

**218A.205 Reports of improper, inappropriate, or illegal prescribing or dispensing of controlled substances -- Administrative regulations for prescribing and dispensing protocols and licensure actions and requirements -- Complaint procedure -- Criminal record check.**

- (1) As used in this section:
  - (a) "Reporting agency" includes:
    1. The Department of Kentucky State Police;
    2. The Office of the Attorney General;
    3. The Cabinet for Health and Family Services; and
    4. The applicable state licensing board; and
  - (b) "State licensing board" means:
    1. The Kentucky Board of Medical Licensure;
    2. The Kentucky Board of Nursing;
    3. The Kentucky Board of Dentistry;
    4. The Kentucky Board of Optometric Examiners;
    5. The State Board of Podiatry; and
    6. Any other board that licenses or regulates a person who is entitled to prescribe or dispense controlled substances to humans.
- (2)
  - (a) When a reporting agency or a law enforcement agency receives a report of improper, inappropriate, or illegal prescribing or dispensing of a controlled substance it may, to the extent otherwise allowed by law, send a copy of the report within three (3) business days to every other reporting agency.
  - (b) A county attorney or Commonwealth's attorney shall notify the Office of the Attorney General and the appropriate state licensing board within three (3) business days of an indictment or a waiver of indictment becoming public in his or her jurisdiction charging a licensed person with a felony offense relating to the manufacture of, trafficking in, prescribing, dispensing, or possession of a controlled substance.
- (3) Each state licensing board shall establish the following by administrative regulation for those licensees authorized to prescribe or dispense controlled substances:
  - (a) Mandatory prescribing and dispensing standards related to controlled substances, the requirements of which shall include the diagnostic, treatment, review, and other protocols and standards established for Schedule II controlled substances and Schedule III controlled substances containing hydrocodone under KRS 218A.172 and which may include the exemptions authorized by KRS 218A.172(4);
  - (b) A prohibition on a practitioner dispensing greater than a forty-eight (48) hour supply of any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone unless the dispensing is done as part of a narcotic treatment program licensed by the Cabinet for Health and Family Services;

- (c) A procedure for temporarily suspending, limiting, or restricting a license held by a named licensee where a substantial likelihood exists to believe that the continued unrestricted practice by the named licensee would constitute a danger to the health, welfare, or safety of the licensee's patients or of the general public;
  - (d) A procedure for the expedited review of complaints filed against their licensees pertaining to the improper, inappropriate, or illegal prescribing or dispensing of controlled substances that is designed to commence an investigation within seven (7) days of a complaint being filed and produce a charging decision by the board on the complaint within one hundred twenty (120) days of the receipt of the complaint, unless an extension for a definite period of time is requested by a law enforcement agency due to an ongoing criminal investigation;
  - (e) The establishment and enforcement of licensure standards that conform to the following:
    - 1. A permanent ban on licensees and applicants convicted after July 20, 2012, in this state or any other state of any felony offense relating to controlled substances from prescribing or dispensing a controlled substance;
    - 2. Restrictions short of a permanent ban on licensees and applicants convicted in this state or any other state of any misdemeanor offense relating to prescribing or dispensing a controlled substance;
    - 3. Restrictions mirroring in time and scope any disciplinary limitation placed on a licensee or applicant by a licensing board of another state if the disciplinary action results from improper, inappropriate, or illegal prescribing or dispensing of controlled substances; and
    - 4. A requirement that licensees and applicants report to the board any conviction or disciplinary action covered by this subsection with appropriate sanctions for any failure to make this required report;
  - (f) A procedure for the continuous submission of all disciplinary and other reportable information to the National Practitioner Data Bank of the United States Department of Health and Human Services;
  - (g) If not otherwise required by other law, a process for submitting a query on each applicant for licensure to the National Practitioner Data Bank of the United States Department of Health and Human Services to retrieve any relevant data on the applicant; and
  - (h) Continuing education requirements beginning with the first full educational year occurring after July 1, 2012, that specify that at least seven and one-half percent (7.5%) of the continuing education required of the licensed practitioner relate to the use of the electronic monitoring system established in KRS 218A.202, pain management, or addiction disorders.
- (4) A state licensing board shall employ or obtain the services of a specialist in the treatment of pain and a specialist in drug addiction to evaluate information received

regarding a licensee's prescribing or dispensing practices related to controlled substances if the board or its staff does not possess such expertise, to ascertain if the licensee under investigation is engaging in improper, inappropriate, or illegal practices.

- (5) Any statute to the contrary notwithstanding, no state licensing board shall require that a grievance or complaint against a licensee relating to controlled substances be sworn to or notarized, but the grievance or complaint shall identify the name and address of the grievant or complainant, unless the board by administrative regulation authorizes the filing of anonymous complaints. Any such authorizing administrative regulation shall require that an anonymous complaint or grievance be accompanied by sufficient corroborating evidence as would allow the board to believe, based upon a totality of the circumstances, that a reasonable probability exists that the complaint or grievance is meritorious.
- (6) Every state licensing board shall cooperate to the maximum extent permitted by law with all state, local, and federal law enforcement agencies, and all professional licensing boards and agencies, state and federal, in the United States or its territories in the coordination of actions to deter the improper, inappropriate, or illegal prescribing or dispensing of a controlled substance.
- (7) Each state licensing board shall require a fingerprint-supported criminal record check by the Department of Kentucky State Police and the Federal Bureau of Investigation of any applicant for initial licensure to practice any profession authorized to prescribe or dispense controlled substances.

**Effective:** March 4, 2013

**History:** Amended 2013 Ky. Acts ch. 2, sec. 4, effective March 4, 2013. -- Created 2012 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 2, effective July 20, 2012.