

1 AN ACT relating to elimination of the certificate of need and declaring an
2 emergency.

3 WHEREAS, the Centers for Medicare and Medicaid Services find that national
4 health expenditures as a percentage of gross domestic product reached 17.9 percent in
5 2017; and

6 WHEREAS, one study estimated that health expenditures are expected to increase
7 at an average annual rate of 5.8 percent between 2014 and 2024; and

8 WHEREAS, state certificate-of-need (CON) laws require healthcare providers to
9 obtain regulatory permission from a state agency to construct new healthcare facilities,
10 expand existing ones, or offer specific kinds of healthcare services; and

11 WHEREAS, the Mercatus Center summarized the research by stating that "decades
12 of research by health economists, regulatory economists, and antitrust lawyers shows
13 CON laws fail to achieve their expressed goals, limit supply, and undermine
14 competition"; and

15 WHEREAS, the Mercatus Center reports that patient safety and healthcare
16 outcomes are improved in states without CON regulatory frameworks and, in fact,
17 "mortality rates for pneumonia, heart failure, and heart attacks, as well as patient deaths
18 from serious complications after surgery, are statistically significantly higher in hospitals
19 in states with at least one CON regulation"; and

20 WHEREAS, a 2018 joint report entitled, "Reforming America's Healthcare System
21 through Choice and Competition," was issued by the United States Department of Health
22 and Human Services, United States Department of the Treasury, and Department of
23 Labor; and

24 WHEREAS, the joint report recommended that "states should consider repeal of
25 CON statutes or, at a minimum, significantly scale back the scope of their CON regimes,
26 for example by ensuring that competitors of CON applicants cannot weigh in on these
27 applications"; and

1 WHEREAS, the continued increase in healthcare prices is a burden on Kentucky
2 households and consumers;

3 NOW, THEREFORE,

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

5 ➔Section 1. KRS 13B.020 is amended to read as follows:

6 (1) The provisions of this chapter shall apply to all administrative hearings conducted
7 by an agency, with the exception of those specifically exempted under this section.
8 The provisions of this chapter shall supersede any other provisions of the Kentucky
9 Revised Statutes and administrative regulations, unless exempted under this section,
10 to the extent these other provisions are duplicative or in conflict. This chapter
11 creates only procedural rights and shall not be construed to confer upon any person
12 a right to hearing not expressly provided by law.

13 (2) The provisions of this chapter shall not apply to:

14 (a) Investigations, hearings to determine probable cause, or any other type of
15 information gathering or fact finding activities;

16 (b) Public hearings required in KRS Chapter 13A for the promulgation of
17 administrative regulations;

18 (c) Any other public hearing conducted by an administrative agency which is
19 nonadjudicatory in nature and the primary purpose of which is to seek public
20 input on public policy making;

21 (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter
22 35;

23 (e) Administrative hearings conducted by the legislative and judicial branches of
24 state government;

25 (f) Administrative hearings conducted by any city, county, urban-county, charter
26 county, or special district contained in KRS Chapters 65 to 109, or any other
27 unit of local government operating strictly in a local jurisdictional capacity;

- 1 (g) Informal hearings which are part of a multilevel hearing process that affords
 2 an administrative hearing at some point in the hearing process if the
 3 procedures for informal hearings are approved and promulgated in accordance
 4 with subsections (4) and (5) of this section;
- 5 (h) Limited exemptions granted for specific hearing provisions and denoted by
 6 reference in the text of the applicable statutes or administrative regulations;
- 7 (i) Administrative hearings exempted pursuant to subsection (3) of this section;
- 8 (j) Administrative hearings exempted, in whole or in part, pursuant to
 9 subsections (4) and (5) of this section; and
- 10 (k) Any administrative hearing which was commenced but not completed prior to
 11 July 15, 1996.
- 12 (3) The following administrative hearings are exempt from application of this chapter
 13 in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- 14 (a) Finance and Administration Cabinet
- 15 1. Higher Education Assistance Authority
- 16 a. Wage garnishment hearings conducted under authority of 20
 17 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
- 18 b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A
 19 and sec. 3716, and 34 C.F.R. sec. 30.33
- 20 2. Department of Revenue
- 21 a. Any licensing and bond revocation hearings conducted under the
 22 authority of KRS 138.210 to 138.448 and 234.310 to 234.440
- 23 b. Any license revocation hearings under KRS 131.630 and 138.130
 24 to 138.205
- 25 (b) Cabinet for Health and Family Services
- 26 1. Office of the Inspector General
- 27 a. ~~[-Certificate-of-need-hearings-and-]~~Licensure hearings conducted

- 1 under authority of KRS Chapter 216B
- 2 b. Licensure revocation hearings conducted under authority of KRS
- 3 Chapter 216B
- 4 2. Department for Community Based Services
- 5 a. Supervised placement revocation hearings conducted under
- 6 authority of KRS Chapter 630
- 7 3. Department for Income Support
- 8 a. Disability determination hearings conducted under authority of 20
- 9 C.F.R. sec. 404
- 10 4. Department for Medicaid Services
- 11 a. Administrative appeal hearings following an external independent
- 12 third-party review of a Medicaid managed care organization's final
- 13 decision that denies, in whole or in part, a health care service to an
- 14 enrollee or a claim for reimbursement to the provider for a health
- 15 care service rendered by the provider to an enrollee of the
- 16 Medicaid managed care organization, conducted under authority of
- 17 KRS 205.646
- 18 (c) Justice and Public Safety Cabinet
- 19 1. Department of Kentucky State Police
- 20 a. Kentucky State Police Trial Board disciplinary hearings conducted
- 21 under authority of KRS Chapter 16
- 22 2. Department of Corrections
- 23 a. Parole Board hearings conducted under authority of KRS Chapter
- 24 439
- 25 b. Prison adjustment committee hearings conducted under authority
- 26 of KRS Chapter 197
- 27 c. Prison grievance committee hearings conducted under authority of

- 1 KRS Chapters 196 and 197
- 2 3. Department of Juvenile Justice
- 3 a. Supervised placement revocation hearings conducted under KRS
- 4 Chapter 635
- 5 (d) Energy and Environment Cabinet
- 6 1. Department for Natural Resources
- 7 a. Surface mining hearings conducted under authority of KRS
- 8 Chapter 350
- 9 b. Oil and gas hearings conducted under the authority of KRS
- 10 Chapter 353, except for those conducted by the Kentucky Oil and
- 11 Gas Conservation Commission pursuant to KRS 353.500 to
- 12 353.720
- 13 c. Explosives and blasting hearings conducted under the authority of
- 14 KRS 351.315 to 351.375
- 15 2. Department for Environmental Protection
- 16 a. Wild River hearings conducted under authority of KRS Chapter
- 17 146
- 18 b. Water resources hearings conducted under authority of KRS
- 19 Chapter 151
- 20 c. Water plant operator and water well driller hearings conducted
- 21 under authority of KRS Chapter 223
- 22 d. Environmental protection hearings conducted under authority of
- 23 KRS Chapter 224
- 24 e. Petroleum Storage Tank Environmental Assurance Fund hearings
- 25 under authority of KRS Chapter 224
- 26 3. Public Service Commission
- 27 a. Utility hearings conducted under authority of KRS Chapters 74,

1 278, and 279

2 (e) Labor Cabinet

3 1. Department of Workers' Claims

4 a. Workers' compensation hearings conducted under authority of
5 KRS Chapter 342

6 2. Kentucky Occupational Safety and Health Review Commission

7 a. Occupational safety and health hearings conducted under authority
8 of KRS Chapter 338

9 (f) Public Protection Cabinet

10 1. Kentucky Claims Commission

11 a. Liability hearings conducted under authority of KRS 49.020(1) and
12 49.040 to 49.180

13 (g) Education and Workforce Development Cabinet

14 1. Unemployment Insurance hearings conducted under authority of KRS
15 Chapter 341

16 (h) Secretary of State

17 1. Registry of Election Finance

18 a. Campaign finance hearings conducted under authority of KRS
19 Chapter 121

20 (i) State universities and colleges

21 1. Student suspension and expulsion hearings conducted under authority of
22 KRS Chapter 164

23 2. University presidents and faculty removal hearings conducted under
24 authority of KRS Chapter 164

25 3. Campus residency hearings conducted under authority of KRS Chapter
26 164

27 4. Family Education Rights to Privacy Act hearings conducted under

1 authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99

2 5. Federal Health Care Quality Improvement Act of 1986 hearings
3 conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS
4 Chapter 311.

