

CHAPTER 126**(HB 185)**

AN ACT relating to health care, and making an appropriation therefor.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

- (1) *Cardiovascular disease is the leading cause of death of Kentuckians and is the leading cause of death in every county in Kentucky;*
- (2) *Early identification and early treatment of cardiovascular disease is effective and can save lives;*
- (3) *An initiative on cardiovascular disease consisting of, but not limited to, research, outreach, prevention, early identification, education, and follow up for persons affected by cardiovascular disease is needed throughout the entire state; and*
- (4) *The involvement of the Department of Commercialization and Innovation and its centers, the Council on Postsecondary Education, and Kentucky's universities in a cardiovascular initiative provides excellent opportunities to utilize Kentucky's unique niche in cardiovascular disease to create new intellectual property, translational research, and new knowledge-based businesses.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Cardiovascular Disease Initiative (KCDI) is hereby created with the program goals that include, but are not limited to:*
 - (a) *Preventing and reducing the prevalence of cardiovascular disease in Kentucky through early detection and education;*
 - (b) *Reducing the incidence of deaths from cardiovascular disease in Kentucky;*
 - (c) *Measurably reducing health care costs associated with cardiovascular disease in Kentucky;*
 - (d) *Conducting research and developing new intellectual property and ancillary health businesses that create new knowledge-based businesses in Kentucky;*
 - (e) *Improving access to best practices and protocols for cardiovascular disease for all Kentuckians through an e-health network; and*
 - (f) *Assisting in securing state, federal, and private funding to stimulate health information capacities.*
- (2) *The KCDI shall be governed by a board that shall be appointed by the Secretary of the Cabinet for Health and Family Services, except as provided in paragraphs (q) through (s) of this subsection, no later than August 1, 2007, and composed of:*
 - (a) *One (1) member shall be appointed by the Secretary of the Cabinet for Health and Family Services who shall serve as chair of the KCDI during the first year, and this individual shall remain as a board member for two (2) additional years. The board shall elect its chair after the first year and may reelect the current chair;*
 - (b) *The president of the University of Louisville, or a designee;*
 - (c) *The president of the University of Kentucky, or a designee;*
 - (d) *The secretary or designee of the Cabinet for Health and Family Services;*
 - (e) *The commissioner or designee of the Department of Commercialization and Innovation;*
 - (f) *The commissioner or designee of the Department for Public Health;*
 - (g) *The executive director or designee of the Department of Insurance;*
 - (h) *The chair of the Kentucky e-Health Network Board, or a designee;*
 - (i) *One (1) representative of a Kentucky comprehensive university and one (1) representative of the Kentucky Community and Technical College System;*

- (j) *Two (2) physicians with experience in research and treatment of cardiovascular disease, one (1) recommended by the dean of the medical school at the University of Louisville and one (1) recommended by the dean of the medical school at the University of Kentucky;*
 - (k) *The executive director of the Kentucky Primary Care Association;*
 - (l) *The president of the Kentucky Academy of Family Physicians;*
 - (m) *One (1) member of a Kentucky chapter of the American Heart Association;*
 - (n) *Four (4) members representing the business community, from a list of eight (8) persons recommended by the Kentucky Chamber of Commerce;*
 - (o) *Four (4) members representing private sector hospitals that treat the greatest number of cardiology patients as measured by the number of MDC 5 discharges and as reported by COMPdata or its successor;*
 - (p) *One (1) representative from a freestanding pediatric teaching hospital;*
 - (q) *One (1) at-large member appointed by the Governor;*
 - (r) *Two (2) members of the Senate, one (1) representing each major political party, appointed by the President of the Senate; and*
 - (s) *Two (2) members of the House of Representatives, one (1) representing each major political party appointed by the Speaker of the House.*
- (3) (a) *Members serving under paragraphs (b) to (h), (k) and (l) of subsection (2) of this section shall serve by virtue of their positions and shall not be subject to term limits.*
 - (b) *Members appointed under paragraphs (i) and (j) of subsection (2) of this section shall serve three (3) year terms and may be reappointed to no more than two (2) consecutive terms. Members shall continue to serve until a successor is appointed.*
 - (c) *Members appointed under paragraphs (m) to (p) of subsection (2) of this section shall serve staggered terms that shall not exceed three (3) year terms. Members shall continue to serve until a successor is appointed.*
 - (d) *Members appointed under paragraph (q), (r), and (s) of subsection (2) of this section shall serve three (3) year terms.*
- (4) *The KCDI board shall meet at least quarterly or upon the call of the chair. All members may receive reimbursement for expenses related to attendance at meetings and official functions of the board in accordance with state administrative regulations relating to travel reimbursement, but shall not be otherwise compensated for duties associated with the board.*
 - (5) *The KCDI board may appoint committees, subcommittees, advisory councils or other groups to assist in the furtherance of the goals of the KCDI. Members appointed under this subsection need not be members of the KCDI board and may receive reimbursement for expenses related to attendance at meetings and official functions of the board in accordance with state administrative regulations relating to travel reimbursement, but shall not be otherwise compensated for duties associated with the board.*
 - (6) *No member of the board shall be subject to personal liability for a loss sustained or damage suffered as a result of board action or inaction.*
 - (7) *The KCDI board shall be attached to the Cabinet for Health and Family Services for administrative purposes.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The KCDI board shall establish goals and business plans for one (1), three (3), five (5), and ten (10) year time periods that include, but are not limited to, benchmark measures on:*
 - (a) *Outreach, including identification of Kentuckians who are at high risk for cardiovascular disease utilizing allied health programs in postsecondary institutions, the resources of community-based physicians, and local health departments;*
 - (b) *Education on lifestyle modifications to prevent cardiovascular disease;*

