) day move-out notice provision for *resident*~~{client}~~ nonpayment, subject to applicable landlord or tenant laws;
- (9) Provisions for assisting any *resident*~~{client}~~ that has received a move-out notice to find appropriate living arrangements prior to the actual move-out date;
- (10) Refund and cancellation policies;
- (11) Description of any special programming, staffing, or training if an *assisted living*~~{assisted living}~~ community is marketed as providing special programming, staffing, or training on behalf of *residents*~~{clients}~~ with particular needs or conditions;
- (12) Other community rights, policies, practices, and procedures;
- (13) Other *resident*~~{client}~~ rights and responsibilities, including compliance with *subsections (3) and (4) of Section 3 of this Act*~~{KRS 194A.705(2) and (3)}~~; and
- (14) Grievance policies that minimally address issues related to confidentiality of complaints and the process for resolving grievances between the *resident*~~{client}~~ and the *assisted living*~~{assisted living}~~ community.

➔Section 8. KRS 194A.715 is amended to read as follows:

An *assisted living*~~{assisted living}~~ community shall provide any interested person with a copy of KRS 194A.700 to 194A.729 and relevant administrative regulations.

➔Section 9. KRS 194A.717 is amended to read as follows:

- (1) Staffing in an *assisted living*~~{assisted living}~~ community shall be sufficient in number and qualification to meet the twenty-four (24) hour scheduled needs of each *resident*~~{client}~~ pursuant to the lease agreement, ~~{and~~ ~~}~~functional needs assessment, *and service plan*.
- (2) One (1) awake staff member shall be on site at *each licensed entity at* all times.
- (3) An *assisted living*~~{assisted living}~~ community shall have a designated manager who is at least twenty-one (21) years of age, has at least a high school diploma or a High School Equivalency Diploma, and has demonstrated management or administrative ability to maintain the daily operations.
- (4) No employee who has an active communicable disease reportable to the Department for Public Health shall be permitted to work in an *assisted living*~~{assisted living}~~ community if the employee is a danger to the *residents*~~{clients}~~ or other employees.
- (5) *When a resident requires hands-on assistance of another person to walk, transfer, or move from place to place with or without an assistive device, the assisted living community shall have a policy that describes how priority will be given by staff sufficient to assist that resident during times of emergency when evacuation may be necessary.*

➔Section 10. KRS 194A.719 is amended to read as follows:

- (1) *Prior to independently working with residents, assisted living*~~{Assisted living}~~ community staff and management shall receive orientation education *addressing*~~{on}~~ the following topics, *with emphasis on those most* ~~{as}~~ applicable to the employee's assigned duties:
 - (a) *Resident*~~{Client}~~ rights;
 - (b) Community policies;
 - (c) Adult first aid;
 - (d) Cardiopulmonary resuscitation unless the policies of the *assisted living*~~{assisted living}~~ community state that this procedure is not initiated by its staff, and that *residents*~~{clients}~~ and prospective *residents*~~{clients}~~ are informed of the policies;
 - (e) Adult abuse and neglect;
 - (f) Alzheimer's disease and other types of dementia;
 - (g) Emergency procedures;
 - (h) Aging process;

- (i) Assistance with activities of daily living and instrumental activities of daily living;
 - (j) Particular needs or conditions if the *assisted living*~~[assisted living]~~ community markets itself as providing special programming, staffing, or training on behalf of *residents*~~[clients]~~ with particular needs or conditions; and
 - (k) Assistance with self-administration of medication.
- (2) *Assisted living*~~[Assisted living]~~ community staff and management shall receive annual in-service education applicable to their assigned duties that addresses no fewer than four (4) of the topics listed in subsection (1) of this section, ***one (1) of which shall be Alzheimer's disease and other types of dementia.***

➔Section 11. KRS 194A.721 is amended to read as follows:

- (1) Any *assisted living*~~[assisted living]~~ community that was open or under construction on or before July 14, 2000, shall be exempt from the requirement that each living unit have a bathtub or shower.
- (2) Any *assisted living*~~[assisted living]~~ community that was open or under construction on or before July 14, 2000, shall have a minimum of one (1) bathtub or shower for each five (5) *residents*~~[clients]~~.
- (3) Any *assisted living*~~[assisted living]~~ community that was open or under construction on or before July 14, 2000, shall be exempt from the requirement that each living unit shall be at least two hundred (200) square feet for single occupancy, or for double occupancy if the room is shared with a spouse or another individual by mutual agreement.

➔Section 12. KRS 194A.727 is amended to read as follows:

Any business, not licensed or certified in another capacity, that complies with some provisions of KRS 194A.700 to 194A.729 but does not provide *assisted living services shall not be eligible for licensure as an assisted living community*~~[assistance with any activities of daily living or assistance with self administration of medication shall not be eligible for certification as an assisted living community]~~ under KRS 194A.700 to 194A.729.

➔Section 13. KRS 194A.729 is amended to read as follows:

If a person or business seeks financing for an *assisted living*~~[assisted living]~~ community project, the *cabinet*~~[department]~~ shall provide written correspondence to the lender, upon request, to denote whether the architectural drawings and lease agreement conditionally comply with the provisions of KRS 194A.700 to 194A.729. The *cabinet*~~[department]~~ may promulgate administrative regulations to establish a fee that shall not exceed costs of the program to the cabinet, to be charged for the written correspondence to the lender.

➔SECTION 14. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS CREATED TO READ AS FOLLOWS:

- (1) ***An applicant for licensure as an assisted living community with dementia care shall have the ability to provide services in a manner that is consistent with the requirements in this section. The cabinet shall consider the following criteria for licensure, including but not limited to:***
 - (a) ***The education and experience of the applicant or its principals in managing residents with dementia or other dementia illnesses and disorders; and***
 - (b) ***The compliance history of the applicant in the operation of any care facility licensed, certified, or registered under federal or state law.***
- (2) ***If the applicant or its principals do not have experience in managing residents with dementia, the applicant shall employ or contract with a consultant pursuant to terms determined by the applicant and consultant for at least the first six (6) months of operation. The consultant shall make recommendations on providing dementia care services consistent with the requirements of this chapter. The consultant shall:***
 - (a) ***Possess two (2) years of work experience related to dementia, health care, gerontology, or an associated field; and***
 - (b) ***Have completed at least the core training required by Section 21 of this Act.***
- (3) ***The applicant shall document an acceptable plan to address the consultant's identified concerns and shall either implement the recommendations or document in the plan any consultant recommendations that the applicant chooses not to implement. The cabinet shall review the applicant's plan upon request.***

