

AN ACT relating to social work.

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

➔Section 1. KRS 335.010 is amended to read as follows:

- (1) It is the purpose and policy of the Commonwealth of Kentucky to protect the public from being misled by incompetent and unauthorized persons, and from unprofessional conduct on the part of qualified social workers by providing regulatory authority over persons who hold themselves out to the public as social workers.
- (2) The purpose of KRS 335.010 to 335.160 and KRS 335.990 is to promote high standards of professional performance for those engaged in the profession of social work by regulating the title **and practice of social work**, and by setting standards of qualification, training, and experience for those who seek to engage in the practice of social work.
- (3) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall be applicable to employees of the State Department of Education or local boards of education who meet the certification requirements in the area of social work as established, or which may be established, by the Kentucky Board of Education. Nor shall anything in KRS 335.010 to 335.160 and KRS 335.990 be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training, or experience of those who seek to engage in the practice of social work and who have been, or will be, certified by the Kentucky Board of Education for the position for which they have been employed.

- (4) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require persons employed by the Commonwealth of Kentucky, the director or administrative head of a social service agency or division of a city, county or urban-county government, or applicants for such employment to be licensed.
- (5) (a) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require persons employed by an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, and provides evidence of its tax-exempt status, to be licensed.
- (b) The provisions of KRS 335.010 to 335.160 and KRS 335.990 shall not be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training, and experience of those engaged as employees of a tax-exempt organization in the practice of social work.
- (c) The exemption provided in this subsection shall not apply to the practice of clinical social work, which shall be undertaken only by a certified social worker licensed pursuant to in accordance with KRS 335.080 or a licensed clinical social worker licensed pursuant to in accordance with KRS 335.100.
- (6) Nothing contained in KRS 335.010 to 335.160 and 335.990 shall prohibit volunteer health practitioners from providing services under KRS 39A.350 to 39A.366.
- (7) (a) Nothing in KRS 335.010 to 335.160 and 335.990 shall be construed to apply to the activities and services of a student intern or trainee in social work who is pursuing a program of studies in social work at an accredited institution of higher learning if these activities are performed under supervision and constitute a part of the program of study.

(b) If the student intern or trainee in social work is studying or training in the practice of clinical social work, the board shall promulgate administrative regulations to define standards for student involvement in clinical social work to ensure public safety.

~~(78)~~ ~~[Beginning on July 12, 2012, and continuing through December 31, 2016, there shall exist an amnesty period during which]~~ No disciplinary action, administrative fees, or fines shall be imposed by the board for unlicensed practice against an individual who is currently serving or who formerly served as an employee of a tax-exempt organization specified in subsection (5) of this section.

➔Section 2. KRS 335.020 is amended to read as follows:

As used in KRS 335.010 to 335.160 and 335.990, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Social Work;~~[-]~~

(2) **"Client" means:**

(a) An individual, family, or group who receives social work services from a social worker;

(b) A corporate entity, school, or other organization, if the social worker is contracted to provide a social work service of benefit directly to the corporate entity or organization; or

(c) A legal guardian, personal representative, or designated caregiver who is responsible for making decisions regarding the provision of social work services to a minor or legally incompetent adult;

(3) "Multistate authorization to practice" has the same meaning set forth in KRS 335.135 Section 2.0;

(4) "Multistate license" has the same meaning set forth in KRS 335.135 Section 2.R;

(5) "[The] Practice of social work means:

(a) The application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, or communities; ~~[professional activity of helping for remuneration individuals, groups, or communities enhance or restore their capacity for social functioning and create societal conditions favorable to this goal. It includes the professional application of social work values, principles, and techniques to one or more of the following ends: counseling and nonmedical psychotherapy with individuals, families, and groups; helping people obtain tangible services; assisting communities or groups provide or improve social and health services; and]~~ or

(b) Engaging in social work education, research, planning, training, supervision, or ~~[and]~~ the appropriate administration of social work ~~[or social welfare] services.~~

(6) "Practice of clinical social work" means the practice of social work, as defined in subsection of this section, which requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, evidence-based interventions, research, and treatment of mental, emotional, or behavioral disorders, conditions, or addictions, not to include activities reserved to the practice of psychology under KRS 319.010(7), except as permitted under KRS 319.015(3).