5 (4) Any administrative hearing, or portion thereof, may be certified as exempt by the
6 Attorney General based on the following criteria:

7 (a) The provisions of this chapter conflict with any provision of federal law or
8 regulation with which the agency must comply, or with any federal law or
9 regulation with which the agency must comply to permit the agency or
10 persons within the Commonwealth to receive federal tax benefits or federal
11 funds or other benefits;

12 (b) Conformity with the requirement of this chapter from which exemption is
13 sought would be so unreasonable or so impractical as to deny due process
14 because of undue delay in the conduct of administrative hearings; or

15 (c) The hearing procedures represent informal proceedings which are the
16 preliminary stages or the review stages of a multilevel hearing process, if the
17 provisions of this chapter or the provisions of a substantially equivalent
18 hearing procedure exempted under subsection (3) of this section are applied at
19 some level within the multilevel process.

20 (5) The Attorney General shall not exempt an agency from any requirement of this
21 chapter until the agency establishes alternative procedures by administrative
22 regulation which, insofar as practical, shall be consistent with the intent and purpose
23 of this chapter. When regulations for alternative procedures are submitted to the
24 Administrative Regulation Review Subcommittee, they shall be accompanied by the
25 request for exemption and the approval of exemption from the Attorney General.
26 The decision of the Attorney General, whether affirmative or negative, shall be
27 subject to judicial review in the Franklin Circuit Court within thirty (30) days of the

1 date of issuance. The court shall not overturn a decision of the Attorney General
2 unless the decision was arbitrary or capricious or contrary to law.

3 (6) Except to the extent precluded by another provision of law, a person may waive any
4 procedural right conferred upon that person by this chapter.

5 (7) The provisions of KRS 13B.030(2)(b) shall not apply to administrative hearings
6 held under KRS 11A.100 or 18A.095.

7 ➔Section 2. KRS 194A.010 is amended to read as follows:

8 (1) The cabinet is the primary state agency for operating the public health, Medicaid,
9 ~~certificate of need and licensure~~, and mental health and intellectual disability
10 programs in the Commonwealth. The function of the cabinet is to improve the
11 health of all Kentuckians, including the delivery of population, preventive,
12 reparative, and containment health services in a safe and effective fashion, and to
13 improve the functional capabilities and opportunities of Kentuckians with
14 disabilities. The cabinet is to accomplish its function through direct and contract
15 services for planning and ~~through the state health plan and~~ departmental plans for
16 program operations, for program monitoring and standard setting, and for program
17 evaluation and resource management.

18 (2) The cabinet is the primary state agency responsible for leadership in protecting and
19 promoting the well-being of Kentuckians through the delivery of quality human
20 services. Recognizing that children are the Commonwealth's greatest natural
21 resource and that individuals and their families are the most critical component of a
22 strong society, the cabinet shall deliver social services to promote the safety and
23 security of Kentuckians and preserve their dignity. The cabinet shall administer
24 child welfare programs that promote collaboration and accountability among local,
25 public, and private programs to improve the lives of families and children, including
26 collaboration with the Council on Accreditation for Children and Family Services
27 or its equivalent in developing strategies consistent with best practice standards for

1 delivery of services. The cabinet also shall administer income-supplement programs
2 that protect, develop, preserve, and maintain individuals, families, and children in
3 the Commonwealth.

4 ➔Section 3. KRS 194A.030 is amended to read as follows:

5 The cabinet consists of the following major organizational units, which are hereby
6 created:

7 (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office
8 of the Ombudsman and Administrative Review, an Office of Legal Services, an
9 Office of Inspector General, an Office of Public Affairs, and an Office of Health
10 Data and Analytics, as follows:

11 (a) The Office of the Ombudsman and Administrative Review shall be headed by
12 an executive director who shall be appointed by the secretary with the
13 approval of the Governor under KRS 12.050 and shall:

- 14 1. Investigate, upon complaint or on its own initiative, any administrative
15 act of an organizational unit, employee, or contractor of the cabinet,
16 without regard to the finality of the administrative act. Organizational
17 units, employees, or contractors of the cabinet shall not willfully
18 obstruct an investigation, restrict access to records or personnel, or
19 retaliate against a complainant or cabinet employee;
- 20 2. Make recommendations that resolve citizen complaints and improve
21 governmental performance and may require corrective action when
22 policy violations are identified;
- 23 3. Provide evaluation and information analysis of cabinet performance and
24 compliance with state and federal law;
- 25 4. Place an emphasis on research and best practices, program
26 accountability, quality service delivery, and improved governmental
27 performance;

- 1 5. Provide information on how to contact the office for public posting at all
2 offices where Department for Community Based Services employees or
3 contractors work, at any facility where a child in the custody of the
4 cabinet resides, and to all cabinet or contracted foster parents;
- 5 6. Report to the Office of Inspector General any charge or case against an
6 employee of the Cabinet for Health and Family Services where it has
7 cause to believe the employee has engaged in dishonest, unethical, or
8 illegal conduct or practices related to his or her job duties; or any
9 violation of state law or administrative regulation by any organization or
10 individual regulated by, or contracted with the cabinet;
- 11 7. Compile a report of all citizen complaints about programs or services of
12 the cabinet and a summary of resolution of the complaints and submit
13 the report upon request to the Child Welfare Oversight and Advisory
14 Committee established in KRS 6.943 and the Interim Joint Committee
15 on Health and Welfare and Family Services; and
- 16 8. Include oversight of administrative hearings;
- 17 (b) The Office of Legal Services shall provide legal advice and assistance to all
18 units of the cabinet in any legal action in which it may be involved. The Office
19 of Legal Services shall employ all attorneys of the cabinet who serve the
20 cabinet in the capacity of attorney, giving legal advice and opinions
21 concerning the operation of all programs in the cabinet. The Office of Legal
22 Services shall be headed by a general counsel who shall be appointed by the
23 secretary with the approval of the Governor under KRS 12.050 and 12.210.
24 The general counsel shall be the chief legal advisor to the secretary and shall
25 be directly responsible to the secretary. The Attorney General, on the request
26 of the secretary, may designate the general counsel as an assistant attorney
27 general under the provisions of KRS 15.105;

1 (c) The Office of Inspector General shall be headed by an inspector general who
2 shall be appointed by the secretary with the approval of the Governor. The
3 inspector general shall be directly responsible to the secretary. The Office of
4 Inspector General shall be responsible for:

- 5 1. The conduct of audits and investigations for detecting the perpetration of
6 fraud or abuse of any program by any client, or by any vendor of
7 services with whom the cabinet has contracted; and the conduct of
8 special investigations requested by the secretary, commissioners, or
9 office heads of the cabinet into matters related to the cabinet or its
10 programs;
- 11 2. Licensing and regulatory functions as the secretary may delegate;
- 12 3. Review of health facilities participating in transplant programs, as
13 determined by the secretary, for the purpose of determining any
14 violations of KRS 311.1911 to 311.1959, 311.1961, and 311.1963;
- 15 4. The duties, responsibilities, and authority pertaining to the ~~certificate of~~
16 ~~need functions and the~~ licensure appeals functions, pursuant to KRS
17 Chapter 216B; and
- 18 5. The notification and forwarding of any information relevant to possible
19 criminal violations to the appropriate prosecuting authority; and

20 (d) The Office of Health Data and Analytics shall be headed by an executive
21 director appointed by the secretary with the approval of the Governor. The
22 Office of Health Data and Analytics shall:

- 23 1. Be responsible for:
 - 24 a. The Division of Health Benefit Exchange;
 - 25 b. The Division of Health Information; and
 - 26 c. The Division of Analytics;
- 27 2. Identify and innovate strategic initiatives to inform public policy