- (4) *Subsections (1), (2), and (3) of this section apply only to the initial licensure of assisted living communities with dementia care and do not apply to existing dementia units in operation as of the effective date of this Act.*
- (5) *The cabinet shall conduct an on-site inspection prior to the issuance of an assisted living community with dementia care license. An on-site inspection of an existing secured dementia care unit licensed as part of a certified assisted living community or a licensed personal care home that is conducted prior to the initial issuance of an assisted living community with dementia care license shall be for the purpose of ensuring compliance with the physical environment requirements.*
- (6) *The license shall be inscribed as an "Assisted Living Community with Dementia Care."*

➔SECTION 15. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS CREATED TO READ AS FOLLOWS:

A licensee shall notify the cabinet in writing at least sixty (60) calendar days prior to the voluntary relinquishment of an assisted living community with dementia care license. For voluntary relinquishment, the facility shall:

- (1) *Give all residents and their designated and legal representatives sixty (60) calendar days' notice. The notice shall include:*
- (a) *The proposed effective date of the relinquishment;*
 - (b) *Changes in staffing;*
 - (c) *Changes in services, including the elimination or addition of services; and*
 - (d) *Changes in staff training when the relinquishment becomes effective;*
- (2) *Submit a transitional plan to the cabinet demonstrating how the current residents shall be evaluated and assessed to reside in other housing settings that are not an assisted living community with dementia care, that are physically unsecured, or that would require move-out or transfer to other settings;*
- (3) *Change service or care plans as appropriate to address any needs the residents may have with the transition;*
- (4) *Notify the cabinet when the relinquishment process has been completed; and*
- (5) *Revise advertising materials and disclosure information to remove any reference that the facility is an assisted living community with dementia care.*

➔SECTION 16. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS CREATED TO READ AS FOLLOWS:

- (1) *A licensee of an assisted living community with dementia care is responsible for:*
- (a) *The care and housing of persons with dementia;*
 - (b) *The provision of person-centered care that promotes each resident's dignity, independence, and comfort; and*
 - (c) *The supervision, training, and overall conduct of the staff.*
- (2) *A licensee shall follow the assisted living license requirements and the criteria in KRS 194A.700 to 194A.729.*

➔SECTION 17. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS CREATED TO READ AS FOLLOWS:

- (1) *The assisted living manager of an assisted living community with dementia care shall complete at least ten (10) hours of annual continuing education that relate to the care of individuals with dementia.*
- (2) *Annual continuing education topics shall include:*
- (a) *Medical management of dementia;*
 - (b) *Creating and maintaining supportive and therapeutic environments for residents with dementia; and*
 - (c) *Transitioning and coordinating services for residents with dementia.*
- (3) *The continuing education requirements may be fulfilled by the following:*

- (a) *College courses;*
- (b) *Preceptor credits;*
- (c) *Self-directed activities;*
- (d) *Course instructor credits;*
- (e) *Corporate training;*
- (f) *In-service training;*
- (g) *Professional association training;*
- (h) *Web-based training;*
- (i) *Correspondence courses;*
- (j) *Telecourses;*
- (k) *Seminars; and*
- (l) *Workshops.*

➔SECTION 18. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS CREATED TO READ AS FOLLOWS:

- (1) *In addition to the policies and procedures required in the licensing of all assisted living communities, an assisted living community with dementia care licensee shall develop and implement policies and procedures that address the following:*
 - (a) *Philosophy of how services are provided and implemented based upon the assisted living community licensee's values, mission, and promotion of person-centered care;*
 - (b) *Evaluation of behavioral symptoms and design of supports for intervention plans, including but not limited to nonpharmacological practices that are person-centered and evidence-informed;*
 - (c) *Exit seeking and egress prevention;*
 - (d) *Medication management pursuant to orders from a resident's health care practitioner;*
 - (e) *Staff training specific to dementia care;*
 - (f) *Description of life enrichment and activity programs;*
 - (g) *Description of family support and engagement programs;*
 - (h) *Incontinence care;*
 - (i) *Limit the use of public address and intercom systems to emergencies;*
 - (j) *Transportation to and from off-site medical appointments; and*
 - (k) *Safekeeping of residents' possessions.*
- (2) *The policies and procedures shall be provided to residents and their legal and designated representatives at the time of move-in.*

➔SECTION 19. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS CREATED TO READ AS FOLLOWS:

- (1) *An assisted living community with dementia care shall assign dementia-trained staff who have been instructed in the person-centered care approach for all residents. All direct care staff assigned to care for residents with dementia shall be trained to work with residents with Alzheimer's disease and other related dementia illnesses and disorders.*
- (2) *Only staff trained as required by Section 21 of this Act shall be assigned to care for dementia residents.*
- (3) *Staffing levels shall be sufficient to meet the scheduled needs of residents. During nighttime hours, staffing levels shall be based on the sleep patterns and needs of residents.*

- (4) *In an emergency and when trained staff are not available, the assisted living community may assign staff who have not completed the required training. The emergency situation shall be documented and shall address:*
- (a) *The nature of the emergency;*
 - (b) *The duration of the emergency; and*
 - (c) *The names and positions of staff who provided coverage and assistance.*
- (5) *The licensee shall ensure that staff who provide support for residents with dementia demonstrate a basic understanding and ability to apply dementia training to the residents' emotional and unique health care needs using person-centered planning delivery.*
- (6) *Persons in charge of staff training shall have the following experience and credentials:*
- (a) *Two (2) years of combined education and work experience related to Alzheimer's disease or other dementia illnesses and disorders, or in health care, gerontology, or another related field;*
 - (b) *Completion of training equivalent to the requirements in Section 21 of this Act; and*
 - (c) *A passing score on a skills competency or knowledge test the licensee selected or developed.*
- (7) *Orientation and in-service training may include various methods of instruction, including but not limited to classroom style, Web-based training, video, or one-to-one training. The licensee shall use a method for determining and documenting each staff person's knowledge and understanding of the training provided. All training shall be documented.*

➔SECTION 20. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS CREATED TO READ AS FOLLOWS:

