

CHAPTER 376 (HB 177)

AN ACT relating to the use of information technology in the delivery of health services.

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

Section 1. KRS 45A.605 is amended to read as follows:

- (1) As used in this section:
 - (a) "Information highway" means a communication network for voice, data, and video communications technologies; and
 - (b) "Agencies of the Commonwealth of Kentucky" includes all authorities; boards; commissions; councils; departments; program cabinets; the Kentucky Lottery Corporation; vocational schools; the Kentucky School for the Deaf; the Kentucky School for the Blind; upon written request of the Chief Justice, the Court of Justice; upon written request of the co-chairmen of the Legislative Research Commission, the General Assembly and the Legislative Research Commission; and upon written request of presidents, state institutions of higher education.
- (2) The provisions of any other law notwithstanding, the Finance and Administration Cabinet may enter into one (1) or more contracts, on behalf of agencies of the Commonwealth of Kentucky, with any person, partnership, or corporation that operates an information highway. The information highway shall enable the Commonwealth to benefit from costeffective telecommunications technologies and shall provide opportunities for the private sector. ***These opportunities shall include, but not be limited to, the provision of telehealth by licensed health care providers as provided in KRS Chapters 205, 211, 304.17A, 310, 311, 312, 313, 314, 314A, 315, 319, 319A, 320, 327, 334A, and 335.***
- (3) Upon implementation, all agencies of the Commonwealth of Kentucky shall obtain all available communications services under contracts executed pursuant to subsection (2) of this section, except as provided under subsection (4) of this section.
- (4) The secretary of the Finance and Administration Cabinet may grant exceptions to the mandatory use of the information highway upon good cause shown.
- (5) Any contract awarded under subsection (2) of this section shall be deemed, for purposes of KRS 45A.050, a state agency price contract to which all political subdivisions and statelicensed nonprofit institutions of higher education may have access and use on the same terms as agencies of the Commonwealth of Kentucky. In addition, nonprofit schools providing elementary or secondary education and nonprofit health care organizations shall be allowed to have access and use the contract on the same terms as agencies of the Commonwealth of Kentucky. "Nonprofit schools" and "nonprofit health care organizations" mean those schools and health care organizations which have been granted tax-exempt status under the United States Internal Revenue Code.

SECTION 2. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

- (1) ***The Telehealth Board is created and placed for administrative purposes under the Governor's Office for Technology. This seven (7) member board shall consist of the:***
 - (a) ***Chancellor, or a designee, of the medical school at the University of Kentucky;***

- (b) *Chancellor, or a designee, of the medical school at the University of Louisville;*
 - (c) *Commissioner, or a designee, of the Department for Public Health;*
 - (d) *Chief information officer, or a designee, of the Governor's Office for Technology; and*
 - (e) *Three (3) members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in Section 3 of this Act. To ensure representation of both groups, no more than two (2) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.*
- (2) *The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.*
- (3) *The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:*
 - (a) *Establish telehealth training centers at the University of Kentucky, University of Louisville, the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;*
 - (b) *Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville;*
 - (c) *Establish protocols and standards to be followed by the training centers and rural sites; and*
 - (d) *Maintain the central link for the network with the Kentucky information highway.*
- (4) *The board shall, following consultation with the Governor's Office for Technology, recommend the processes and procedures for the switching and running of the telehealth network.*
- (5) *The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.*
 - (a) *Data on utilization, performance, and quality of care;*
 - (b) *Quality assurance measures, including monitoring systems;*
 - (c) *The economic impact on and benefits to participating local communities; and (d)*
Other matters related to telehealth at the discretion of the board.
- (6) *The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.*