1 initiatives and provide opportunities for improving the health outcomes
2 of all Kentuckians through data analytics;

3 3. Provide leadership in the redesign of the health care delivery system
4 using electronic information technology as a means to improve patient
5 care and reduce medical errors and duplicative services; and

6 4. Facilitate the purchase of individual and small business health insurance
7 coverage for Kentuckians;

8 (2) Department for Medicaid Services. The Department for Medicaid Services shall
9 serve as the single state agency in the Commonwealth to administer Title XIX of the
10 Federal Social Security Act. The Department for Medicaid Services shall be headed
11 by a commissioner for Medicaid services, who shall be appointed by the secretary
12 with the approval of the Governor under KRS 12.050. The commissioner for
13 Medicaid services shall be a person who by experience and training in
14 administration and management is qualified to perform the duties of this office. The
15 commissioner for Medicaid services shall exercise authority over the Department
16 for Medicaid Services under the direction of the secretary and shall only fulfill those
17 responsibilities as delegated by the secretary;

18 (3) Department for Public Health. The Department for Public Health shall develop and
19 operate all programs of the cabinet that provide health services and all programs for
20 assessing the health status of the population for the promotion of health and the
21 prevention of disease, injury, disability, and premature death. This shall include but
22 not be limited to oversight of the Division of Women's Health. The Department for
23 Public Health shall be headed by a commissioner for public health who shall be
24 appointed by the secretary with the approval of the Governor under KRS 12.050.
25 The commissioner for public health shall be a duly licensed physician who by
26 experience and training in administration and management is qualified to perform
27 the duties of this office. The commissioner shall advise the head of each major

1 organizational unit enumerated in this section on policies, plans, and programs
2 relating to all matters of public health, including any actions necessary to safeguard
3 the health of the citizens of the Commonwealth. The commissioner shall serve as
4 chief medical officer of the Commonwealth. The commissioner for public health
5 shall exercise authority over the Department for Public Health under the direction of
6 the secretary and shall only fulfill those responsibilities as delegated by the
7 secretary;

8 (4) Department for Behavioral Health, Developmental and Intellectual Disabilities. The
9 Department for Behavioral Health, Developmental and Intellectual Disabilities shall
10 develop and administer programs for the prevention of mental illness, intellectual
11 disabilities, brain injury, developmental disabilities, and substance abuse disorders
12 and shall develop and administer an array of services and support for the treatment,
13 habilitation, and rehabilitation of persons who have a mental illness or emotional
14 disability, or who have an intellectual disability, brain injury, developmental
15 disability, or a substance abuse disorder. The Department for Behavioral Health,
16 Developmental and Intellectual Disabilities shall be headed by a commissioner for
17 behavioral health, developmental and intellectual disabilities who shall be
18 appointed by the secretary with the approval of the Governor under KRS 12.050.
19 The commissioner for behavioral health, developmental and intellectual disabilities
20 shall be by training and experience in administration and management qualified to
21 perform the duties of the office. The commissioner for behavioral health,
22 developmental and intellectual disabilities shall exercise authority over the
23 department under the direction of the secretary, and shall only fulfill those
24 responsibilities as delegated by the secretary;

25 (5) Office for Children with Special Health Care Needs. The duties, responsibilities,
26 and authority set out in KRS 200.460 to 200.490 shall be performed by the office.
27 The office shall advocate the rights of children with disabilities and, to the extent

1 that funds are available, shall ensure the administration of services for children with
2 disabilities as are deemed appropriate by this office pursuant to Title V of the Social
3 Security Act. The office may promulgate administrative regulations under KRS
4 Chapter 13A as may be necessary to implement and administer its responsibilities.
5 The duties, responsibilities, and authority of the Office for Children with Special
6 Health Care Needs shall be performed through the office of the executive director.
7 The executive director shall be appointed by the secretary with the approval of the
8 Governor under KRS 12.050;

9 (6) Department for Family Resource Centers and Volunteer Services. The Department
10 for Family Resource Centers and Volunteer Services shall streamline the various
11 responsibilities associated with the human services programs for which the cabinet
12 is responsible. This shall include, but not be limited to, oversight of the Division of
13 Family Resource and Youth Services Centers and Serve Kentucky. The Department
14 for Family Resource Centers and Volunteer Services shall be headed by a
15 commissioner who shall be appointed by the secretary with the approval of the
16 Governor under KRS 12.050. The commissioner for family resource centers and
17 volunteer services shall be by training and experience in administration and
18 management qualified to perform the duties of the office, shall exercise authority
19 over the department under the direction of the secretary, and shall only fulfill those
20 responsibilities as delegated by the secretary;

21 (7) The Office of Administrative Services shall provide central review and oversight of
22 procurement, general accounting to include grant monitoring, and facility
23 management for cabinet. The office shall provide coordination, assistance, and
24 support to program departments and independent review and analysis on behalf of
25 the secretary. The office shall be headed by an executive director appointed by the
26 secretary with the approval of the Governor in accordance with KRS 12.050;

27 (8) The Office of Application Technology Services shall provide application

1 technology services including central review and oversight. The office shall provide
2 coordination, assistance, and support to program departments and independent
3 review and analysis on behalf of the secretary. The office shall be headed by an
4 executive director appointed by the secretary with the approval of the Governor in
5 accordance with KRS 12.050;

6 (9) Office of Human Resource Management. The Office of Human Resource
7 Management shall coordinate, oversee, and execute all personnel, training, and
8 management functions of the cabinet. The office shall focus on the oversight,
9 development, and implementation of quality personnel services; curriculum
10 development and delivery of instruction to staff; the administration, management,
11 and oversight of training operations; health, safety, and compliance training; and
12 equal employment opportunity compliance functions. The office shall be headed by
13 an executive director appointed by the secretary with the approval of the Governor
14 in accordance with KRS 12.050;

15 (10) The Office of Finance and Budget shall provide central review and oversight of
16 budget, contracts, and cabinet finances. The office shall provide coordination,
17 assistance, and support to program departments and independent review and
18 analysis on behalf of the secretary. The office shall be headed by an executive
19 director appointed by the secretary with the approval of the Governor in accordance
20 with KRS 12.050;

21 (11) Department for Community Based Services. The Department for Community Based
22 Services shall administer and be responsible for child and adult protection, violence
23 prevention resources, foster care and adoption, permanency, and services to enhance
24 family self-sufficiency, including child care, social services, public assistance, and
25 family support. The department shall be headed by a commissioner appointed by the
26 secretary with the approval of the Governor in accordance with KRS 12.050;

27 (12) Department for Income Support. The Department for Income Support shall be

1 responsible for child support enforcement and disability determination. The
2 department shall serve as the state unit as required by Title II and Title XVI of the
3 Social Security Act, and shall have responsibility for determining eligibility for
4 disability for those citizens of the Commonwealth who file applications for
5 disability with the Social Security Administration. The department shall be headed
6 by a commissioner appointed by the secretary with the approval of the Governor in
7 accordance with KRS 12.050;

8 (13) Department for Aging and Independent Living. The Department for Aging and
9 Independent Living shall serve as the state unit as designated by the Administration
10 on Aging Services under the Older Americans Act and shall have responsibility for
11 administration of the federal community support services, in-home services, meals,
12 family and caregiver support services, elder rights and legal assistance, senior
13 community services employment program, the state health insurance assistance
14 program, state home and community based services including home care,
15 Alzheimer's respite services and the personal care attendant program, certifications
16 of adult day care and assisted living facilities, the state Council on Alzheimer's
17 Disease and other related disorders, the Institute on Aging, and guardianship
18 services. The department shall also administer the Long-Term Care Ombudsman
19 Program and the Medicaid Home and Community Based Waivers Consumer
20 Directed Option (CDO) Program. The department shall serve as the information and
21 assistance center for aging and disability services and administer multiple federal
22 grants and other state initiatives. The department shall be headed by a commissioner
23 appointed by the secretary with the approval of the Governor in accordance with
24 KRS 12.050; and

25 (14) The Office of Legislative and Regulatory Affairs shall provide central review and
26 oversight of legislation, policy, and administrative regulations. The office shall
27 provide coordination, assistance, and support to program departments and

1 independent review and analysis on behalf of the secretary. The office shall be
2 headed by an executive director appointed by the secretary with the approval of the
3 Governor in accordance with KRS 12.050.