- (1) *In addition to the minimum services required in Section 3 of this Act, an assisted living community with dementia care shall also provide:*
- (a) *Assistance with activities of daily living that address the needs of each resident with dementia;*
 - (b) *Nonpharmacological practices that are person-centered and evidence-informed;*
 - (c) *Informational services educating persons living with dementia and their legal and designated representatives about transitions in care and expectations of residents while in care;*
 - (d) *Social activities offered on or off the premises of the licensed assisted living community with dementia care that provide residents with opportunities to engage with other residents and the broader community; and*
 - (e) *Basic health and health-related services.*
- (2) *Each resident shall be evaluated for engagement in activities. The evaluation shall address:*
- (a) *Past and current interests;*
 - (b) *Current abilities and skills;*
 - (c) *Emotional and social needs and patterns;*
 - (d) *Physical abilities and limitations;*
 - (e) *Adaptations necessary for residents to participate; and*
 - (f) *Identification of activities for behavioral interventions.*
- (3) *An individualized activity plan shall be developed for each resident based on his or her activity evaluation. The plan shall reflect the resident's activity preferences and needs.*
- (4) *A selection of daily structured and non-structured activities shall be provided and included on the resident's activity service or care plan as appropriate. Daily activity options based on the resident evaluation may include but are not limited to:*
- (a) *Occupation or chore related tasks;*
 - (b) *Scheduled and planned events;*
 - (c) *Spontaneous activities for enjoyment or to help defuse a behavior;*

- (d) *One-to-one activities that promote personal interactions between residents and staff;*
 - (e) *Spiritual, creative, and intellectual activities;*
 - (f) *Sensory stimulation activities;*
 - (g) *Physical activities; and*
 - (h) *Outdoor activities.*
- (5) *Behavioral symptoms that negatively impact the resident and others in the assisted living community with dementia care shall be evaluated and included on the service plan. The staff shall initiate and coordinate outside consultation or acute care when indicated.*
- (6) *Support services shall be offered to family and others with significant relationships on a regularly scheduled basis but not less than every six (6) months.*
- (7) *Subject to appropriate weather, time of day, and other environmental or resident-specific considerations as determined by staff, access to secured outdoor space and walkways allowing residents to enter the secured outdoor space and return to the building without staff assistance shall be provided. This subsection shall only apply to secured dementia care units constructed after the effective date of this Act.*

➔SECTION 21. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS CREATED TO READ AS FOLLOWS:

In addition to the training required for all assisted living communities, an assisted living community with dementia care shall meet the following training requirements for staff who work on its secured dementia care unit:

- (1) *All staff shall receive at least eight (8) hours of dementia-specific orientation within the first thirty (30) days of working in the secured dementia care unit. Until this initial training is complete, an employee shall not provide direct care unless there is another employee on site who has completed the initial eight (8) hours of training on topics related to dementia care and who can act as a resource and assist as needed. The orientation shall include:*
- (a) *Information about the nature, progression, and management of Alzheimer's and other dementia illnesses and disorders;*
 - (b) *Methods for creating an environment that minimizes challenging behavior from residents with Alzheimer's and other dementia illnesses and disorders;*
 - (c) *Methods for identifying and minimizing safety risks to residents with Alzheimer's and other dementia illnesses and disorders; and*
 - (d) *Methods for communicating with individuals with Alzheimer's and other dementia illnesses and disorders;*
- (2) *All direct care staff members shall also receive orientation training within the first thirty (30) days of caring for residents that includes at a minimum:*
- (a) *General training, including:*
 - 1. *Development and implementation of comprehensive and individual service plans;*
 - 2. *Skills for recognizing physical and cognitive changes in residents;*
 - 3. *General infection control principles; and*
 - 4. *Emergency preparedness training; and*
 - (b) *Specialized training in dementia care, including:*
 - 1. *The nature of Alzheimer's and other dementia illnesses and disorders;*
 - 2. *The unit's philosophy related to the care of residents with Alzheimer's and other dementia illnesses and disorders;*
 - 3. *The unit's policies and procedures related to the care of residents with Alzheimer's and other dementia illnesses and disorders;*

4. *Behavioral problems commonly found in residents with Alzheimer's and other dementia illnesses and disorders;*
 5. *Positive therapeutic interventions and activities;*
 6. *Skills for maintaining the safety of the residents; and*
 7. *The role of family in caring for residents with Alzheimer's and other dementia illnesses and disorders;*
- (3) *Direct care staff shall complete a minimum of sixteen (16) hours of specialized training in dementia care within the first thirty (30) days of working independently with residents with Alzheimer's or other dementia illnesses and disorders, and a minimum of eight (8) hours of specialized training in dementia care annually thereafter;*
 - (4) *The secured dementia care unit shall maintain documentation reflecting course content, instructor qualifications, agenda, and attendance rosters for all training sessions provided; and*
 - (5) *Completion of orientation and training required pursuant to this section and Section 10 of this Act shall be deemed to satisfy the requirements of KRS 216B.072.*

➔SECTION 22. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS CREATED TO READ AS FOLLOWS:

- (1) *An assisted living community shall not operate unless it is licensed under this chapter. A licensee shall be legally responsible for the management, control, and operations of the facility.*
- (2) *The following categories are established for assisted living community licensure:*
 - (a) *An assisted living community license for any assisted living community without a secured dementia care unit; and*
 - (b) *An assisted living community with dementia care license for an assisted living community that provides assisted living services and dementia care services in a secured dementia care unit.*
- (3) *On or after the effective date of this Act, no assisted living community shall operate a secured dementia care unit without first obtaining an assisted living community with dementia care license from the cabinet. A license issued pursuant to this section shall not be assignable or transferable.*

➔SECTION 23. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS CREATED TO READ AS FOLLOWS:

- (1) *A licensed personal care home in substantial compliance with Section 2 of this Act shall be licensed as an assisted living community as of the effective date of this Act. The cabinet shall issue an assisted living community license to the facility to replace its personal care license. If the personal care home has a secured dementia care unit, the replacement license shall be an assisted living community with dementia care license.*
- (2) *A licensed personal care home that does not comply with Section 2 of this Act on the effective date of this Act may file an application with the cabinet to change its license from personal care home to assisted living community or assisted living community with dementia care:*
 - (a) *Within twelve (12) months after the effective date of this Act once it complies with the physical plant requirements of an assisted living community as of the effective date of this Act; or*
 - (b) *After twelve (12) months of the effective date of this Act once it complies with the physical plant requirements of an assisted living community in effect at the time of its application.*

➔SECTION 24. A NEW SECTION OF KRS 194A.700 TO 194A.729 IS CREATED TO READ AS FOLLOWS:

- (1) *Violations of the administrative regulations, standards, and requirements set forth by the cabinet pursuant to Section 4 of this Act, the applicable provisions of KRS 216.515 to 216.525, 216.537 to 216.555, 216.567 and 216.590, and Sections 29, 30, 31, 32, 33, and 34 of this Act shall be cited and referred to as citations or deficiencies and shall not be subject to or be categorized as Type A or Type B violations.*
- (2) *When an assisted living community self-reports to the cabinet facts or an event that constitute a violation of the administrative regulations, standards, and requirements set forth by the cabinet pursuant to Section 4 of this Act, the applicable provisions of KRS 216.515 to 216.525, 216.537 to 216.555, 216.567 and 216.590,*

and Sections 29, 30, 31, 32, 33, and 34 of this Act, the violation shall be shown on all related documents as having been reported to the cabinet by the assisted living community, and shall not be deemed a complaint.