Section 3. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

- (1) ***"Chiropractor" means a person authorized to practice chiropractic under KRS Chapter 312;***
- (2) "Council" means the Advisory Council for Medical Assistance;
- (3)~~(2)~~"Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;
- (4)~~(3)~~—***"Health professional" means a physician, physician assistant, nurse, doctor of chiropractic, mental health professional, optometrist, dentist, or allied health professional who is licensed in Kentucky;***
- (5) "Medical care" as used in this chapter means essential medical, surgical, ***chiropractic***, dental, optometric, podiatric, ***telehealth***, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists, or dentists licensed to render such services, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing-home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. However, this section does not authorize optometrists to perform any services other than those authorized by KRS Chapter 320;
- (6)~~(4)~~"Nurse" means a person authorized to practice professional nursing under the laws of the Commonwealth;
- (7)~~(5)~~"Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216B.015;
- (8)~~(6)~~"Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;
- (9) ***"Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by administrative regulation of the secretary for health services or his designee;***
- (10)~~(7)~~—"Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;
- (11)~~(8)~~"Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;
- (12)~~(9)~~—"Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;

- (13)~~(10)~~ "Primary-care center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;
- (14)~~(11)~~ "Public assistance recipient" means a person who has been certified by the Department for Social Insurance of the Cabinet for Families and Children as being eligible for, and a recipient of, public assistance under the provisions of this chapter;
- (15) ***"Telehealth consultation" means a medical or health consultation, for purposes of patient diagnosis or treatment, that requires the use of advanced telecommunications technology, including, but not limited to:***
- (a) ***Compressed digital interactive video, audio, or data transmission;***
 - (b) ***Clinical data transmission via computer imaging for teleradiology or telepathology; and***
 - (c) ***Other technology that facilitates access to health care services or medical specialty expertise.***
- (16) ***"Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including, but not limited to, a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparations Act, subtitle 39 of KRS Chapter 304, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act, 42 U.S.C. sec. 1396 et seq.; and***
- ~~(12) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by regulation of the secretary for health services or his designee;~~
- (17)~~(13)~~ "Vendor payment" means a payment for medical care which is paid by the Cabinet for Health Services directly to the authorized person or institution which rendered medical care to an eligible recipient~~;~~
- ~~(14) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including but not limited to a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparation Act, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act.~~

SECTION 4. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

- (1) ***The Cabinet for Health Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation that is provided by a Medicaid-participating practitioner who is licensed in Kentucky and that is provided in the telehealth network established in subsection (3)(b) of Section 2 of this Act.***

- (2)
 - (a) *The cabinet shall establish reimbursement rates for a telehealth consultations. A request for reimbursement shall not be denied solely because an in-person consultation between a Medicaid-participating practitioner and a patient did not occur.*
 - (b) *A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.*
- (3) *A health-care facility that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.*
- (4) *The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.*
- (5) *The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section.*
- (6)
 - (a) *The cabinet and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue a quarterly report to the Legislative Research Commission. This report shall include an analysis of:*
 1. *The economic impact of this section on the Medicaid budget, including any costs or savings as a result of decreased transportation expenditures and office or emergency room visits;*
 2. *The quality of care as a result of telehealth consultations rendered under this section; and*
 3. *Any other issues deemed relevant by the cabinet.*
 - (b) *In addition to the analysis required under paragraph (a) of this subsection, the cabinet report shall compare telehealth reimbursement and delivery among all regional managed care partnerships or other entities under contract with the cabinet for the administration or provision of the Medicaid program.*
- (7) *The cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms, records required, and authorization procedures to be followed in conjunction with this section.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The Department for Public Health may develop programs for local health departments to participate in telehealth and to seek reimbursement for services as provided for other health care providers under KRS Chapter 205 or 304.17A.