4 ➔Section 4. KRS 211.192 is amended to read as follows:

- 5 (1) For the purposes of this section:
- 6 (a) "Down syndrome" means a chromosomal condition caused by cell division
7 that results in the presence of an extra whole or partial copy of chromosome
8 21; and
- 9 (b) "Spina bifida" means a neural tube defect, the most common of which is the
10 open neural tube defect myelomeningocele.
- 11 (2) A health facility as defined in KRS 216B.015~~[(13)]~~, physician, health care provider,
12 nurse midwife, or genetic counselor who renders prenatal care, postnatal care, or
13 genetic counseling, upon receipt of a positive test result from a test for Down
14 syndrome or spina bifida, shall provide the expectant or new parent with
15 information provided by the Cabinet for Health and Family Services under
16 subsection (3) of this section.
- 17 (3) The Cabinet for Health and Family Services shall make available to any person who
18 renders prenatal care, postnatal care, or genetic counseling to parents who receive a
19 prenatal or postnatal diagnosis of Down syndrome or spina bifida and to any person
20 who has received a positive test result from a test for Down syndrome or spina
21 bifida the following:
- 22 (a) Up-to-date, evidence-based, written information about Down syndrome or
23 spina bifida that has been reviewed by medical experts and Down syndrome or
24 spina bifida organizations and includes information on physical,
25 developmental, educational, and psychosocial outcomes, life expectancy,
26 clinical course, intellectual and functional development, and treatment
27 options; and

1 (b) Contact information regarding support programs and services for expectant
2 and new parents of children with Down syndrome or spina bifida, including
3 information hotlines specific to Down syndrome or spina bifida, resource
4 centers or clearinghouses, national and local Down syndrome or spina bifida
5 organizations such as Down Syndrome of Louisville, Down Syndrome
6 Association of Central Kentucky, Down Syndrome Association of South
7 Central Kentucky, Green River Area Down Syndrome Association, Down
8 Syndrome Association of Greater Cincinnati Serving Northern Kentucky,
9 Council on Developmental Disabilities, the Spina Bifida Association of
10 Kentucky, and other education and support programs.

11 ➔Section 5. KRS 205.634 is amended to read as follows:

12 (1) ~~[No medical assistance payments shall be made under this chapter to any out-of-~~
13 ~~state health facility or health service providing services within the geographic~~
14 ~~boundaries of the Commonwealth who does not have a certificate of need if the~~
15 ~~health facility or health service would be required to obtain a certificate of need~~
16 ~~under KRS Chapter 216B if the facility or service were located within the~~
17 ~~geographic boundaries of the Commonwealth.~~

18 (2) ~~]~~The Department for Medicaid Services and the Department for Community Based
19 Services shall not reimburse an out-of-state provider of residential care for children
20 whose care is paid by state general funds or state administered federal funds, unless
21 the Department for Medicaid Services or the Department for Community Based
22 Services or a designated agent thereof has determined that there is no provider
23 within the Commonwealth that is capable and willing to provide comparable
24 services at a comparable cost per child to those that would be delivered by the out-
25 of-state provider. An exception may be made if:

26 (a) The identified in-state resource is farther away from the child's parent or
27 guardian than a similar out-of-state resource; or

1 (b) The services offered by the out-of-state resource is deemed by either
2 department or a designated agent thereof to be more appropriate for the
3 individual child than the services offered by the in-state provider.

4 ~~(2)~~~~(3)~~ Prior to promulgating administrative regulations governing the determination
5 of the availability of providers of residential care within the Commonwealth, the
6 Department for Medicaid Services and the Department for Community Based
7 Services shall establish uniform conditions, requirements, and exceptions for the
8 determination of the availability of providers of residential care within the
9 Commonwealth.

10 ~~(3)~~~~(4)~~ Each department shall promulgate an administrative regulation in accordance
11 with KRS Chapter 13A that contains the uniform conditions, requirements, and
12 exceptions for the determination of the availability of providers of residential care
13 within the Commonwealth established under subsection ~~(2)~~~~(3)~~ of this section.

14 ➔Section 6. KRS 216.361 is amended to read as follows:

15 Notwithstanding any provision of law to the contrary, hospitals located in a hospital
16 district pursuant to KRS 216.310 to 216.360 may offer the following services and
17 facilities in counties contiguous to the hospital district ~~and shall obtain a certificate of~~
18 ~~need where required~~:

- 19 (1) Home health services;
- 20 (2) Rural health clinics;
- 21 (3) Physician office buildings;
- 22 (4) Mobile diagnostic services; and
- 23 (5) Any other service or facility where there is agreement between the hospital and a
24 provider located in a county contiguous to the hospital district to jointly develop and
25 operate the service or facility.

26 ➔Section 7. KRS 216.380 is amended to read as follows:

- 27 (1) The licensure category of critical access hospital is hereby created for existing

1 licensed acute-care hospitals which qualify under this section for that status.

2 (2) It shall be unlawful to operate or maintain a critical access hospital without first
3 obtaining a license from the Cabinet for Health and Family Services. ~~[An acute-care
4 hospital converting to a critical access hospital shall not require a certificate of
5 need. A certificate of need shall not be required for services provided on a
6 contractual basis in a critical access hospital. A certificate of need shall not be
7 required for an existing critical access hospital to increase its acute care bed
8 capacity to twenty-five (25) beds.]~~

9 (3) Except as provided in subsection (4) of this section, only a hospital licensed as a
10 general acute-care hospital may be relicensed as a critical access hospital if:

11 (a) The hospital is located in a county in a rural area that is:

12 1. Located more than a thirty-five (35) mile drive, or, where the terrain is
13 mountainous or only secondary roads are available, located more than a
14 fifteen (15) mile drive, from another acute-care hospital or critical access
15 hospital; or

16 2. Certified by the secretary as a necessary provider of health care services
17 to area residents;

18 (b) For the purposes of paragraph (a) of this subsection, a hospital shall be
19 considered to be located in a rural area if the hospital is not in a county which
20 is part of a standard metropolitan statistical area, the hospital is located in a
21 rural census tract of a metropolitan statistical area as determined under the
22 most recent modification of the Goldsmith Modification, or is designated by
23 the state as a rural provider. The secretary shall designate a hospital as a rural
24 provider if the hospital is not located in a county which has the largest county
25 population of a standard metropolitan statistical area;

26 (c) Except as provided in paragraph (d) of this subsection, the hospital provides
27 not more than twenty-five (25) acute care inpatient beds for providing acute

1 inpatient care for a period that does not exceed, as determined on an annual,
2 average basis, ninety-six (96) hours;

3 (d) If the hospital is operating swing beds under which the hospital's inpatient
4 hospital facilities are used for the provision of extended care services, the
5 hospital may be designated as a critical access hospital so long as the total
6 number of beds that may be used at any time for furnishing of either extended
7 care services or acute inpatient services does not exceed twenty-five (25) beds.
8 For the purposes of this section, any bed of a unit of the hospital that is
9 licensed as a nursing facility at the time the hospital applies to the state for
10 designation as a critical care access hospital shall not be counted.

11 (4) The secretary for health and family services may designate a facility as a critical
12 access hospital if the facility:

13 (a) Was a hospital that ceased operations on or after ten (10) years prior to April
14 21, 2000; or

15 (b) Was a hospital that was converted to a licensed ambulatory health center or
16 other type of licensed health clinic or health center and, as of the effective date
17 of that conversion, meets the criteria for licensure as a critical access hospital
18 under this subsection or subsection (3) of this section.

19 (5) A critical access hospital shall provide the following services:

20 (a) Twenty-four (24) hour emergency-room care that the secretary determines is
21 necessary for insuring access to emergency care services in each area served
22 by a critical access hospital; and

23 (b) Basic laboratory, radiologic, pharmacy, and dietary services. These services
24 may be provided on a part-time, off-site contractual basis.