- (3) *Violations of the administrative regulations, standards, and requirements set forth by the cabinet shall present a direct or immediate relationship to the health, safety, or security of any resident.*
- (4) *A citation for a violation shall specify the time within which the violation is required to be corrected as approved or determined by the cabinet. If a violation is corrected within the time specified, no civil penalty shall be imposed.*
- (5) *Civil monetary penalties for violations of the administrative regulations, standards, and requirements set forth by the cabinet shall not be assessed in excess of five hundred dollars (\$500) for each distinct violation. Civil monetary penalties shall not be assessed unless imminent danger to a resident is present that creates substantial risk of death or serious mental or physical harm.*
- (6) *In determining the amount of any civil monetary penalty to be imposed under this subsection, the cabinet shall consider at least the following:*
 - (a) *The gravity of the violation, the severity of the actual harm, and the extent to which the provisions of the applicable statutes or administrative regulations were violated;*
 - (b) *The reasonable diligence exercised by the licensee and efforts to correct violations;*
 - (c) *The number and type of previous violations committed by the licensee; and*
 - (d) *The amount of the imposed penalty necessary to ensure immediate and continued compliance.*
- (7) *An assisted living community that is assessed a civil monetary penalty shall have the amount of the penalty reduced by the dollar amount that the facility can verify was used to correct the deficiency if the condition resulting in the deficiency citation existed for less than thirty (30) days prior to the date of the citation.*
- (8) *All administrative fines collected by the cabinet pursuant to KRS 194A.700 to 194A.729 shall be deposited in the Kentucky nursing incentive scholarship fund created pursuant to KRS 314.025.*

➔Section 25. KRS 216.510 is amended to read as follows:

As used in KRS 216.515 to 216.530:

- (1) "Long-term-care facilities" means those health-care facilities in the Commonwealth which are defined by the Cabinet for Health and Family Services to be family-care homes, personal-care homes, intermediate-care facilities, nursing facilities, nursing homes, ~~and~~ intermediate care facilities for individuals with intellectual disabilities, *and assisted living communities as defined in Section 1 of this Act;*
- (2) "Resident" means any person who is admitted to a long-term-care facility as defined in KRS 216.515 to 216.530 for the purpose of receiving personal care and assistance; and
- (3) "Cabinet" means the Cabinet for Health and Family Services.

➔Section 26. KRS 216.515 is amended to read as follows:

Every resident in a long-term-care facility shall have at least the following rights:

- (1) Before admission to a long-term-care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his guardian, of all services available at the long-term-care facility. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.
- (2) Before admission to a long-term-care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his guardian, of all resident's responsibilities and rights as defined in this section and KRS 216.520 to 216.530. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.
- (3) The resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member, or his guardian, prior to or at the time of admission and quarterly during the resident's stay at the facility, of all service charges for which the resident or his responsible family member or

his guardian is responsible for paying. The resident and the responsible party or his responsible family member or his guardian shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.

- (4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for nonpayment, except where prohibited by law or administrative regulation. Reasonable notice of such action shall be given to the resident and the responsible party or his responsible family member or his guardian.
- (5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination, or reprisal.
- (6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.
- (7) All residents shall have confidential treatment of their medical and personal records. Each resident or his responsible family member or his guardian shall approve or refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or administrative regulation.
- (8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and the responsible party or his responsible family member or his guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions, and any unused balance of moneys from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions, and funds that the facility is not liable for shall be promptly returned to the resident's responsible party or family member, or his guardian, or his executor.
- (9) If a resident is married, privacy shall be assured for the spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.
- (10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.
- (11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.
- (12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.
- (13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.
- (14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.
- (15) Residents shall be assured of at least visual privacy in multibed rooms and in tub, shower, and toilet rooms.
- (16) The resident and the responsible party or his responsible family member or his guardian shall be permitted the choice of a physician.
- (17) If the resident is adjudicated mentally disabled in accordance with state law, the resident's guardian shall act on the resident's behalf in order that his rights be implemented.
- (18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.
- (19) Every resident and the responsible party or his responsible family member or his guardian has the right to be fully informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.

- (20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.
- (21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.
- (22) The resident's responsible party or family member or his guardian shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.
- (23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the Cabinet for Health and Family Services.
- (24) Each resident and the responsible party or his responsible family member or his guardian has the right to have access to all inspection reports on the facility.
- (25) The above-stated rights shall apply in all cases unless medically contraindicated and documented by a physician in writing in the resident's medical record.
- (26) Any resident *of a long-term care facility licensed under KRS Chapter 216B* whose rights as specified in this section are deprived or infringed upon shall have a cause of action against any facility responsible for the violation. The action may be brought by the resident or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a resident. Any plaintiff who prevails in such action against the facility may be entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds the plaintiff has acted in bad faith, with malicious purpose, or that there was a complete absence of justifiable issue of either law or fact. Prevailing defendants may be entitled to recover reasonable attorney's fees. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident and to the cabinet.

➔Section 27. KRS 216.530 is amended to read as follows:

- (1) All inspections of long-term care facilities performed by the cabinet shall be unannounced. All inspections of long-term care facilities shall be conducted in accordance with the rules and regulations promulgated by the cabinet in accordance with KRS Chapter 13A setting forth the parameters of such inspections. Except for complaint investigations, *and except for assisted living communities, personal care homes, and specialized personal care homes*, inspections shall be performed no later than seven (7) to fifteen (15) months after the previous inspection.
- (2) A person having knowledge of or conducting inspections of long-term care facilities shall not, with intent to violate subsection (1) of this section, notify or cause notice to be made to an owner, operator, licensee, or representative of a licensee of any scheduled or contemplated inspection. A violation of this subsection by a state employee shall be considered cause for dismissal under KRS Chapter 18A.

