

CHAPTER 14

(HB 64)

AN ACT relating to traumatic brain injury treatment for veterans.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act:

- (1) *"Eligible patient" means a veteran who meets the requirements of Section 3 of this Act;*
- (2) *"Health care provider" means a licensed physician, a licensed advanced practice registered nurse, or a licensed physician assistant;*
- (3) *"Health facility" has the same meaning as in KRS 216B.015;*
- (4) *"Hyperbaric oxygen therapy" or "HBOT" means inhalation of one hundred percent (100%) oxygen in a total body chamber, where atmospheric pressure is increased and controlled, applicable to the prevention, treatment, or cure of a disease or condition of human beings;*
- (5) *"Traumatic brain injury" has the same meaning as in KRS 211.470;*
- (6) *"Veteran" has the same meaning as in KRS 40.010; and*
- (7) *"Written informed consent" means a written document that meets the requirements of Section 4 of this Act.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

- (1) *A health care provider or health facility shall make hyperbaric oxygen therapy available to an eligible patient who has requested it pursuant to Sections 1 to 7 of this Act.*
- (2) *The health care provider or health facility may:*
 - (a) *Provide hyperbaric oxygen therapy without receiving compensation; or*
 - (b) *Require an eligible patient to pay the costs of or the costs associated with hyperbaric oxygen therapy.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

A veteran shall be an eligible patient for hyperbaric oxygen therapy if he or she has:

- (1) *A diagnosis of traumatic brain injury that is attested to by the patient's treating health care provider;*
- (2) *A prescription for hyperbaric oxygen therapy written by his or her treating health care provider; and*
- (3) *Given written informed consent for the use of HBOT in accordance with Section 4 of this Act.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

- (1) *A veteran or a veteran's legal guardian shall provide written informed consent for treatment with hyperbaric oxygen therapy in order to receive HBOT to treat traumatic brain injury.*
- (2) *At a minimum, the written informed consent shall include:*
 - (a) *An explanation of the currently approved products and treatments for the traumatic brain injury from which the veteran suffers;*
 - (b) *A description of the potentially best and worst outcomes of using hyperbaric oxygen therapy and a realistic description of the most likely outcome;*
 - (c) *A statement that the veteran's health plan or third-party administrator and provider shall not be obligated to pay for any care or treatments consequent to the use of hyperbaric oxygen therapy unless they are specifically required to do so by law or contract; and*
 - (d) *A statement that the veteran understands that the patient shall be liable for all expenses related to the use of hyperbaric oxygen therapy.*
- (3) *The description of potential outcomes required under subsection (2)(b) of this section shall:*

- (a) *Include the possibility that new, unanticipated, different, or worse symptoms may result and that the proposed treatment may hasten death; and*
 - (b) *Be based on the treating health care provider's knowledge of the proposed treatment in conjunction with an awareness of the veteran's condition.*
- (4) *The written informed consent shall be:*
- (a) *Signed by:*
 - 1. *The veteran; or*
 - 2. *A legal guardian, if a guardian has been appointed for the veteran; and*
 - (b) *Attested to by the veteran's treating health care provider and a witness.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

- (1) *Sections 1 to 7 of this Act shall not:*
- (a) *Expand the coverage required of an insurer;*
 - (b) *Affect the requirements for insurance coverage of routine patient costs for veterans involved in hyperbaric oxygen therapy;*
 - (c) *Require a health plan, third-party administrator, or governmental agency to pay costs associated with the use of hyperbaric oxygen therapy; or*
 - (d) *Require a hospital or health facility to provide new or additional services.*
- (2) *A health plan, third-party administrator, or governmental agency may provide coverage for the cost of hyperbaric oxygen therapy under Sections 1 to 7 of this Act.*
- (3) *A hospital or health facility may approve the use of hyperbaric oxygen therapy in the hospital or health facility.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

- (1) *A licensing board shall not revoke, fail to renew, suspend, or take any action against a licensed health care provider based solely on the health care provider's recommendations to an eligible patient regarding access to or treatment with hyperbaric oxygen therapy;*
- (2) *The Cabinet for Health and Family Services shall not take action against a health care provider's Medicare or Medicaid certification based solely on the health care provider's recommendation that an eligible patient have access to hyperbaric oxygen therapy.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

- (1) *An official, employee, or agent of the Commonwealth of Kentucky shall not block or attempt to block an eligible patient's access to hyperbaric oxygen therapy.*
- (2) *Counseling, advice, or a recommendation consistent with medical standards of care from a licensed health care provider shall not be considered a violation of subsection (1) of this section.*

➔Section 8. This Act may be known as the Colonel Ron Ray Veterans Traumatic Brain Injury Treatment Act.

Signed by Governor March 13, 2018.