25 (6) A critical access hospital may provide the following services:

26 (a) Swing beds or a distinct unit of the hospital which is a nursing facility in
27 accordance with KRS Chapter 216B ~~and subject to approval under certificate~~

- 1 ~~of need~~];
- 2 (b) Surgery;
- 3 (c) Normal obstetrics;
- 4 (d) Primary care;
- 5 (e) Adult day health care;
- 6 (f) Respite care;
- 7 (g) Rehabilitative and therapeutic services including~~[,]~~ but not limited to, physical
- 8 therapy, respiratory therapy, occupational therapy, speech pathology, and
- 9 audiology, which may be provided on an off-site contractual basis;
- 10 (h) Ambulatory care;
- 11 (i) Home health services~~[which may be established upon obtaining a certificate~~
- 12 ~~of need]~~; and
- 13 (j) Mobile diagnostic services with equipment not exceeding the major medical
- 14 equipment cost threshold pursuant to KRS Chapter 216B and for which there
- 15 are no review criteria in the State Health Plan.
- 16 (7) In addition to the services that may be provided under subsection (6) of this section,
- 17 a critical access hospital may establish the following units in accordance with
- 18 applicable Medicare regulations~~[and subject to certificate of need approval]~~:
- 19 (a) A psychiatric unit that is a distinct part of the hospital, with a maximum of ten
- 20 (10) beds; and
- 21 (b) A rehabilitation unit that is a distinct part of the hospital, with a maximum of
- 22 ten (10) beds notwithstanding any other bed limit contained in law or
- 23 regulation.
- 24 (8) Psychiatric unit and rehabilitation unit beds operated under subsection (7) of this
- 25 section shall not be counted in determining the number of beds or the average
- 26 length of stay of a critical access hospital for purposes of applying the bed and
- 27 average length of stay limitations under paragraph (c) of subsection (3) of this

1 section.

2 (9) The following staffing plan shall apply to a critical access hospital:

3 (a) The hospital shall meet staffing requirements as would apply under section
4 1861(e) of Title XVIII of the Federal Social Security Act to a hospital located
5 in a rural area except that:

6 1. The hospital need not meet hospital standards relating to the number of
7 hours during a day, or days during a week, in which the hospital shall be
8 open and fully staffed, except insofar as the facility is required to make
9 available emergency services and nursing services available on a twenty-
10 four (24) hour basis; and

11 2. The hospital need not otherwise staff the facility except when an
12 inpatient is present; and

13 (b) Physician assistants and nurse practitioners may provide inpatient care within
14 the limits of their statutory scope of practice and with oversight by a physician
15 who is not required to be on-site at the hospital.

16 (10) A critical access hospital shall have a quality assessment and performance
17 improvement program and procedures for review of utilization of services.

18 (11) A critical access hospital shall have written contracts assuring the following
19 linkages:

20 (a) Secondary and tertiary hospital referral services which shall provide for the
21 transfer of a patient to the appropriate level of care and the transfer of patients
22 to the critical access hospital for recuperative care;

23 (b) Ambulance services;

24 (c) Home health services; and

25 (d) Nursing facility services if not provided on-site.

26 (12) If the critical access hospital is part of a rural health network, the hospital shall have
27 the following:

- 1 (a) An agreement for patient referral and transfer, development, and use of
2 communications systems including telemetry and electronic sharing of patient
3 data, and emergency and nonemergency transportation; and
- 4 (b) An agreement for credentialing and quality assurance with a network hospital,
5 peer review organization, or other appropriate and qualified entity identified in
6 the state rural health plan.
- 7 (13) The Cabinet for Health and Family Services and any insurer or managed care
8 program for Medicaid recipients that contracts with the Department for Medicaid
9 Services for the receipt of Federal Social Security Act Title XIX funds shall provide
10 for reimbursement of services provided to Medicaid recipients in a critical access
11 hospital at rates that are at least equal to those established by the Federal Health
12 Care Financing Administration or Centers for Medicare and Medicaid Services for
13 Medicare reimbursement to a critical access hospital.
- 14 (14) The Cabinet for Health and Family Services shall promulgate administrative
15 regulations pursuant to KRS Chapter 13A necessary to implement this section.
- 16 ➔Section 8. KRS 216.560 is amended to read as follows:
- 17 (1) If a licensee has failed to correct a Type A violation within the time specified for
18 correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the
19 amount of five hundred dollars (\$500) for each day that the deficiency continues
20 beyond the date specified for correction. Application for an extension of time, not to
21 exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee
22 that adequate arrangements have been made to protect the health and safety of the
23 residents. A facility that is assessed a civil monetary penalty in accordance with
24 applicable federal laws and regulations under Title 18 or 19 of the Federal Social
25 Security Act shall not be subject to the civil monetary penalty established in this
26 subsection for the same violation.
- 27 (2) If a licensee has failed to correct a Type B violation within the time specified for

1 correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the
2 amount of two hundred dollars (\$200) for each day that the deficiency continues
3 beyond the date specified for correction. Application for an extension of time, not to
4 exceed (10) days, may be granted by the cabinet upon a showing by the licensee that
5 adequate arrangements have been made to protect the health and safety of the
6 residents. A facility that is assessed a civil monetary penalty in accordance with
7 applicable federal laws and regulations under Title 18 or 19 of the Federal Social
8 Security Act shall not be subject to the civil monetary penalty established in this
9 subsection for the same violation.

10 (3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a
11 licensee has received a citation for violating a statute or regulation for which it has
12 received a citation during the previous twelve (12) months.

13 (4) Payment of penalties shall not be made from moneys used for direct patient care nor
14 shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.

15 (5) KRS 216B.990~~(2)~~~~(3)~~ shall not apply to the offenses defined herein.

16 (6) A personal care home that is assessed a civil monetary penalty for a Type A or Type
17 B citation shall have the amount of the penalty reduced by the dollar amount that
18 the facility can verify was used to correct the deficiency, if:

19 (a) The condition resulting in the deficiency citation existed for less than thirty
20 (30) days prior to the date of the citation; or

21 (b) The facility has not intentionally delayed correcting the deficiency to secure a
22 reduction in a penalty that might subsequently be assessed.

23 (7) All administrative fines collected by the cabinet pursuant to KRS 216.537 to
24 216.590 shall be deposited in the Kentucky nursing incentive scholarship fund,
25 which is hereby created, and the balance of that fund shall not lapse at the end of the
26 fiscal year to the general fund.

27 ➔Section 9. KRS 216.885 is amended to read as follows:

1 (1) It is unlawful to operate or maintain a PPEC center without first obtaining a
 2 ~~certificate of need and a~~ license for the PPEC center from the cabinet. The cabinet
 3 is responsible for licensing PPEC centers in accordance with the provisions of KRS
 4 Chapter 216B.

5 (2) Separate licenses are required for PPEC centers maintained on separate premises,
 6 even though they are operated under the same management. Separate licenses are
 7 not required for separate buildings on the same grounds.

8 (3) The Cabinet for Health and Family Services may deny, revoke, modify, or suspend
 9 a license in accordance with KRS 216B.105.

10 ➔Section 10. KRS 216B.015 is amended to read as follows:

11 Except as otherwise provided, for purposes of this chapter, the following definitions shall
 12 apply:

13 (1) "Abortion facility" means any place in which an abortion is performed;

14 (2) "Administrative regulation" means a regulation adopted and promulgated pursuant
 15 to the procedures in KRS Chapter 13A;

16 (3) ~~["Affected persons" means the applicant; any person residing within the geographic
 17 area served or to be served by the applicant; any person who regularly uses health
 18 facilities within that geographic area; health facilities located in the health service
 19 area in which the project is proposed to be located which provide services similar to
 20 the services of the facility under review; health facilities which, prior to receipt by
 21 the agency of the proposal being reviewed, have formally indicated an intention to
 22 provide similar services in the future; and the cabinet and third party payors who
 23 reimburse health facilities for services in the health service area in which the project
 24 is proposed to be located;~~

25 ~~(4)~~ (a) "Ambulatory surgical center" means a health facility:

26 1. Licensed pursuant to administrative regulations promulgated by the
 27 cabinet;

- 1 2. That provides outpatient surgical services, excluding oral or dental
2 procedures; and
- 3 3. Seeking recognition and reimbursement as an ambulatory surgical center
4 from any federal, state, or third-party insurer from which payment is
5 sought.