➔Section 28. KRS 216.535 is amended to read as follows:

- (1) As used in KRS 216.537 to 216.590:
 - (a) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the Cabinet for Health and Family Services to be family care homes, personal care homes, intermediate care facilities, nursing facilities, nursing homes, ~~and~~ intermediate care facilities for individuals with intellectual disabilities, *and assisted living communities as defined in Section 1 of this Act*;
 - (b) "Cabinet" means the Cabinet for Health and Family Services;
 - (c) "Resident" means any person admitted to a long-term care facility as defined by this section;
 - (d) "Licensee" in the case of a licensee who is an individual means the individual, and in the case of a licensee who is a corporation, partnership, or association means the corporation, partnership, or association;
 - (e) "Secretary" means the secretary of the Cabinet for Health and Family Services;
 - (f) "Long-term care ombudsman" means the person responsible for the operation of a long-term care ombudsman program which investigates and resolves complaints made by or on behalf of residents of long-term care facilities; and

- (g) "Willful interference" means an intentional, knowing, or purposeful act or omission which hinders or impedes the lawful performance of the duties and responsibilities of the ombudsman as set forth in this chapter.
- (2) The following information shall be available upon request of the affected Medicaid recipient or responsible party:
 - (a) Business names, business addresses, and business telephone numbers of operators and administrators of the facility; and
 - (b) Business names, business addresses, and business telephone numbers of staff physicians and the directors of nursing.
- (3) The following information shall be provided to the nursing facility patient upon admission:
 - (a) Admission and discharge policies of the facility;
 - (b) Payment policies relevant to patients for all payor types; and
 - (c) Information developed and distributed to the nursing facility by the Department for Medicaid Services, including but not limited to:
 - 1. Procedures for implementation of all peer review organizations' reviews and appeals processes;
 - 2. Eligibility criteria for the state's Medical Assistance Program, including circumstances when eligibility may be denied; and
 - 3. Names and telephone numbers for case managers and all state long term care ombudsmen.

➔Section 29. KRS 216.765 is amended to read as follows:

- (1) Prior to admission to a personal-care home *or assisted living community as defined in Section 1 of this Act*, an individual shall have a medical examination that includes a medical history, physical examination, and diagnosis. If completed within fourteen (14) days prior to admission, the medical evaluation may include a copy of the individual's discharge summary or health and physical report from a physician, hospital, or other health care facility.
- (2) No person under the age of eighteen (18) years shall be admitted to a personal-care home *or assisted living community*.

➔Section 30. KRS 216.557 is amended to read as follows:

Citations issued pursuant to KRS 216.537 to 216.590 shall be classified according to the nature of the violation as follows:

- (1) Type "A" violation means a violation by a long-term care facility of the regulation, standards, and requirements as set forth by the cabinet pursuant to KRS 216.563 or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act, which presents an imminent danger to any resident of a long-term care facility and creates substantial risk that death or serious mental or physical harm to a resident will occur. A Type A violation shall be abated or eliminated immediately, unless a fixed period of time not to exceed ten (10) days, as determined by the cabinet, is required for correction. A Type A violation is subject to a civil penalty in an amount not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each and every violation. A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation; ~~and~~
- (2) Type "B" violation means a violation by a long-term care facility of the regulations, standards, and requirements as set forth by the cabinet pursuant to KRS 216.563 or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act, which presents a direct or immediate relationship to the health, safety, or security of any resident, but which does not create an imminent danger. A Type B violation is subject to a civil penalty in an amount not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each and every violation. A citation for a Type B violation shall specify the time within which the violation is required to be corrected as approved or determined by the cabinet. If a Type B violation is corrected within the time specified, no civil penalty shall be imposed. A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the

Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.

This section shall not apply to assisted living communities licensed pursuant to KRS 194A.700 to 194A.729.

➔Section 31. KRS 216.560 is amended to read as follows:

- (1) If a licensee has failed to correct a Type A violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of five hundred dollars (\$500) for each day that the deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents. A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.
- (2) If a licensee has failed to correct a Type B violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of two hundred dollars (\$200) for each day that the deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents. A facility that is assessed a civil monetary penalty in accordance with applicable federal laws and regulations under Title 18 or 19 of the Federal Social Security Act shall not be subject to the civil monetary penalty established in this subsection for the same violation.
- (3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a licensee has received a citation for violating a statute or regulation for which it has received a citation during the previous twelve (12) months.
- (4) Payment of penalties shall not be made from moneys used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.
- (5) KRS 216B.990(3) shall not apply to the offenses defined herein.
- (6) A personal care home that is assessed a civil monetary penalty for a Type A or Type B citation shall have the amount of the penalty reduced by the dollar amount that the facility can verify was used to correct the deficiency, if:
 - (a) The condition resulting in the deficiency citation existed for less than thirty (30) days prior to the date of the citation; or
 - (b) The facility has not intentionally delayed correcting the deficiency to secure a reduction in a penalty that might subsequently be assessed.
- (7) All administrative fines collected by the cabinet pursuant to KRS 216.537 to 216.590 shall be deposited in the Kentucky nursing incentive scholarship fund, which is hereby created, and the balance of that fund shall not lapse at the end of the fiscal year to the general fund.

(8) This section shall not apply to assisted living communities licensed under KRS 194A.700 to 194A.729.

➔Section 32. KRS 216.563 is amended to read as follows:

- (1) The cabinet shall promulgate administrative regulations setting forth the criteria and, where feasible, the specific acts that constitute Type A and B violations as specified by KRS 216.537 to 216.590. No violation or civil penalty for violations of KRS 216.537 to 216.590 shall be assessed until the initial regulations are effective pursuant to KRS Chapter 13A.
- (2) ***This section shall not apply to assisted living communities licensed under KRS 194A.700 to 194A.729.***

➔Section 33. KRS 216.565 is amended to read as follows:

- (1) In determining the amount of the initial penalty to be imposed under KRS 216.537 to 216.590, the cabinet shall consider at least the following factors:
 - (a) ~~{(4)}~~—The gravity of the violation, including the probability that death or serious physical or mental harm to a resident will result or has resulted; the severity of the actual or potential harm, and the extent to which the provisions of the applicable statutes or regulations were violated;