(7) "Social worker" means an individual who is:

(a) Licensed as a certified social worker pursuant to KRS 335.080, a licensed social worker pursuant to KRS 335.090, or a licensed clinical social worker pursuant to KRS 335.100; or

(b) Practicing under a temporary permit issued by the board.

(8) "Telehealth" has the same meaning set forth in KRS 211.332(5);

➔Section 3. KRS 335.030 is amended to read as follows:

(1) No person shall engage in the practice of social work in the Commonwealth of Kentucky, whether in person, through telehealth, or other technology, unless the person: ~~[he]~~

(a) is licensed in accordance with the provisions of KRS 335.010 to 335.160 and 335.990; or

(b) is practicing under a temporary permit issued by the board in accordance with KRS 335.070 or applicable regulations; or

(c) holds an active, unencumbered multistate license and the multistate authorization to practice in accordance with KRS 335.135.

(2) No person shall hold ~~himself or herself themselves~~ out to the public by any title or description of services representing themselves ~~[himself]~~ as a "Certified Social Worker," "Licensed Social Worker," "Licensed Clinical Social Worker," or any other title that includes such words except as such usage of title or description is authorized by KRS 335.010 to 335.160 and 335.990, or any comparable designation authorized under a multistate license and multistate authorization to practice recognized pursuant to KRS 335.135.

➔Section 4 KRS 335.070 is amended to read as follows:

- (1) ~~[(a)]~~ The board shall administer and enforce the provisions of KRS 335.010 to 335.160 and KRS 335.990~~[,] and]~~

(2) The board shall evaluate applications and issue licenses to qualified applicants within forty-five (45) days of submission of the complete application ~~[packet]~~ and receipt of the **national examination** official passing score report and the licensure fee.

(a)~~(b)~~ Within fifteen (15) days of accepting an applicant's payment and application ~~[packet]~~, the board shall:

1. Notify the applicant that the application ~~[packet]~~ is complete, approve the applicant to sit for the national examination~~[,] and issue a temporary permit to engage in the practice of social work];~~ or
2. Notify the applicant that the application ~~[packet]~~ is incomplete and, when all omitted application items are received, notify the applicant of receipt of the complete application ~~[packet]~~, approve the applicant to sit for the national examination~~[,] and issue a temporary permit to engage in the practice of social work].~~

(b)~~(c)~~ The board shall evaluate the complete application ~~[packet]~~ and, within forty-five (45) days, notify a qualified applicant of the issuance of the ~~[permanent]~~ license pursuant to KRS 335.080, 335.090, or 335.100.

(c)~~(d)~~ If the board deems an applicant unqualified, the license may be denied and the temporary permit to practice social work may be revoked.

(c) ~~In order to be issued a temporary permit, an applicant shall have submitted:~~

1. ~~A complete application packet as provided in this subsection, with the exception of a passing score on the required examination; and~~

~~2. If applying for licensure as a certified social worker or as a licensed clinical social worker, a letter from a licensed clinical social worker, or equivalent, who will supervise the applicant while under temporary permit in accordance with administrative regulations.~~

(3)(a) The board shall require a criminal background check, by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation (FBI), in the following cases:

- 1. For all applicants for initial licensure after the effective date of this Act;**
and
- 2. For an applicant for a multistate license under the Social Work Licensure Compact.**

(b) The board may require a criminal background check for a licensee who is the subject of an active investigation.

(c) A criminal background check shall not be required by the board solely for purposes of renewing a state-issued license, unless otherwise required by law.

(4)(2) The board may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provision of KRS 335.010 to 335.160 and KRS 335.990.

(5)(3) The board may promulgate administrative regulations **in accordance with**~~[pursuant to]~~ KRS Chapter 13A to carry out the provisions of KRS 335.010 to 335.160 and KRS 335.990.