6 (b) An ambulatory surgical center does not include the private offices of
7 physicians where in-office outpatient surgical procedures are performed as
8 long as the physician office does not seek licensure, certification,
9 reimbursement, or recognition as an ambulatory surgical center from a federal,
10 state, or third-party insurer.

11 (c) Nothing in this subsection shall preclude a physician from negotiating
12 enhanced payment for outpatient surgical procedures performed in the
13 physician's private office so long as the physician does not seek recognition or
14 reimbursement of his or her office as an ambulatory surgical center without
15 first obtaining a ~~certificate of need or~~ license required under KRS 216B.020~~f~~
16 and 216B.061~~;~~;

17 ~~(4)~~~~(5)~~ "Applicant" means any physician's office requesting a major medical
18 equipment expenditure exceeding the capital expenditure minimum, or any person,
19 health facility, or health service requesting a ~~certificate of need or~~ license;

20 ~~(5)~~~~(6)~~ "Cabinet" means the Cabinet for Health and Family Services;

21 ~~(6)~~~~(7)~~ "Capital expenditure" means an expenditure made by or on behalf of a health
22 facility which:

23 (a) Under generally accepted accounting principles is not properly chargeable as
24 an expense of operation and maintenance or is not for investment purposes
25 only; or

26 (b) Is made to obtain by lease or comparable arrangement any facility or part
27 thereof or any equipment for a facility or part thereof;

1 ~~(7)~~⁽⁸⁾ "Capital expenditure minimum" means the annually adjusted amount set by
2 the cabinet. In determining whether an expenditure exceeds the expenditure
3 minimum, the cost of any studies, surveys, designs, plans, working drawings,
4 specifications, and other activities essential to the improvement, expansion, or
5 replacement of any plant or any equipment with respect to which the expenditure is
6 made shall be included. Donations of equipment or facilities to a health facility
7 which if acquired directly by the facility would be subject to review under this
8 chapter shall be considered a capital expenditure, and a transfer of the equipment or
9 facilities for less than fair market value shall be considered a capital expenditure if a
10 transfer of the equipment or facilities at fair market value would be subject to
11 review;

12 ~~(9)~~ "Certificate of need" means an authorization by the cabinet to acquire, to establish,
13 to offer, to substantially change the bed capacity, or to substantially change a health
14 service as covered by this chapter;

15 ~~(8)~~⁽¹⁰⁾ "Certified surgical assistant" means a certified surgical assistant or certified
16 first assistant who is certified by the National Surgical Assistant Association on the
17 Certification of Surgical Assistants, the Liaison Council on Certification of Surgical
18 Technologists, or the American Board of Surgical Assistants. The certified surgical
19 assistant is an unlicensed health-care provider who is directly accountable to a
20 physician licensed under KRS Chapter 311 or, in the absence of a physician, to a
21 registered nurse licensed under KRS Chapter 314;

22 ~~(9)~~⁽¹¹⁾ "Continuing care retirement community" means a community that provides,
23 on the same campus, a continuum of residential living options and support services
24 to persons sixty (60) years of age or older under a written agreement. The residential
25 living options shall include independent living units, nursing home beds, and either
26 assisted living units or personal care beds;

27 ~~[(12) "Formal review process" means the ninety (90) day certificate of need review~~

1 ~~conducted by the cabinet;~~

2 (10)~~(13)~~ "Health facility" means any institution, place, building, agency, or portion
3 thereof, public or private, whether organized for profit or not, used, operated, or
4 designed to provide medical diagnosis, treatment, nursing, rehabilitative, or
5 preventive care and includes alcohol abuse, drug abuse, and mental health services.
6 This shall include but shall not be limited to health facilities and health services
7 commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation
8 hospitals, chemical dependency programs, nursing facilities, nursing homes,
9 personal care homes, intermediate care facilities, family care homes, outpatient
10 clinics, ambulatory care facilities, ambulatory surgical centers, emergency care
11 centers and services, ambulance providers, hospices, community mental health
12 centers, home health agencies, kidney disease treatment centers and freestanding
13 hemodialysis units, and others providing similarly organized services regardless of
14 nomenclature;

15 (11)~~(14)~~ "Health services" means clinically related services provided within the
16 Commonwealth to two (2) or more persons, including but not limited to diagnostic,
17 treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental
18 health services;

19 (12)~~(15)~~ "Independent living" means the provision of living units and supportive
20 services, including but not limited to laundry, housekeeping, maintenance, activity
21 direction, security, dining options, and transportation;

22 (13)~~(16)~~ "Intraoperative surgical care" includes the practice of surgical assisting in
23 which the certified surgical assistant or physician assistant is working under the
24 direction of the operating physician as a first or second assist, and which may
25 include the following procedures:

- 26 (a) Positioning the patient;
- 27 (b) Preparing and draping the patient for the operative procedure;

- 1 (c) Observing the operative site during the operative procedure;
- 2 (d) Providing the best possible exposure of the anatomy incident to the operative
3 procedure;
- 4 (e) Assisting in closure of incisions and wound dressings; and
- 5 (f) Performing any task, within the role of an unlicensed assistive person, or if the
6 assistant is a physician assistant, performing any task within the role of a
7 physician assistant, as required by the operating physician incident to the
8 particular procedure being performed;

9 (14)~~[(17)]~~ "Major medical equipment" means equipment which is used for the provision
10 of medical and other health services and which costs in excess of the medical
11 equipment expenditure minimum. In determining whether medical equipment has a
12 value in excess of the medical equipment expenditure minimum, the value of
13 studies, surveys, designs, plans, working drawings, specifications, and other
14 activities essential to the acquisition of the equipment shall be included;

15 ~~[(18) "Nonsubstantive review" means an expedited review conducted by the cabinet of an
16 application for a certificate of need as authorized under KRS 216B.095;]~~

17 (15)~~[(19)]~~ "Nonclinically related expenditures" means expenditures for:

- 18 (a) Repairs, renovations, alterations, and improvements to the physical plant of a
19 health facility which do not result in a substantial change in beds, a substantial
20 change in a health service, or the addition of major medical equipment, and do
21 not constitute the replacement or relocation of a health facility; or
- 22 (b) Projects which do not involve the provision of direct clinical patient care,
23 including but not limited to the following:
- 24 1. Parking facilities;
 - 25 2. Telecommunications or telephone systems;
 - 26 3. Management information systems;
 - 27 4. Ventilation systems;

- 1 5. Heating or air conditioning, or both;
- 2 6. Energy conservation; or
- 3 7. Administrative offices;

4 ~~[(20) "Party to the proceedings" means the applicant for a certificate of need and any~~
 5 ~~affected person who appears at a hearing on the matter under consideration and~~
 6 ~~enters an appearance of record;]~~

7 (16)~~[(21)]~~ "Perioperative nursing" means a practice of nursing in which the nurse
 8 provides preoperative, intraoperative, and postoperative nursing care to surgical
 9 patients;

10 (17)~~[(22)]~~ "Person" means an individual, a trust or estate, a partnership, a corporation, an
 11 association, a group, state, or political subdivision or instrumentality including a
 12 municipal corporation of a state;

13 (18)~~[(23)]~~ "Physician assistant" means the same as the definition provided in KRS
 14 311.840~~[311.550]~~;

15 (19)~~[(24)]~~ "Record" means, as applicable in a particular proceeding:

- 16 (a) The application and any information provided by the applicant at the request
 17 of the cabinet;
- 18 (b) Any information provided by a holder of a ~~certificate of need or~~ license in
 19 response to a notice of revocation of a ~~certificate of need or~~ license;
- 20 (c) Any memoranda or documents prepared by or for the cabinet regarding the
 21 matter under review which were introduced at any hearing;
- 22 (d) Any staff reports or recommendations prepared by or for the cabinet;
- 23 (e) Any recommendation or decision of the cabinet;
- 24 (f) Any testimony or documentary evidence adduced at a hearing;
- 25 (g) The findings of fact and opinions of the cabinet or the findings of fact and
 26 recommendation of the hearing officer; and
- 27 (h) Any other items required by administrative regulations promulgated by the

1 cabinet;

2 ~~(20)~~~~(25)~~ "Registered nurse first assistant" means one who:

- 3 (a) Holds a current active registered nurse licensure;
- 4 (b) Is certified in perioperative nursing; and
- 5 (c) Has successfully completed and holds a degree or certificate from a
- 6 recognized program, which shall consist of:
- 7 1. The Association of Operating Room Nurses, Inc., Core Curriculum for
- 8 the registered nurse first assistant; and
- 9 2. One (1) year of postbasic nursing study, which shall include at least
- 10 forty-five (45) hours of didactic instruction and one hundred twenty
- 11 (120) hours of clinical internship or its equivalent of two (2) college
- 12 semesters.