- (b) ~~[(2)]~~ The reasonable diligence exercised by the licensee and efforts to correct violations;
 - (c) ~~[(3)]~~ The number and type of previous violations committed by the licensee; and
 - (d) ~~[(4)]~~ The amount of assessment necessary to insure immediate and continued compliance.
- (2) ***This section shall not apply to assisted living communities licensed under KRS 194A.700 to 194A.729.***
- ➔Section 34. KRS 216.573 is amended to read as follows:
- (1) The cabinet may institute injunctive proceedings in Circuit Court to enforce the provisions of KRS 216.537 to 216.590 or to terminate the operation of a long-term care facility where any of the following exists:
 - (a) ~~[(4)]~~ Failure of the licensee to take appropriate action to correct a Type A or B violation; or
 - (b) ~~[(2)]~~ Failure of the licensee to abide by any final order of the cabinet once it has become effective and binding.
 - (2) Such injunctive relief may include temporary and permanent injunction.
- (3) ***The cabinet may institute injunctive proceedings to enforce KRS 194A.700 to 194A.729 only under subsection (1)(b) of this section.***
- ➔Section 35. KRS 216.577 is amended to read as follows:
- (1) Upon a finding that conditions in a long-term care facility constitute a Type A violation, and the licensee fails to correct the violation within the time specified for correction by the cabinet, the secretary shall take at least one (1) of the following actions with respect to the facility in addition to the issuance of a citation, or the assessment of a civil penalty therefor:
 - (a) ~~[(4)]~~ Institute proceedings to obtain an order compelling compliance with the regulations, standards, or requirements as set forth by the Cabinet for Health and Family Services, the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act;
 - (b) ~~[(2)]~~ Institute injunctive proceedings in Circuit Court to terminate the operation of the facility; or
 - (c) ~~[(3)]~~ Selectively transfer residents whose care needs are not being adequately met by the long-term care facility.
- (2) ***This section shall not apply to assisted living communities licensed under KRS 194A.700 to 194A.729.***
- ➔Section 36. KRS 216.595 is amended to read as follows:
- (1)
 - (a) Any ***assisted living***~~assisted living~~ community as defined by KRS 194A.700 or long-term care facility as defined in KRS 216.535 that claims to provide special care for persons with a medical diagnosis of Alzheimer's disease or other brain disorders shall maintain a written and current manual that contains the information specified in subsection (2) of this section. This manual shall be maintained in the office of the community's or facility's director and shall be made available for inspection upon request of any person. The community or facility shall make a copy of any program or service information contained in the manual for a person who requests information about programs or services, at no cost to the person making the request.
 - (b) Any advertisement of the community or facility shall contain the following statement: "Written information relating to this community's or facility's services and policies is available upon request."
 - (c) The community or facility shall post a statement in its entrance or lobby as follows: "Written information relating to this community's or facility's services and policies is available upon request."
 - (2) The community or facility shall maintain and update written information on the following:
 - (a) The ***assisted living***~~assisted living~~ community's or long-term care facility's mission or philosophy statement concerning the needs of residents with Alzheimer's disease or other brain disorders;
 - (b) The process and criteria the ***assisted living***~~assisted living~~ community or long-term care facility uses to determine placement into services for persons with Alzheimer's disease or other brain disorders;
 - (c) The process and criteria the ***assisted living***~~assisted living~~ community or long-term care facility uses to transfer or discharge persons from special services for Alzheimer's or other brain disorders;

- (d) The supervision provided for residents with a medical diagnosis of Alzheimer's disease or other brain disorders;
 - (e) The family's role in care;
 - (f) The process for assessing, planning, implementing, and evaluating the plan of care for persons with Alzheimer's disease or other brain disorders;
 - (g) A description of any special care services for persons with Alzheimer's disease or other brain disorders;
 - (h) Any costs associated with specialized services for Alzheimer's disease or other brain disorders; and
 - (i) A description of dementia or other brain disorder-specific staff training that is provided, including but not limited to the content of the training, the number of offered and required hours of training, the schedule for training, and the staff who are required to complete the training.
- (3) An **assisted living**~~assisted living~~ community may request a waiver from the Cabinet for Health and Family Services regarding building requirements to address the specialized needs of individuals with Alzheimer's disease or other brain disorders.

➔SECTION 37. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

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

- (a) **"Cabinet" means the Cabinet for Health and Family Services;**
- (b) **"Personal care home" or "PCH" means an establishment located in a permanent building that does not comply with the physical plant requirements of Section 2 of this Act, has resident beds, and provides:**
 - 1. **Supervision of residents;**
 - 2. **Basic health and health-related services;**
 - 3. **Personal care services;**
 - 4. **Residential care services; and**
 - 5. **Social and recreational activities; and**
- (c) **"Specialized personal care home" or "SPCH" means a personal care home that:**
 - 1. **Participates in the mental illness or intellectual disability supplement program pursuant to administrative regulations promulgated by the cabinet; or**
 - 2. **Serves residents with thirty-five percent (35%) or more having a serious mental illness as defined by administrative regulations promulgated by the cabinet.**

(2) **A resident in a PCH or SPCH shall:**

- (a) **Be admitted in accordance with Section 29 of this Act;**
- (b) **Be ambulatory as defined by Section 1 of this Act;**
- (c) **Be able to manage most of the activities of daily living; and**
- (d) **Have care needs that do not exceed the capability of the PCH or SPCH.**

(3) **An individual who is nonambulatory as defined in Section 1 of this Act shall not be eligible for residence in a PCH or SPCH.**

(4) **A PCH or SPCH may provide services to a resident who is deemed to have a temporary condition as defined in Section 1 of this Act.**

- (5) (a) **Residents of a PCH or SPCH may arrange for additional services under direct contract or arrangement with an outside agent, professional, provider, or other individual designated by the resident if permitted by the policies of the PCH or SPCH.**
- (b) **Permitted services for which a resident may arrange or contract include but are not limited to health services, hospice services provided by a hospice program licensed under KRS Chapter 216B, and other end-of-life services.**