(6)~~(4)~~ The board may conduct hearings in accordance with~~[pursuant to]~~ KRS Chapter 13B and keep records and minutes necessary to carry out the functions of KRS 335.010 to 335.160 and KRS 335.990.

(7)~~(5)~~ The board may employ any other persons it deems necessary to carry on the work of the board, and shall define their duties and fix their compensation.

(8)~~(6)~~ The board may renew licenses and require continuing education as a condition for license renewals, and shall authorize organizations to provide continuing education programs, including but not limited to:

- (a) Schools of social work accredited by the Council on Social Work Education;
- (b) The National Association of Social Workers-Kentucky Chapter; and
- (c) The Kentucky Society for~~[of]~~ Clinical Social Workers.

(9)~~(7)~~ The board may, after a hearing conducted in accordance with KRS Chapter 13B, revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; impose administrative fines; issue written reprimands and admonishments; or any combination of actions regarding licenses and licensees.

(10)~~(8)~~ The board may seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of social work by unlicensed persons.

(11)~~(9)~~ The board ~~may~~ shall establish, by promulgation of administrative regulations, the requirements for temporary permits to practice social work.

(12) The board may enter into agreements with any organization for the creation and Implementation of a social work impairment program, as specified in the agreement.

~~[(11) The board shall refund any levied administrative assessments that it has received for practice by unlicensed individuals employed by organizations exempted from the application of KRS 335.010 to 335.160 and 335.990 by KRS 335.010(5).]~~

➔ Section 5. KRS 335.080 is amended to read as follows:

- (1) The board shall issue a license as "certified social worker" to an applicant who meets the following requirements:
 - (a) Is at least eighteen (18) years of age;
 - (b) ~~[Is a person of good moral character;~~
 - (e)] Has received a master's degree or doctorate degree in social work from an educational institution approved by the board;
 - (c)~~(d)~~] Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;
 - (d)~~(e)~~] Has passed an examination approved~~prepared~~ by the board;
 - ~~[(f) Has not within the preceding three (3) months failed to pass an examination given by the board;]~~ and
 - (e)~~(g)~~] Has paid an initial license fee established by the board by promulgation of an administrative regulation.
- (2) The license shall be displayed in the licensee's principal place of practice and, in the case of virtual or remote practice, shall be made accessible to clients through electronic means or other appropriate forms of notification and shall entitle the licensee to hold ~~himself~~ themselves forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

- (3) A certified social worker may engage in the practice of clinical social work by contracting, in writing, with a licensed clinical social worker who shall assume responsibility for and supervise the certified social worker's practice as directed by the board by promulgation of administrative regulations. The certified social worker shall, for purposes of this section, be an employee of an institution or organization in which the certified social worker has no direct or indirect interest other than employment. No certified social worker shall enter into a practice of clinical social work until this contract has been approved by the board, and shall cease the practice of clinical social work immediately upon the termination of the contract. At the termination of the contract, the certified social worker shall apply for licensure as a licensed clinical social worker or request an extension of the contract from the board.

➔Section 6. KRS 335.090 is amended to read as follows:

- (1) The board shall issue a license as "licensed social worker" to an applicant who meets the following requirements:
- (a) Is at least eighteen (18) years of age;
 - (b) ~~[Is a person of good moral character;~~
 - ~~(c)]~~ 1. Has received a baccalaureate degree in a social work or social welfare program accredited by the Council on Social Work Education; or
 - 2. Has received a baccalaureate degree and has completed courses equivalent to a social work or social welfare program as determined by the board;
 - (c)~~(d)~~ Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;
 - (d)~~(e)~~ Has passed an examination approved~~prepared~~ by the board;

~~[(f) Has not within the preceding three (3) months failed to pass an examination given by the board;]~~ and

~~(e)[(g)]~~ Has paid an initial license fee established by the board by promulgation of an administrative regulation.