13 A registered nurse who was certified prior to 1995 by the Certification Board of

14 Perioperative Nursing shall not be required to fulfill the requirements of paragraph

15 (c) of this subsection;

16 ~~(21)~~~~(26)~~ "Secretary" means the secretary of the Cabinet for Health and Family

17 Services;

18 ~~(22)~~~~(27)~~ "Sexual assault examination facility" means a licensed health facility,

19 emergency medical facility, primary care center, or a children's advocacy center or

20 rape crisis center that is regulated by the Cabinet for Health and Family Services,

21 and that provides sexual assault examinations under KRS 216B.400;

22 ~~[(28) "State health plan" means the document prepared triennially, updated annually, and~~

23 ~~approved by the Governor;]~~

24 ~~(23)~~~~(29)~~ "Substantial change in a health service" means:

- 25 (a) ~~[The addition of a health service for which there are review criteria and~~
- 26 ~~standards in the state health plan; or~~
- 27 (b) ~~]~~The addition of a health service subject to licensure under this chapter;

1 ~~(24)~~~~[(30)]~~ "Substantial change in bed capacity" means the addition or reduction of beds
2 by licensure classification within a health facility;

3 ~~(25)~~~~[(31)]~~ "Substantial change in a project" means a change made to a pending or
4 approved project which results in:

5 (a) A substantial change in a health service, except a reduction or termination of a
6 health service;

7 (b) A substantial change in bed capacity, except for reductions;

8 (c) A change of location; or

9 (d) An increase in costs greater than the allowable amount as prescribed by
10 regulation;

11 ~~(26)~~~~[(32)]~~ "To acquire" means to obtain from another by purchase, transfer, lease, or
12 other comparable arrangement of the controlling interest of a capital asset or capital
13 stock, or voting rights of a corporation. An acquisition shall be deemed to occur
14 when more than fifty percent (50%) of an existing capital asset or capital stock or
15 voting rights of a corporation is purchased, transferred, leased, or acquired by
16 comparable arrangement by one (1) person from another person;

17 ~~[(33)]~~ ~~"To batch" means to review in the same review cycle and, if applicable, give~~
18 ~~comparative consideration to all filed applications pertaining to similar types of~~
19 ~~services, facilities, or equipment affecting the same health service area;]~~

20 ~~(27)~~~~[(34)]~~ "To establish" means to construct, develop, or initiate a health facility;

21 ~~(28)~~~~[(35)]~~ "To obligate" means to enter any enforceable contract for the construction,
22 acquisition, lease, or financing of a capital asset. A contract shall be considered
23 enforceable when all contingencies and conditions in the contract have been met.
24 An option to purchase or lease which is not binding shall not be considered an
25 enforceable contract; and

26 ~~(29)~~~~[(36)]~~ "To offer" means, when used in connection with health services, to hold a
27 health facility out as capable of providing, or as having the means of providing,

1 specified health services.

2 ➔Section 11. KRS 216B.020 is amended to read as follows:

- 3 (1) ~~{The provisions of this chapter that relate to the issuance of a certificate of need~~
4 ~~shall not apply to abortion facilities as defined in KRS 216B.015; any hospital~~
5 ~~which does not charge its patients for hospital services and does not seek or accept~~
6 ~~Medicare, Medicaid, or other financial support from the federal government or any~~
7 ~~state government; assisted living residences; family care homes; state veterans'~~
8 ~~nursing homes; services provided on a contractual basis in a rural primary care~~
9 ~~hospital as provided under KRS 216.380; community mental health centers for~~
10 ~~services as defined in KRS Chapter 210; primary care centers; rural health clinics;~~
11 ~~private duty nursing services operating as nursing pools; group homes; licensed~~
12 ~~residential crisis stabilization units; licensed free standing residential substance use~~
13 ~~disorder treatment programs with sixteen (16) or fewer beds, but not including~~
14 ~~Levels I and II psychiatric residential treatment facilities or licensed psychiatric~~
15 ~~inpatient beds; outpatient behavioral health treatment, but not including partial~~
16 ~~hospitalization programs; end stage renal disease dialysis facilities, freestanding or~~
17 ~~hospital based; swing beds; special clinics, including but not limited to wellness,~~
18 ~~weight loss, family planning, disability determination, speech and hearing,~~
19 ~~counseling, pulmonary care, and other clinics which only provide diagnostic~~
20 ~~services with equipment not exceeding the major medical equipment cost threshold~~
21 ~~and for which there are no review criteria in the state health plan; nonclinically~~
22 ~~related expenditures; nursing home beds that shall be exclusively limited to on-~~
23 ~~campus residents of a certified continuing care retirement community; home health~~
24 ~~services provided by a continuing care retirement community to its on-campus~~
25 ~~residents; the relocation of hospital administrative or outpatient services into~~
26 ~~medical office buildings which are on or contiguous to the premises of the hospital;~~
27 ~~the relocation of acute care beds which occur among acute care hospitals under~~

1 common ownership and which are located in the same area development district so
2 long as there is no substantial change in services and the relocation does not result
3 in the establishment of a new service at the receiving hospital for which a certificate
4 of need is required; the redistribution of beds by licensure classification within an
5 acute care hospital so long as the redistribution does not increase the total licensed
6 bed capacity of the hospital; residential hospice facilities established by licensed
7 hospice programs; or the following health services provided on site in an existing
8 health facility when the cost is less than six hundred thousand dollars (\$600,000)
9 and the services are in place by December 30, 1991: psychiatric care where
10 chemical dependency services are provided, level one (1) and level two (2) of
11 neonatal care, cardiac catheterization, and open heart surgery where cardiac
12 catheterization services are in place as of July 15, 1990. The provisions of this
13 section shall not apply to nursing homes, personal care homes, intermediate care
14 facilities, and family care homes; or nonconforming ambulance services as defined
15 by administrative regulation. These listed facilities or services shall be subject to
16 licensure, when applicable.