- (6) (a) *Staffing in a PCH or SPCH shall be sufficient in number and qualification to meet the twenty-four (24) hour scheduled needs of each resident.*
- (b) *One (1) awake staff member shall be on site at each licensed entity at all times.*
- (c) *When a resident requires hands-on assistance of another person to walk, transfer, or move from place to place with or without an assistive device, the PCH or SPCH shall have a policy that describes how priority will be given by staff sufficient to assist that resident during times of emergency when evacuation may be necessary.*
- (7) (a) *The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish an initial and re-licensure review process for personal care homes or specialized personal care homes. Administrative regulations shall establish procedures related to applying for, reviewing, and approving, denying, or revoking licensure, as well as the conduct of hearings upon appeals as governed by KRS Chapter 216B.*
- (b) *Notwithstanding any provision of law to the contrary, the cabinet may request additional relevant information from a personal care home or specialized personal care home or conduct additional on-site visits to ensure compliance with the provisions of this chapter and other applicable statutes and administrative regulations, if the cabinet has reasonable cause to believe that the personal care home or specialized personal care home is not in compliance.*
- (c) *Notwithstanding Section 27 of this Act, the cabinet shall conduct an on-site visit of a personal care home or specialized personal care home:*
1. *As part of the initial licensure review process;*
 2. *Twenty-four (24) months following the date of the previous licensure review, if during the previous licensure review a personal care home or specialized personal care home was not found to have violated an administrative regulation set forth by the cabinet that presented imminent danger to a resident that created substantial risk of death or serious mental or physical harm; and*
 3. *Twelve (12) months following the date of the previous licensure review, if during the previous licensure review a personal care home or specialized personal care home was found to have violated an administrative regulation set forth by the cabinet that presented imminent danger to a resident that created substantial risk of death or serious mental or physical harm.*

➔Section 38. KRS 216A.030 is amended to read as follows:

- (1) No licensed long-term care facility shall operate except under the supervision of a long-term care administrator, unless approved by the board through administrative regulation, and no person shall be a long-term care administrator unless he or she is the holder of a long-term care administrator's license issued pursuant to this chapter.
- (2) *This section shall not apply to assisted living communities licensed under KRS 194A.700 to 194A.729.*

➔Section 39. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

- (1) "Abortion facility" means any place in which an abortion is performed;
- (2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A;
- (3) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; and the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located;
- (4) (a) "Ambulatory surgical center" means a health facility:
 1. Licensed pursuant to administrative regulations promulgated by the cabinet;

2. That provides outpatient surgical services, excluding oral or dental procedures; and
 3. Seeking recognition and reimbursement as an ambulatory surgical center from any federal, state, or third-party insurer from which payment is sought.
- (b) An ambulatory surgical center does not include the private offices of physicians where in-office outpatient surgical procedures are performed as long as the physician office does not seek licensure, certification, reimbursement, or recognition as an ambulatory surgical center from a federal, state, or third-party insurer.
- (c) Nothing in this subsection shall preclude a physician from negotiating enhanced payment for outpatient surgical procedures performed in the physician's private office so long as the physician does not seek recognition or reimbursement of his or her office as an ambulatory surgical center without first obtaining a certificate of need or license required under KRS 216B.020 and 216B.061;
- (5) "Applicant" means any physician's office requesting a major medical equipment expenditure exceeding the capital expenditure minimum, or any person, health facility, or health service requesting a certificate of need or license;
- (6) "Cabinet" means the Cabinet for Health and Family Services;
- (7) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:
- (a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or
 - (b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof;
- (8) "Capital expenditure minimum" means the annually adjusted amount set by the cabinet. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review;
- (9) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter;
- (10) "Certified surgical assistant" means a certified surgical assistant or certified first assistant who is certified by the National Surgical Assistant Association on the Certification of Surgical Assistants, the Liaison Council on Certification of Surgical Technologists, or the American Board of Surgical Assistants. The certified surgical assistant is an unlicensed health-care provider who is directly accountable to a physician licensed under KRS Chapter 311 or, in the absence of a physician, to a registered nurse licensed under KRS Chapter 314;
- (11) "Continuing care retirement community" means a community that provides, on the same campus, a continuum of residential living options and support services to persons sixty (60) years of age or older under a written agreement. The residential living options shall include independent living units, nursing home beds, and either assisted living units or personal care beds;
- (12) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet;
- (13) "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include but shall not be limited to health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, nursing facilities, nursing homes, personal care homes, intermediate care facilities, *assisted living communities*, family care homes, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, and others providing similarly organized services regardless of nomenclature;

- (14) "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including but not limited to diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services;
- (15) "Independent living" means the provision of living units and supportive services, including but not limited to laundry, housekeeping, maintenance, activity direction, security, dining options, and transportation;
- (16) "Intraoperative surgical care" includes the practice of surgical assisting in which the certified surgical assistant or physician assistant is working under the direction of the operating physician as a first or second assist, and which may include the following procedures:
- (a) Positioning the patient;
 - (b) Preparing and draping the patient for the operative procedure;
 - (c) Observing the operative site during the operative procedure;
 - (d) Providing the best possible exposure of the anatomy incident to the operative procedure;
 - (e) Assisting in closure of incisions and wound dressings; and
 - (f) Performing any task, within the role of an unlicensed assistive person, or if the assistant is a physician assistant, performing any task within the role of a physician assistant, as required by the operating physician incident to the particular procedure being performed;
- (17) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included;
- (18) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095;
- (19) "Nonclinically related expenditures" means expenditures for:
- (a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or
 - (b) Projects which do not involve the provision of direct clinical patient care, including but not limited to the following:
 1. Parking facilities;
 2. Telecommunications or telephone systems;
 3. Management information systems;
 4. Ventilation systems;
 5. Heating or air conditioning, or both;
 6. Energy conservation; or
 7. Administrative offices;
- (20) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record;
- (21) "Perioperative nursing" means a practice of nursing in which the nurse provides preoperative, intraoperative, and postoperative nursing care to surgical patients;
- (22) "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state;
- (23) "Physician assistant" means the same as the definition provided in KRS 311.550;
- (24) "Record" means, as applicable in a particular proceeding:
- (a) The application and any information provided by the applicant at the request of the cabinet;