Section 6. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

- (1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;
- (2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;
- (3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);
- (4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);
- (5) "COBRA" means any of the following:
 - (a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;
 - (b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or
 - (c) 42 U.S.C. sec. 300bb;
- (6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:
 1. A group health plan;
 2. Health insurance coverage;
 3. Part A or Part B of Title XVIII of the Social Security Act;
 4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
 5. Chapter 55 of Title 10, United States Code;
 6. A medical care program of the Indian Health Service or of a tribal organization;
 7. A state health benefits risk pool;
 8. A health plan offered under Chapter 89 of Title 5, United States Code;
 9. A public health plan, as defined in regulations; or
 10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section;
- (7) "Eligible individual" means an individual:
 - (a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or

affiliation period, during all of which the individual was not covered under any creditable coverage;

- (b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;
 - (c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);
 - (d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and
 - (e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;
- (8) "Employer-organized association" means any of the following:
- (a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;
 - (b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or
 - (c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

- (9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;
- (10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:
- (a) Coverage only for accident, or disability income insurance, or any combination thereof;
 - (b) Coverage issued as a supplement to liability insurance;
 - (c) Liability insurance, including general liability insurance and automobile liability insurance;
 - (d) Workers' compensation or similar insurance;

- (e) Automobile medical payment insurance;
 - (f) Credit-only insurance;
 - (g) Coverage for on-site medical clinics;
 - (h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;
 - (i) Limited scope dental or vision benefits;
 - (j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;
 - (k) Such other similar, limited benefits as are specified in administrative regulations;
 - (l) Coverage only for a specified disease or illness;
 - (m) Hospital indemnity or other fixed indemnity insurance;
 - (n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;
 - (o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and
 - (p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;
- (11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);
- (12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals;
- (13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program;
- (14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;
- (15) "Guaranteed acceptance program qualified individual" means an individual who:
- (a) Is not an eligible individual;
 - (b) Is not eligible for or covered by other health benefit plan coverage;
 - (c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);
 - (d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and
 - (e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;
 2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or
 3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;
- (16) "Guaranteed acceptance plan supporting insurer" means either an insurer that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored selfinsured health benefit plan exempted by ERISA;
- (17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;
- (18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:
- (a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;
 - (b) Chiropractors licensed under KRS Chapter 312;
 - (c) Dentists licensed under KRS Chapter 313;
 - (d) Optometrists licensed under KRS Chapter 320;
 - (e) Physician assistants regulated under KRS Chapter 311;
 - (f) Nurse practitioners licensed under KRS Chapter 314; and
 - (g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;
- (19) (a) "High-cost condition" means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating

established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and
2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;

- (20) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;
- (21) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;
- (22) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;
- (23) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;
- (24) "Large group" means:
- (a) An employer with fifty-one (51) or more employees; or
 - (b) An affiliated group with fifty-one (51) or more eligible members;
- (25) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards

for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

- (26) "Market segment" means the portion of the market covering one (1) of the following:
- (a) Individual;
 - (b) Small group;
 - (c) Large group; or
 - (d) Association;
- (27) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;
- (28) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;
- (29) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;
- (30) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;
- (31) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;
- (32) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;
- (33) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;
- (34) "Small group" means:
- (a) A small employer with two (2) to fifty (50) employees; or
 - (b) An affiliated group or association with two (2) to fifty (50) eligible members; ~~and~~ (35)
- "Standard benefit plan" means the plan identified in KRS 304.17A-250; **and**
- (36) ***"Telehealth" has the meaning provided in Section 8 of this Act.***

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) (a) ***A health benefit plan shall not exclude a service from coverage solely because the service is provided through telehealth and not provided through a face-to-face consultation if the consultation is provided through the telehealth network established under Section 2 of this Act. A health benefit plan may provide coverage for a consultation at a site not within the telehealth network at the discretion of the insurer.***
- (b) ***A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.***

- (2) *Benefits for a service provided through telehealth required by this section may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the health benefit plan for the same service provided through a face-to-face consultation.*
- (3) *Payment made under this section may be consistent with any provider network arrangements that have been established for the health benefit plan.*
- (4) *The department shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.*