- (2) The license shall be displayed in the licensee's principal place of practice *and, in the case of virtual or remote practice, shall be made accessible to clients through electronic means or other appropriate forms of notification* and shall entitle the licensee to hold ~~himself~~ *themselves* forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.
- (3) *A licensed social worker may engage in the practice of social work as defined in KRS 335.020(5) but shall not engage in the practice of clinical social work as defined in KRS 335.020(6).*

➔Section 7. KRS 335.100 is amended to read as follows:

- (1) The board shall issue a license as "licensed clinical social worker" to an applicant who meets the following requirements:
- (a) Has received a master's degree or doctoral degree in social work from an Educational institution *accredited by the Council on Social Work Education* ~~[approved by the board]~~;
- (b) Has had a minimum of two (2) years of ~~[full-time post-master's experience, consisting of at least thirty (30) hours per week, or three (3) years of part time, consisting of at least twenty (20) hours per week,]~~ post-master's degree experience acceptable to the board in the use of specialty methods and measures to be employed in clinical social work practice, the experience having been

acquired under appropriate supervision as established by the board by promulgation of an administrative regulation;

(c) Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;

(d) Has passed an examination approved~~[prepared]~~ by the board for this purpose;

~~[(e) Has not within the preceding three (3) months failed to pass an examination given by the board;]~~ and

(e)~~[(f)]~~ Has paid an initial license fee established by the board by promulgation of an administrative regulation.

(2) The license shall be displayed in the licensee's principal place of practice **and, in the case of virtual or remote practice, shall be made accessible to clients through electronic means or other appropriate forms of notification** and shall entitle the licensee to hold ~~himself~~ **themselves** forth to the public as providing services as authorized by KRS 335.010 to 335.160 and KRS 335.090.

(3) A licensed clinical social worker may contract with a certified social worker in the practice of clinical social work as provided in KRS 335.080(3). The licensed clinical social worker shall assume responsibility for and supervise the certified social worker's practice as directed by the board by promulgation of administrative regulations.

➔Section 8. KRS 335.150 is amended to add and read as follows:

(1) The board may revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; impose an administrative fine; issue a written reprimand

or admonishment; or any combination of actions regarding any applicant, license, or licensee upon proof that the applicant or licensee has:

- (a) Committed any act of dishonesty or corruption, if in accordance with KRS Chapter 335B. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence creates a rebuttable presumption at the ensuing disciplinary hearing of the guilt of the applicant or licensee. Conviction includes all instances in which a plea of no contest is the basis of the conviction;
- (b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;
- (c) Committed any unfair, false, misleading, or deceptive act or practice;
- (d) Been incompetent or negligent in the practice of social work;
- (e) Violated any state statute or administrative regulation governing the practice of social work or any activities undertaken by a social worker;
- (f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
- (g) Violated any aspect of the code of ethical conduct as set forth by the board by promulgation of an administrative regulation;
- (h) Been legally declared mentally incompetent;
- (i) Aided or abetted another person in falsely procuring or attempting to procure a license; or
- (j) Aided or abetted an unlicensed person in the practice of social work.

- (2) Five (5) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with any terms prescribed by the board and is again able to engage competently in the practice of social work.
- (3) If an alleged violation is not of a serious nature and the evidence presented to the board, after the investigation and appropriate opportunity for the licensee to respond, provides a clear indication that the alleged violation did in fact occur, the board may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response within thirty (30) days of its receipt and to have the response placed in the licensee's permanent file. Alternatively, the licensee may file a request for a hearing, within thirty (30) days of the receipt of the written admonishment. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing.
- (4) At any time during the investigative or hearing processes, the board may enter into an agreed order with, or accept an assurance of voluntary compliance from, the licensee that effectively satisfies the complaint.
- (5) The board may reconsider, modify, or reverse its decision regarding probation, suspension, or any other disciplinary action.
- (6) Upon proof substantiating that sexual contact occurred between a social worker licensed by the board and a client while the client was under the care of or in a professional relationship with the social worker, the social worker's license may be revoked or suspended with mandatory treatment of the social worker as prescribed by the board.

The board may require the social worker to pay a specified amount for mental health services for the client which are needed as a result of the sexual contact.