- (c) *Early identification, including identification of target populations for hypertension, cholesterol, diabetes, and other at-risk histories utilizing a statewide data repository;*
 - (d) *Education, including the development and implementation of educational curricula and public awareness materials that address different target populations, such as age groups, gender, and identified occupational groups, and include distinctions for rural and urban populations;*
 - (e) *Follow up strategies for identified at-risk Kentuckians, including disease management protocols utilizing a statewide data repository and the allied health programs in postsecondary institutions, the resources of community-based physicians, and local health departments;*
 - (f) *Improving access to health care for at-risk and identified patient population and improving access to best practices for health care providers, including utilization of an Internet-based e-health system;*
 - (g) *Basic, clinical, and translational research on cardiovascular disease and its treatment;*
 - (h) *Commercialization of intellectual property to create profitable new businesses, as well as the development of an Internet-based data repository and e-health program established at Kentucky Innovation and Commercialization Centers affiliated with regional and comprehensive universities, in accordance with KRS 154.12-300 to 154.12-315, on cardiovascular and other diseases that can be accessed by health care providers working with patients; and*
 - (i) *Patient privacy protection as required by federal and state law.*
- (2) *The board shall present business plans that include specific budget items developed pursuant to subsection (1) of this section to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Health and Welfare of the General Assembly prior to initial expenditure of any funds relating to implementation of the business plans, and shall provide updates annually or upon request of the General Assembly. The board shall make business plans available to any interested party upon request.*
- (3) *The board may create a public or nonprofit corporation to facilitate public-private collaboration in development and implementation of the KCDI:*
- (a) *A public or nonprofit organization may receive and expend funds appropriated by the General Assembly and may solicit, apply for, and receive any funds, grants, contracts, contributions, property, or services from any person, governmental agency, or other organization to carry out the responsibilities given to it by the KCDI Board;*
 - (b) *Funds appropriated to a public or nonprofit corporation shall not lapse at the end of a state fiscal year and shall be used solely for the purposes for which the funds were appropriated; and*
 - (c) *A public or nonprofit corporation created under this subsection shall:*
 - 1. *Follow standard accounting practices;*
 - 2. *Submit to an annual financial audit by an independent auditor;*
 - 3. *Submit a quarterly report of receipts and expenditures to the secretary of the Cabinet for Health and Family Services and the KCDI Board no later than sixty (60) days after the end of a quarter; and*
 - 4. *Submit an annual financial and progress report to the Governor, the secretary of the Finance and Administration Cabinet, and the Interim Joint Committees on Appropriations and Revenue and Health and Welfare by September 30 following the end of each state fiscal year. The annual report shall include a report of receipts and expenditures, the financial audit, and a report on the status and progress of the corporation's initiatives.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Cardiovascular Disease Initiative (KCDI) fund is created as a separate revolving fund. The KCDI fund shall consist of funds appropriated by the General Assembly and any other proceeds from grants, contributions, or other moneys made available for the purposes of the fund.*
- (2) *The KCDI fund amounts not expended at the close of a fiscal year shall not lapse, but shall be carried forward to the next fiscal year.*
- (3) *Any interest earnings of the KCDI fund shall become a part of the fund and shall not lapse.*

- (4) *KCDI fund moneys shall be used to support the Kentucky Cardiovascular Disease Initiative established under Section 2 of this Act. Funds shall be expended in accordance with Sections 1 to 4 of this Act, distributed as directed by the board established by Section 2 of this Act.*
- (5) *The Cabinet for Health and Family Services may expend available funds on the KCDI.*

Section 5. KRS 216.267 is amended to read as follows:

