

## CHAPTER 150

## ( HB 349 )

AN ACT relating to the treatment of sexually transmitted diseases.

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

➔Section 1. KRS 214.430 is amended to read as follows:

- (1) For the purposes of this section, unless the context requires otherwise:
  - (a) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
  - (b) "Expedited partner therapy" means the prescribing or dispensing of antibiotic drugs to a practitioner's diagnosed patient's sexual partner or partners for the same disease without examination of that diagnosed patient's partner or partners;
  - (c) "Legend drug" means any drug defined by the Federal Food, Drug, and Cosmetic Act, as amended, and under which definition its label is required to bear the statement, "Caution: Federal law prohibits dispensing without prescription.";
  - (d) "Practitioner" means medical or osteopathic physicians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes advanced practice registered nurses as authorized in KRS 314.011 and 314.042 and physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.858; and
  - (e) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans.
- (2) Notwithstanding any other provision of law, a practitioner who is licensed to diagnose and prescribe drugs for ~~for~~ sexually transmitted **infections, including but not limited to trichomoniasis**, gonorrhea, or chlamydia infection, who diagnoses a sexually transmitted ~~gonorrhea or chlamydia~~ infection in a patient may provide expedited partner therapy for a sexually transmitted ~~gonorrhea or chlamydia~~ infection to that patient's sexual partner or partners.
- (3) A practitioner that provides expedited partner therapy shall:
  - (a) Adhere to prescribing and dispensing standards for expedited partner therapy pursuant to the current United States Centers for Disease Control and Prevention Sexually Transmitted Diseases Treatment Guidelines for expedited partner therapy; and
  - (b) Utilize forms established by the Department for Public Health for patients and their sexual partner or partners explaining expedited partner therapy.
- (4) A practitioner who reasonably and in good faith renders expedited partner therapy in accordance with this section and administrative regulations promulgated by the board having professional jurisdiction shall not be subject to civil or criminal liability or be deemed to have engaged in unprofessional conduct.

➔Section 2. KRS 311.990 is amended to read as follows:

- (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- (2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his **or her** bond for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.
- (3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class

A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

- (4) Each violation of KRS 311.560 shall constitute a Class D felony.
- (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.
- (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.
- (7) Each violation of KRS 311.375(1) shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- (8) Each violation of KRS 311.375(2) shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.
- (9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.
- (10)
  - (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
  - (b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- (11)
  - (a)
    - 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.
    - 2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.
    - 3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.
  - (b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.
  - (c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.
- (12)
  - (a) Except as provided in KRS 311.732(12), any person who intentionally, knowingly, or recklessly performs an abortion upon a minor without obtaining the required consent pursuant to KRS 311.732 shall be guilty of a Class D felony.
  - (b) Except as provided in paragraph (a) of this subsection, any person who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
  - (c) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- (13) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.
- (14) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- (15) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- (16) Any person who violates KRS 311.770 shall be guilty of a Class D felony.

- (17) Except as provided in KRS 311.787(3), any person who intentionally violates KRS 311.787 shall be guilty of a Class D felony.
- (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- (19) Except as provided in KRS 311.782(6), any person who intentionally violates KRS 311.782 shall be guilty of a Class D felony.
- (20) Any person who violates KRS 311.783(1) shall be guilty of a Class B misdemeanor.
- (21) Any person who violates KRS 311.7705(1) is guilty of a Class D felony.
- (22) Any person who violates KRS 311.7706(1) is guilty of a Class D felony.
- (23) Except as provided in KRS 311.731(7), any person who violates KRS 311.731(2) shall be guilty of a Class D felony.
- (24) Any physician, physician assistant, advanced practice registered nurse, nurse, or other healthcare provider who intentionally violates KRS 311.823(2) shall be guilty of a Class D felony. As used in this subsection, "healthcare provider" has the same meaning as in KRS 311.821.
- (25) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- (26) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.
- (27) Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- (28) Any person who violates KRS 311.905(3) shall be guilty of a violation.
- (29) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.
- (30) ~~[(a) —] Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor.~~  
~~[(b) — Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.]~~
- (31) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.
- (32) Any person who offers remuneration for any transplantable organ for use in transplantation into himself **or herself** shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).
- (33) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.
- (34) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).
- (35) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).
- (36) (a) Any physician or qualified technician who violates KRS 311.727 shall be fined not more than one hundred thousand dollars (\$100,000) for a first offense and not more than two hundred fifty thousand dollars (\$250,000) for each subsequent offense.  
(b) In addition to the fine, the court shall report the violation of any physician, in writing, to the Kentucky Board of Medical Licensure for such action and discipline as the board deems appropriate.
- (37) Any person who violates KRS 311.691 shall be guilty of a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense. In addition to any other penalty imposed for that violation, the board may, through the Attorney General, petition a Circuit Court to enjoin the person who is

violating KRS 311.691 from practicing genetic counseling in violation of the requirements of KRS 311.690 to 311.700.

- (38) Any person convicted of violating KRS 311.728 shall be guilty of a Class D felony.
- (39) (a) A person who intentionally, knowingly, or recklessly violates KRS 311.7731 to 311.7739 is guilty of a Class D felony.
- (b) No criminal penalty may be assessed against a pregnant patient upon whom a drug-induced abortion is attempted, induced, or performed.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

***Nothing in KRS 214.181, 214.625, or 214.995 shall be construed to prohibit a person from obtaining or performing upon himself or herself a self-test designed to detect human immunodeficiency virus infection.***

➔Section 4. KRS 367.175 is amended to read as follows:

- (1) Every contract, combination in the form of trust and otherwise, or conspiracy, in restraint of trade or commerce in this Commonwealth shall be unlawful.
- (2) It shall be unlawful for any person or persons to monopolize, ~~for~~ attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of the trade or commerce in this Commonwealth.
- (3) ~~[The sale, delivery, holding, or offering for sale of any self-testing kits designed to tell persons their status concerning human immunodeficiency virus or acquired immunodeficiency syndrome or related disorders, and any advertising of such kits, shall be prohibited.]~~
- (4) ~~—~~In addition to any other penalties, **a violation** ~~[violations]~~ of this section shall also be a Class C felony.

**Signed by Governor March 31, 2023.**