Section 8. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

- (1) "Board" means the State Board of Medical Licensure;
- (2) "President" means the president of the State Board of Medical Licensure;
- (3) "Secretary" means the secretary of the State Board of Medical Licensure;
- (4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;
- (5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;
- (6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;
- (7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;
- (8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;
- (9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;
- (10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;
- (11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the Cabinet for Health Services, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines,

trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

- (12) "Physician" means a doctor of medicine or a doctor of osteopathy;
- (13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;
- (14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;
- (15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;
- (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;
- (17) "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or who possesses a current physician assistant certificate issued by the board prior to July 15, 1998;
- (18) "Supervising physician" means a physician licensed by the board who supervises physician assistants; and
- (19) "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience; that the identification of and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.
- (20) ***"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 medical data, and medical education.***

SECTION 9. A NEW SECTION OF KRS 311.530 TO 311.620 IS CREATED TO READ AS FOLLOWS:

- (1) ***A treating physician who provides or facilitates the use of telehealth shall ensure:***
 - (a) ***That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and***

- (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.*
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:*
 - (a) Prevent abuse and fraud through the use of telehealth services;*
 - (b) Prevent fee-splitting through the use of telehealth services; and*
 - (c) Utilize telehealth in the provision of medical services and in the provision of continuing medical education.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

- (1) A treating dietitian or nutritionist who provides or facilitates the use of telehealth shall ensure:*
 - (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and*
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.*
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:*
 - (a) Prevent abuse and fraud through the use of telehealth services;*
 - (b) Prevent fee-splitting through the use of telehealth services; and*
 - (c) Utilize telehealth in the provision of dietitian and nutrition services and in the provision of continuing education.*
- (3) For purposes of this section, "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 11. A NEW SECTION OF KRS CHAPTER 312 IS CREATED TO READ AS FOLLOWS:

- (1) A treating chiropractor who provides or facilitates the use of telehealth shall ensure:*
 - (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and*
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.*

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services;

and (c)

Utilize telehealth in the provision of chiropractic services and in the provision of continuing education.

(3) For purposes of this section, "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 12. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) A treating dentist who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of dental services and in the provision of continuing education.

(3) For purposes of this section, "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 13. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

(1) A treating nurse who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be

(2) *The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:*

(a) *Prevent abuse and fraud through the use of telehealth services;*

(b) *Prevent fee-splitting through the use of telehealth services;*

and (c)

maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

Utilize telehealth in the provision of nursing services and in the provision of continuing education.

(3) *For purposes of this section, "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 14. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

(1) *A treating respiratory care practitioner who provides or facilitates the use of telehealth shall ensure:*

(a) *That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and*

(b) *That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.*

(2) *The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:*

(a) *Prevent abuse and fraud through the use of telehealth services;*

(b) *Prevent fee-splitting through the use of telehealth services; and*

(c) *Utilize telehealth in the provision of respiratory care services and in the provision of continuing education.*

(3) *For purposes of this section, "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 15. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

(1) *A treating pharmacist who provides or facilitates the use of telehealth shall ensure:*

(a) *That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and*

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services;

and (c)

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

Utilize telehealth in the provision of pharmacy services and in the provision of continuing education.

(3) For purposes of this section, "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 16. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) A treating psychologist or psychological associate who provides or facilitates the use of telehealth shall ensure:

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services; and

(c) Utilize telehealth in the provision of psychological services and in the provision of continuing education.

(3) For purposes of this section, "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 17. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) A treating occupational therapist who provides or facilitates the use of telehealth shall ensure:

(2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:

(a) Prevent abuse and fraud through the use of telehealth services;

(b) Prevent fee-splitting through the use of telehealth services;

and (c)

(a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and

(b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality

shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.