- (1) The duties and responsibilities of the board shall be to implement and oversee the operation of an electronic health network in this Commonwealth, to be known as the Ke-HN.
- (2) The board shall:
- (a) Exercise all of the administrative functions of the board;
 - (b) Appoint an advisory group that shall meet at least quarterly for the purpose of collaborating with health-care providers and payors, computer technology companies, telecommunication companies, and other affected entities to ensure input into the implementation of the Ke-HN;
 - (c) Review models for an electronic health network;
 - (d) Oversee the development of comparative business cases for the models reviewed and choose a model to be implemented in this Commonwealth. In selecting a model for implementation, the board shall consider the following elements:
 1. Various models and configurations for Ke-HN, either as developed from the board's research or as recommended by public and private experts. Each model or configuration shall be capable of supporting administrative and clinical functions listed in subsection (4) of this section, including the capability to integrate with an electronic Medicaid management information system, provide immediate health alerts to health-care providers across the state, support health-care provider education related to the identification and treatment of rare and unusual diseases, serve as a registry of the existence and location of advance directives related to health care or mental health treatment, and serve as a registry of organ donations. The model chosen may be implemented in phases, as determined by the board;
 2. Projected costs of the network, indicating those which would be allocated to state government, health-care providers, insurers, or others;
 3. Options for financing the start-up, administrative, and maintenance costs, projected returns on investments, a timetable for realizing those returns, and any proposed subscription or transaction fees associated with the Ke-HN;
 4. Procedures intended to secure protected health information in accordance with HIPAA;
 5. Timetables for implementation of the Ke-HN, whether as a fully established network, in phases, or through the use of a pilot project or regional approach to the Ke-HN;
 6. Suggested incentives to promote the use of Ke-HN by health care providers and payors, and the Medicaid program; and
 7. Incentives, including but not limited to tax credits, low-interest loans, and grants, under Subchapters 22, 23, 24, 26, and 28 of KRS Chapter 154 for a company that develops or manufactures software necessary for the development of the Ke-HN, if the company meets all the eligibility requirements under the respective subchapter in KRS Chapter 154;
 - (e) Receive comments from the advisory group created in paragraph (b) of this subsection;
 - (f) Submit a description of the model chosen for implementation to the Legislative Research Commission for the opportunity for any comments;
 - (g) If state funds are required for implementation of the model chosen, seek funding through the appropriations process;
 - (h) Oversee the implementation of the model chosen subject to the appropriation of funds. Oversight shall include the following:
 1. Developing any central interchange, including any central server and software;

2. Developing the Ke-HN of providers and payors who participate in the network, which shall be on a voluntary basis;
 3. Making recommendations regarding the features and functions which shall be included in the distributed components of the network; and
 4. Performing an outcomes assessment of the benefits achieved by the network;
- (i) Identify and adopt standards for all computer systems communicating with the Ke-HN, including but not limited to:
 1. The HIPAA standards for electronic transactions as the federal regulations become final, or more stringent standards for content and networking as determined by the board;
 2. Medical lexicon for administrative billing and clinical purposes;
 3. Procedure and billing codes; and
 4. Prevalent health care industry standards for software and networking that ensure that applications work on all types of computer systems and equipment;
 - (j) Establish procedures to ensure that Ke-HN transactions are in compliance with HIPAA guidelines;
 - (k) Facilitate the implementation of the federal HIPAA guidelines, and identify any additional variables specific to Kentucky that are required to be in transactions within the HIPAA guidelines;
 - (l) Oversee the operations of the Ke-HN, including but not limited to making recommendations for financing the central interchange for the network and making recommendations to organizations about implementing the network in their respective organizations;
 - (m) Oversee the development of the central interchange that supports communication between components of the Medicaid management information system;
 - (n) Implement educational efforts about the Ke-HN;
 - (o) Develop incentives for providers and payors to use the Ke-HN;
 - (p) Identify options for, adopt, and implement approaches to various aspects of the Ke-HN necessary for its creation and operation, including but not limited to technology architecture, governance and oversight, development and implementation plans, and other areas identified by the board relating to its charge;
 - (q) Facilitate the development of private and public partnerships to build the Ke-HN;
 - (r) Assign priority in phasing in the network to geographical locations that are critical to homeland security and protection of the Commonwealth's energy production;
 - (s) Collaborate with federal agencies in the development and implementation of the Ke-HN as a demonstration model for the nation;
 - (t) Collaborate with the Kentucky Health Care Infrastructure Authority created under KRS 216.261;
 - (u) Assist with the securing of state, federal, or private funding for the Kentucky Health Care Infrastructure Authority created under KRS 216.261;
 - (v) Stimulate the development of state and local population health information capacities;
 - (w) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary to carry out the responsibilities of the board;
 - (x) Receive and dispense funds appropriated for its use by the General Assembly or may solicit, apply for, and receive any funds, property, or services from any person, governmental agency, or organization to carry out its statutory responsibilities;
 - (y) Report to the Governor, secretary of the Cabinet for Health and Family Services, commissioner of the Department of Commercialization and Innovation, Legislative Research Commission, Interim Joint Committee on Health and Welfare, and Interim Joint Committee on Banking and Insurance annually on the development of the Ke-HN and the impact on quality and cost of health care; and
 - (z) Collaborate with the Telehealth Board to link functions of the telehealth network to the Ke-HN, as determined by the Telehealth Board.