- (7) The board may revoke the license of a social worker if the social worker has been convicted of a misdemeanor offense under KRS Chapter 510 involving a client or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or has been found to have had sexual contact as defined in KRS 510.010(7) with a client while the client was under the care of the social worker.

(8) A disciplinary action, or other adverse action reported by a member state through the data system established under the Social Work Licensure Compact and affecting a licensee's multistate license or multistate authorization to practice shall constitute grounds for identical or comparable action by the board under this section.

➔Section 9. KRS 335.158 is amended to read as follows:

~~**Duty of treating clinical social worker utilizing telehealth with client—
Requirements for each telehealth session—988 crisis line exception—
Definitions.**~~

- (1) A social worker who provides or facilitates the use of telehealth shall:
- (a) Ensure that the informed consent of the client, or another appropriate person with authority to make the health care treatment decision for the client, is obtained before services are provided through telehealth;
 - (b) Ensure that the confidentiality of the client's medical information is maintained as required by this chapter and other applicable state and federal law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology that conform to applicable state and federal law, including but not limited to the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as amended;

(c) Ensure that telehealth services are accessible to clients with disabilities in compliance with Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. sec. 794(d), Title III of the Americans with Disabilities Act, 42 U.S.C. sec 12181-12189, and all other applicable federal and state accessibility requirements;

(d) Disclose to the client the potential risks to privacy and confidentiality of information due to the use of technology, including:

1. The potential risks of disruption in the use of technology;
2. When and how the social worker utilizes electronic messages;
3. The circumstances in which the social worker may utilize alternative modes of communication for emergency purposes, including medical, psychiatric, and other emergencies;
4. The identity of anyone who may have access to client communications with the social worker; and
5. The identity of the social worker, his or her credentials, and the jurisdiction of licensed practice;

(e)~~(d)~~ Assess the client's current condition and needs to determine the appropriateness of telehealth in meeting those needs and that the client has the necessary knowledge and skill to benefit from telehealth;

(f)~~(e)~~ Adhere to the same or appropriately adapted standards of care as when treatment or services are provided in person;

(g)~~(f)~~ Not engage in fee-splitting with other telehealth providers or entities; and

~~(h)~~~~(g)~~ Not engage in false, misleading, or deceptive advertising of telehealth services.[]; and]

~~[(h) Beginning on July 1, 2025, Complete a board-approved two (2) hour training course on the use of telehealth to provide social work services.]~~

- (2) Each time a social worker provides or facilitates services via telehealth, the social worker shall:
- (a) Make a reasonable attempt to verify the identity of the client;
 - (b) Make a reasonable attempt to verify and document the physical location of the client at the time services are provided;
 - (c) Obtain from the client alternative means of contacting the client;
 - (d) Provide information on how communication can be directed to the social worker;
 - (e) Utilize non-public facing technology products that comply with the Health Insurance Portability and Accountability Act of 1996 standards in 42 U.S.C. secs. 1320d to 1320d-9, except when the client, after being duly informed of the risks in writing or through a documented conversation, has requested to use nonsecure communication methods, and the social worker has documented the client's request and informed consent in the client's record; and
 - (f) Document in the client's record that a service was provided via telehealth, including any technological difficulties experienced during the provision of the service and adherence to all appropriate standards of care.

(3) When a social worker determines a client is at imminent risk of serious harm during a telehealth encounter, the requirements of subsections (1) and (2) may be waived as necessary for timely and appropriate intervention to protect the client's safety. This exception is limited to a single telehealth encounter or successive contacts within the same crisis lasting no more than 24 hours. Use of this telehealth exception and the rationale shall be documented in the client record.

(4) Any person located within or outside of Kentucky who provides social work via telehealth to a client in Kentucky, and any person located in Kentucky who provides social work via telehealth to a client outside of Kentucky, shall:

(a) Hold a temporary permit issued under Section 3 of this Act;

(b) Be licensed under Section 4, 5, or 6 of this Act; or

(c) Be licensed to provide social work by a member state, as defined in KRS 335.135, in a jurisdiction that has enacted the Social Work Licensure Compact.