- (2) *The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:*
 - (a) *Prevent abuse and fraud through the use of telehealth services;*
 - (b) *Prevent fee-splitting through the use of telehealth services; and*
 - (c) *Utilize telehealth in the provision of occupational therapy services and in the provision of continuing education.*
- (3) *For purposes of this section, "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 18. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

- (1) *A treating optometrist who provides or facilitates the use of telehealth shall ensure:*
 - (a) *That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and*
 - (b) *That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.*
- (2) *The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:*
 - (a) *Prevent abuse and fraud through the use of telehealth services;*
 - (b) *Prevent fee-splitting through the use of telehealth services; and*
 - (c) *Utilize telehealth in the provision of optometric services and in the provision of continuing education.*
- (3) *For purposes of this section, "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 19. A NEW SECTION OF KRS CHAPTER 327 IS CREATED TO READ AS FOLLOWS:

- (1) *A treating physical therapist who provides or facilitates the use of telehealth shall ensure:*
 - (a) *That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and*

- (b) *That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.*
- (2) *The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:*
- (a) *Prevent abuse and fraud through the use of telehealth services;*
- (b) *Prevent fee-splitting through the use of telehealth services; and*
- (c) *Utilize telehealth in the provision of physical therapy and in the provision of continuing education.*
- (3) *For purposes of this section, "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 20. A NEW SECTION OF KRS 335.010 TO 335.160 IS CREATED TO READ AS FOLLOWS:

- (1) *A treating clinical social worker who provides or facilitates the use of telehealth shall ensure:*
- (a) *That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and*
- (b) *That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.*
- (2) *The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:*
- (a) *Prevent abuse and fraud through the use of telehealth services;*
- (b) *Prevent fee-splitting through the use of telehealth services; and*
- (c) *Utilize telehealth in the provision of clinical social work services and in the provision of continuing education.*
- (3) *For purposes of this section, "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 21. A NEW SECTION OF KRS 335.300 TO 335.399 IS CREATED TO READ AS FOLLOWS:

- (1) *A treating marriage and family therapist who provides or facilitates the use of telehealth shall ensure:*

- (a) *That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and*
 - (b) *That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.*
- (2) *The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:*
- (a) *Prevent abuse and fraud through the use of telehealth services;*
 - (b) *Prevent fee-splitting through the use of telehealth services; and*
 - (c) *Utilize telehealth in the provision of marriage and family therapy services and in the provision of continuing education.*
- (3) *For purposes of this section, "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 22. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

- (1) *A treating speech-language pathologist or audiologist who provides or facilitates the use of telehealth shall ensure:*
- (a) *That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and*
 - (b) *That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conforms to applicable federal law.*
- (2) *The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:*
- (a) *Prevent abuse and fraud through the use of telehealth services;*
 - (b) *Prevent fee-splitting through the use of telehealth services; and*
 - (c) *Utilize telehealth in the provision of speech-language pathology or audiology services and in the provision of continuing education.*
- (3) *For purposes of this section, "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 23. KRS 197.020 is amended to read as follows:

- (1) The Department of Corrections shall:

- (a) Formulate and prescribe all necessary regulations and bylaws for the government and discipline of the penitentiary, the rules for the government and official conduct of all officials connected with the penitentiary and for the government of the prisoners in their deportment and conduct;
 - (b) Prescribe the character of food and diet of the prisoners; rules for the preservation of the health of the prisoners; the daily cleansing of the penitentiary; the cleanliness of the persons of the prisoners; the general sanitary government of the penitentiary and prisoners; the character of the labor; and quantity of food and clothing; and the length of time during which the prisoners shall be employed daily;
 - (c) Adopt, amend, and rescind, as the department deems necessary, administrative regulations governing the disposition of abandoned, lost, or confiscated property of prisoners; and
 - (d) Cause the administrative regulations prescribed by them, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.
- (2) The department may impose a reasonable fee for the use of medical facilities by a prisoner who has the ability to pay for the medical and dental care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical or dental treatment because he has insufficient funds in his inmate account.
- (3) *The department may promulgate administrative regulations in accordance with KRS Chapter 13A to implement a program that provides for reimbursement of telehealth consultations.*

Section 24. (1) The provisions of Sections 3 to 4 of this Act shall take effect on July 15, 2001, or upon approval of any federal waivers, whichever first occurs.

(2) The provisions of Sections 6 to 7 of this Act shall take effect on July 15, 2001, and shall apply to a health benefit plan that is delivered, issued, or renewed on or after that date.

Approved April 7, 2000