- (b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;
 - (c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;
 - (d) Any staff reports or recommendations prepared by or for the cabinet;
 - (e) Any recommendation or decision of the cabinet;
 - (f) Any testimony or documentary evidence adduced at a hearing;
 - (g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and
 - (h) Any other items required by administrative regulations promulgated by the cabinet;
- (25) "Registered nurse first assistant" means one who:
- (a) Holds a current active registered nurse licensure;
 - (b) Is certified in perioperative nursing; and
 - (c) Has successfully completed and holds a degree or certificate from a recognized program, which shall consist of:
 1. The Association of Operating Room Nurses, Inc., Core Curriculum for the registered nurse first assistant; and
 2. One (1) year of postbasic nursing study, which shall include at least forty-five (45) hours of didactic instruction and one hundred twenty (120) hours of clinical internship or its equivalent of two (2) college semesters.
- A registered nurse who was certified prior to 1995 by the Certification Board of Perioperative Nursing shall not be required to fulfill the requirements of paragraph (c) of this subsection;
- (26) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (27) "Sexual assault examination facility" means a licensed health facility, emergency medical facility, primary care center, or a children's advocacy center or rape crisis center that is regulated by the Cabinet for Health and Family Services, and that provides sexual assault examinations under KRS 216B.400;
- (28) "State health plan" means the document prepared triennially, updated annually, and approved by the Governor;
- (29) "Substantial change in a health service" means:
- (a) The addition of a health service for which there are review criteria and standards in the state health plan; or
 - (b) The addition of a health service subject to licensure under this chapter;
- (30) "Substantial change in bed capacity" means the addition or reduction of beds by licensure classification within a health facility;
- (31) "Substantial change in a project" means a change made to a pending or approved project which results in:
- (a) A substantial change in a health service, except a reduction or termination of a health service;
 - (b) A substantial change in bed capacity, except for reductions;
 - (c) A change of location; or
 - (d) An increase in costs greater than the allowable amount as prescribed by regulation;
- (32) "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one (1) person from another person;

- (33) "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area;
- (34) "To establish" means to construct, develop, or initiate a health facility;
- (35) "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract; and
- (36) "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

➔Section 40. KRS 216B.160 is amended to read as follows:

All health care facilities and services licensed under this chapter shall include in their policies and procedures a care delivery model based on patient needs which includes~~[-]~~ but is not limited to:

- (1) Defined roles and responsibilities of licensed and unlicensed health care personnel;
- (2) A policy that establishes the credentialing, oversight, appointment, and reappointment of the registered nurse first assistant and for granting, renewing, and revising of the registered nurse first assistant's clinical privileges;
- (3) A policy that establishes the credentialing, oversight, appointment, and reappointment of the physician assistant and for granting, renewing, and revising of the physician assistant's clinical privileges;
- (4) A policy that establishes the credentialing, oversight, appointment, and reappointment of the certified surgical assistant and for granting, renewing, and revising of the certified surgical assistant's clinical privileges;
- (5) A staffing plan that specifies staffing levels of licensed and unlicensed personnel required to safely and consistently meet the performance and clinical outcomes-based standards as outlined in the facility's or service's quality improvement plan;
- (6) A staffing model that is developed and implemented in an interdisciplinary and collaborative manner;
- (7) A policy and method that incorporates at least four (4) components in an ongoing assessment done by the registered nurse, *or in an assisted living community, a registered nurse or the manager's designee*, of the severity of the patient's disease, patient condition, level of impairment or disability, and the specific unit patient census to meet the needs of the individual patient in a timely manner; and
- (8) A staffing model that supports the delivery of patient care services with an appropriate mix of licensed health care personnel that will allow them to practice according to their legal scope of practice, and for nurses, the professional standards of practice referenced in KRS Chapter 314, and facility and service policies.

If a nursing facility, intermediate care facility, or skilled care facility meets the most current state or federal regulations which address safe and consistent staffing levels of licensed and unlicensed personnel, those shall suffice for compliance with the standards in this section. This section shall not be interpreted as requiring any health care facility to develop a policy or a procedure for a service not offered by the facility.

➔Section 41. KRS 218A.180 is amended to read as follows:

- (1) Except when dispensed directly by a practitioner to an ultimate user, no controlled substance listed in Schedule II may be dispensed without the written, facsimile, electronic, or oral prescription of a practitioner. A prescription for a controlled substance listed in Schedule II may be dispensed by a facsimile prescription only as specified in administrative regulations promulgated by the cabinet. A prescription for a controlled substance listed in Schedule II may be dispensed by oral prescription only for immediate administration to a patient enrolled in a hospice program or a resident in a long-term care facility, as defined in KRS 216.535, excluding a family care home, *assisted living community as defined in Section 1 of this Act*, or personal care home, and the practitioner determines that immediate administration is necessary, no appropriate alternative treatment is available, and it is not reasonably possible for the prescriber to provide a written prescription. No prescription for a controlled substance in Schedule II shall be valid after sixty (60) days from the date issued. No prescription for a controlled substance in Schedule II shall be refilled. All prescriptions for controlled substances classified in Schedule II shall be maintained in a separate prescription file.
- (2) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in Schedules III, IV, and V, which is a prescription drug, shall not be dispensed without a written, facsimile,

electronic, or oral prescription by a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date issued or be refilled more than five (5) times, unless renewed by the practitioner and a new prescription, written, electronic, or oral shall be required.

- (3) (a) To be valid, a prescription for a controlled substance shall be issued only for a legitimate medical purpose by a practitioner acting in the usual course of his professional practice. Responsibility for the proper dispensing of a controlled substance pursuant to a prescription for a legitimate medical purpose is upon the pharmacist who fills the prescription.
- (b) A prescription shall not be issued for a practitioner to obtain a controlled substance for the purpose of general dispensing or administering to patients.
- (4) All written, facsimile, and electronic prescriptions for controlled substances shall be dated and signed by the practitioner on the date issued. A computer-generated prescription that is printed out or faxed by the practitioner shall be manually signed. A prescription may be transmitted by facsimile only as specified in administrative regulations promulgated by the cabinet. Electronic prescriptions shall be created, signed, and transmitted in accordance with the requirements of 21 C.F.R. pt. 1311.
- (5) All prescriptions for controlled substances shall include the full name and address of the patient, drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.
- (6) All oral prescriptions for controlled substances shall be immediately reduced to writing, dated, and signed by the pharmacist.
- (7) A pharmacist refilling any prescription shall record on the prescription or other equivalent record the date, the quantity, and the pharmacist's initials. The maintenance of prescription records under the federal controlled substances laws and regulations containing substantially the same information as specified in this subsection shall constitute compliance with this subsection.
- (8) The pharmacist filling a written, facsimile, electronic, or oral prescription for a controlled substance shall affix to the package a label showing the date of filling, the pharmacy name and address, the serial number of the prescription, the name of the patient, the name of the prescribing practitioner and directions for use and cautionary statements, if any, contained in such prescription or required by law.
- (9) Any person who violates any provision of this section shall:
 - (a) For the first offense, be guilty of a Class A misdemeanor.
 - (b) For a second or subsequent offense, be guilty of a Class D felony.

➔Section 42. The following KRS sections are repealed:

194A.723 Penalties for operating without certification.

194A.724 Statements of danger -- Penalty for receipt.

Signed by Governor March 18, 2022.