(5) A social worker shall comply with the laws, administrative regulations, and professional standards relating to licensing, telehealth, mandatory reporting, duty to warn, age of consent, and other requirements for the provision of social work services of:

(a) The Commonwealth of Kentucky;

(b) Any jurisdiction in which the social worker is located; and

(c) Any jurisdiction in which a client is located at the time the social worker provides social work via telehealth.

(6) A person practicing social work who is employed by a federal agency, including but not limited to the United States Department of Veterans Affairs, may provide social work services via telehealth to clients of the federal agency regardless of the person's or client's location, as permitted under federal law for telehealth and within the scope of the person's employment.

(7) A person practicing social work who is located outside of the United States may provide social work services via telehealth to clients in Kentucky, and a social worker located in Kentucky may provide social work services via telehealth to clients who are located outside of the United States, if the person practicing social work:

- (a) Complies with Kentucky laws and administrative regulations governing the practice of social work and provision of social work services via telehealth;
- (b) Complies with the laws and professional standards governing the practice of social work and provision of social work services via telehealth of the foreign country in which the social worker or client is located;
- (c) Complies with all United States laws and international agreements that apply to the provision of telehealth services; and
- (d) Ensures the secure and compliant handling of client information in accordance with applicable United States and international data protection standards, such as the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as amended, and the General Data Protection Regulation, Regulation (EU) 2016/679.

~~[(3) The provisions of this section shall not apply to a social worker employed or contracted in Kentucky to answer and respond to national 988 crisis line calls to the extent that the provisions of this section are in conflict with the requirements and training provided by the crisis line service provider.]~~

~~(4) For purposes of this section:~~

~~(a) "Client" means:~~

- ~~1. An individual, family, or group who receives social work services from a social worker;~~
- ~~2. A corporate entity or other organization, if the social worker is contracted to provide a social work service of benefit directly to the corporate entity or organization; or~~
- ~~3. A legal guardian who is responsible for making decisions regarding the provision of social work services to a minor or legally incompetent adult;~~

~~(b) "Social worker" means an individual licensed as a:~~

- ~~1. Certified social worker pursuant to KRS 335.080;~~
- ~~2. Licensed social worker pursuant to KRS 335.090; or~~
- ~~3. Licensed clinical social worker pursuant to KRS 335.100; and~~

~~(c) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.]~~

➔Section 10. KRS 387.610 is amended to read as follows:

Prior to the expiration of a term of guardianship or conservatorship, the limited guardian, guardian, limited conservator, or conservator may petition, pursuant to KRS 387.620, for

a renewal of his appointment for a period not to exceed five (5) years. The petition shall be accompanied by verified affidavits of a physician, an advanced practice registered nurse or physician assistant working within his or her scope of practice, or a psychologist licensed or certified under the provisions of KRS Chapter 319, or a person licensed or certified as a social worker or an employee of the Cabinet for Health and Family Services who meets the qualifications of KRS 335.080(1)(a) and (b) ~~and (c)~~ or 335.090(1)(a) and (b) ~~and (c)~~, supporting the need for the continuation of the guardianship or conservatorship.

➔Section 11. KRS 457.090 is amended to read as follows:

- (1) A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.
- (2) If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one (1) or more persons to determine in a writing or other record that the event or contingency has occurred.
- (3) If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:

- (a) A physician, an advanced practice registered nurse, a psychologist licensed or certified under the provisions of KRS Chapter 319, or a person licensed or certified as a social worker or an employee of the Cabinet for Health and Family Services who meets the qualifications of KRS 335.080(1)(a) and (b); ~~and (c)~~ or 335.090(1)(a) and (b); ~~and (c)~~, that the principal is incapacitated within the meaning of KRS 457.020(5)(a); or
 - (b) An attorney-at-law or a judge that the principal is incapacitated within the meaning of KRS 457.020(5)(b).
- (4) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 to 1179 of the Social Security Act, 42 U.S.C. sec. 1320d, as amended, and applicable regulations, to obtain access to the principal's health-care information and communicate with the principal's health-care provider for the sole purpose of determining whether the principal is incapacitated, unless the power of attorney otherwise provides.