- (3) The board may:
- (a) Use any software program or expand any Medicaid management information system or electronic provider and payor network developed by the Medicaid program to support electronic health transactions between payors, insurers, health-care providers, and patients that are not Medicaid-related, unless prohibited by federal law or regulation;
 - (b) Contract, in accordance with KRS Chapter 45A, with an independent third party *or a public or nonprofit e-Health corporation* for any service necessary to carry out the responsibilities of the board subject to the appropriation of funds;
 - (c) Award grants to health-care providers and payors to implement projects related to health informatics, with highest priority given to health-care providers and payors that serve rural and inner-city areas of this Commonwealth;~~and~~
 - (d) Enter into an agreement with the University of Kentucky or the University of Louisville to develop comparative business models or implement any phase of the Ke-HN, using private or federal funds received by the university for the purpose designated in the agreement; *and*
 - (e) *Create a public or nonprofit e-Health corporation to facilitate public-private collaboration in development and implementation of the Ke-HN:*
 1. *A public or nonprofit e-Health organization may receive and expend funds appropriated by the General Assembly and may solicit, apply for, and receive any funds, grants, contracts, contributions, property, or services from any person, governmental agency, or other organization to carry out the responsibilities given to it by the Ke-HN Board;*
 2. *Funds appropriated to a public or nonprofit e-Health corporation shall not lapse at the end of a state fiscal year and shall be used solely for the purposes for which the funds were appropriated; and*
 3. *A public or nonprofit e-Health corporation created under this paragraph shall:*
 - a. *Follow standard accounting practices;*
 - b. *Submit to an annual financial audit by an independent auditor;*
 - c. *Submit a quarterly report of receipts and expenditures to the secretary of the Cabinet for Health and Family Services and the Ke-HN Board no later than sixty (60) days after the end of a quarter; and*
 - d. *Submit an annual financial and progress report to the Governor, the secretary of the Finance and Administration Cabinet, and the Interim Joint Committees on Appropriations and Revenue and Health and Welfare by September 30 following the end of each state fiscal year. The annual report shall include a report of receipts and expenditures, the financial audit, and a report on the status and progress of the corporation's initiatives.*
 - (f) *Promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of paragraph (e) of this subsection.*
- (4) In its fully implemented form, the Kentucky e-Health Network is envisioned to support or encourage the following types of electronic transactions or activities that would be phased in over time:
- (a) Automatic drug-drug interaction and allergy alerts;
 - (b) Automatic preventive medicine alerts;
 - (c) Electronic access to the results of laboratory, X-ray, or other diagnostic examinations;
 - (d) Disease management;
 - (e) Disease surveillance and reporting;
 - (f) Educational offerings for health-care providers;
 - (g) Health alert system and other applications related to homeland security;
 - (h) Links to drug formularies and cost information;

- (i) Links to evidence-based medical practice;
- (j) Links to patient educational materials;
- (k) Medical record information transfer to other providers with the patient's consent;
- (l) Physician order entry;
- (m) Prescription drug tracking;
- (n) Registries for vital statistics, cancer, case management, immunizations, and other public health registries;
- (o) Registry of the existence and location of advance directives related to health care and mental health treatment;
- (p) Registry of organ donations executed under KRS 311.165 to 311.235;
- (q) Secured electronic consultations between providers and patients;
- (r) A single-source insurance credentialing system for health care providers; and
- (s) The following transactions covered by HIPAA:
 - 1. Electronic health-care claims submission;
 - 2. Electronic payment;
 - 3. Coordination of benefits;
 - 4. Health-care claim status;
 - 5. Enrollment and disenrollment in a health plan;
 - 6. Eligibility for a health plan;
 - 7. Health plan premium payments;
 - 8. Referral certification and authorization;
 - 9. First report of injury; and
 - 10. Health claims attachments.

Section 6. There is included in the appropriation for the Cabinet for Health and Family Services for state fiscal year 2007-2008 federal grant funds from the Centers for Medicare and Medicaid Services \$4,987,583 for the Kentucky Health Information Partnership program in the Department for Medicaid Services.

Approved April 5, 2007.