17 ~~(2)~~—]Nothing in this chapter shall be construed to authorize the licensure, supervision,
18 regulation, or control in any manner of:

19 (a) Private offices and clinics of physicians, dentists, and other practitioners of
20 the healing arts, except any physician's office that meets the criteria set forth
21 in KRS 216B.015~~(4)~~~~(5)~~ or that meets the definition of an ambulatory
22 surgical center as set out in KRS 216B.015;

23 (b) Office buildings built by or on behalf of a health facility for the exclusive use
24 of physicians, dentists, and other practitioners of the healing arts; unless the
25 physician's office meets the criteria set forth in KRS 216B.015~~(4)~~~~(5)~~, or
26 unless the physician's office is also an abortion facility as defined in KRS
27 216B.015, except no capital expenditure or expenses relating to any such

1 building shall be chargeable to or reimbursable as a cost for providing
2 inpatient services offered by a health facility;

3 (c) Outpatient health facilities or health services that:

4 1. Do not provide services or hold patients in the facility after midnight;
5 and

6 2. Are exempt from certificate of need and licensure under subsection (3)
7 of this section;

8 (d) Dispensaries and first-aid stations located within business or industrial
9 establishments maintained solely for the use of employees, if the facility does
10 not contain inpatient or resident beds for patients or employees who generally
11 remain in the facility for more than twenty-four (24) hours;

12 (e) Establishments, such as motels, hotels, and boarding houses, which provide
13 domiciliary and auxiliary commercial services, but do not provide any health
14 related services and boarding houses which are operated by persons
15 contracting with the United States Department of Veterans Affairs for
16 boarding services;

17 (f) The remedial care or treatment of residents or patients in any home or
18 institution conducted only for those who rely solely upon treatment by prayer
19 or spiritual means in accordance with the creed or tenets of any recognized
20 church or religious denomination and recognized by that church or
21 denomination; and

22 (g) On-duty police and fire department personnel assisting in emergency
23 situations by providing first aid or transportation when regular emergency
24 units licensed to provide first aid or transportation are unable to arrive at the
25 scene of an emergency situation within a reasonable time.

26 ~~(2)~~~~(3)~~ The following outpatient categories of care shall be exempt from certificate of
27 need and licensure on July 14, 2018:

- 1 (a) Primary care centers;
- 2 (b) Special health clinics, unless the clinic provides pain management services
3 and is located off the campus of the hospital that has majority ownership
4 interest;
- 5 (c) Specialized medical technology services, unless providing a State Health Plan
6 service;
- 7 (d) Retail-based health clinics and ambulatory care clinics that provide
8 nonemergency, noninvasive treatment of patients;
- 9 (e) Ambulatory care clinics treating minor illnesses and injuries;
- 10 (f) Mobile health services, unless providing a service in the State Health Plan;
- 11 (g) Rehabilitation agencies;
- 12 (h) Rural health clinics; and
- 13 (i) Off-campus, hospital-acquired physician practices.
- 14 (4) The exemptions established by subsections (2) and (3) of this section shall not apply
15 to the following categories of care:
- 16 (a) An ambulatory surgical center as defined by KRS 216B.015(3)~~[(4)]~~;
- 17 (b) A health facility or health service that provides one (1) of the following types
18 of services:
- 19 1. Cardiac catheterization;
- 20 2. Megavoltage radiation therapy;
- 21 3. Adult day health care;
- 22 4. Behavioral health services;
- 23 5. Chronic renal dialysis;
- 24 6. Birthing services; or
- 25 7. Emergency services above the level of treatment for minor illnesses or
26 injuries;
- 27 (c) A pain management facility as defined by KRS 218A.175(1);

- 1 (d) An abortion facility that requires licensure pursuant to KRS 216B.0431; or
- 2 (e) A health facility or health service that requests an expenditure that exceeds the
- 3 major medical expenditure minimum.
- 4 (5) An existing facility licensed as an intermediate care or nursing home shall notify the
- 5 cabinet of its intent to change to a nursing facility as defined in Public Law 100-
- 6 203.~~[A certificate of need shall not be required for conversion of an intermediate~~
- 7 ~~care or nursing home to the nursing facility licensure category.]~~
- 8 (6) Ambulance services owned and operated by a city government, which propose to
- 9 provide services in coterminous cities outside of the ambulance service's designated
- 10 geographic service area, shall not be required to obtain a certificate of need if the
- 11 governing body of the city in which the ambulance services are to be provided
- 12 enters into an agreement with the ambulance service to provide services in the city.
- 13 (7) Notwithstanding any other provision of law, a continuing care retirement
- 14 community's nursing home beds shall not be certified as Medicaid eligible unless a
- 15 certificate of need has been issued authorizing applications for Medicaid
- 16 certification. The provisions of subsection (5) of this section notwithstanding, a
- 17 continuing care retirement community shall not change the level of care licensure
- 18 status of its beds without first obtaining a certificate of need.

19 ➔Section 12. KRS 216B.042 is amended to read as follows:

- 20 (1) The cabinet shall:
- 21 (a) Establish by promulgation of administrative regulation under KRS Chapter
- 22 13A reasonable application fees for licenses and promulgate other
- 23 administrative regulations necessary for the proper administration of the
- 24 licensure function;
- 25 (b) Issue, deny, revoke, modify, or suspend licenses or provisional licenses in
- 26 accordance with the provisions of this chapter;
- 27 (c) Establish licensure standards and procedures to ensure safe, adequate, and

1 efficient abortion facilities, health facilities and health services. These
2 regulations, under KRS Chapter 13A, shall include~~[,]~~ but need not be limited
3 to:

- 4 1. Patient care standards and safety standards, minimum operating
5 standards, minimum standards for training, required licenses for medical
6 staff personnel, and minimum standards for maintaining patient records;
- 7 2. Licensure application and renewal procedures; and
- 8 3. Classification of health facilities and health services according to type,
9 size, range of services, and level of care; and

10 (d) Compile in a single document, maintain, and make available to abortion
11 facilities and the public during regular business hours, all licensure standards
12 and procedures promulgated under KRS Chapter 13A related to abortion
13 facilities.

14 (2) The cabinet may authorize its agents or representatives to enter upon the premises
15 of any health care facility for the purpose of inspection, and under the conditions set
16 forth in administrative regulations promulgated under KRS Chapter 13A by the
17 cabinet.

18 (3) The cabinet may revoke licenses ~~for certificates of need~~ for specific health facilities
19 or health services or recommend the initiation of disciplinary proceedings for health
20 care providers on the basis of the knowing violation of any provisions of this
21 chapter.

22 ➔Section 13. KRS 216B.0445 is amended to read as follows:

23 (1) Notwithstanding any other provision of law to the contrary, if the Federal Health
24 Care Financing Administration issues a final regulation establishing an outpatient
25 Medicare prospective payment system for hospitals that requires that an outpatient
26 health facility operated by the hospital be under the same license as the hospital to
27 achieve provider-based status, the cabinet shall, at the hospital's request, issue a new

1 license to a hospital that owns and operates an existing or newly established
2 outpatient health facility that lists each location operated by the hospital.

3 (2) Any outpatient health facility listed on the hospital's license under subsection (1) of
4 this section shall ~~be~~:

5 ~~(a)]comply with the applicable licensure regulations that pertain to the type of~~
6 ~~health services provided]; and~~

7 ~~(b) Prior to the establishment of a health facility, the operation of a health facility,~~
8 ~~or the provision of health services or the addition of a health service at a~~
9 ~~location other than the hospital's main campus, obtain a certificate of need if a~~
10 ~~certificate of need would otherwise be required in the absence of subsection~~
11 ~~(1) of this section. Licensure of the outpatient health facility or service under~~
12 ~~the same license as the hospital pursuant to subsection (1) of this section shall~~
13 ~~not eliminate the requirement for a certificate of need].~~

14 ➔Section 14. KRS 216B.065 is amended to read as follows:

15 (1) Before any person enters into a contractual agreement to acquire a licensed health
16 facility, the person shall notify the cabinet of the intent to acquire the facility or
17 major medical equipment and of the services to be offered in the facility and its bed
18 capacity or the use of the medical equipment. The notice shall be in writing and
19 shall be filed at least thirty (30) days prior to entry into a contract to acquire the
20 health facility or major medical equipment with respect to which the notice is given.

21 ~~[(2) A certificate of need shall be required for the acquisition of a health facility or~~
22 ~~major medical equipment, only if:~~

23 ~~(a) The notice required in this section is not filed and the arrangement will require~~
24 ~~the obligation of a capital expenditure which exceeds the capital expenditure~~
25 ~~minimum; or~~

26 ~~(b) The cabinet finds within thirty (30) days after the date it received notice that~~
27 ~~the health services or bed capacity of the health facility will be substantially~~

1 ~~changed in being acquired.]~~

2 ~~(2)~~⁽³⁾ Donations, transfers, and leases of major medical equipment and health
3 facilities shall be considered acquisitions of equipment and facilities, and an
4 acquisition of medical equipment or a facility for less than fair market value shall be
5 considered an acquisition if the fair market value exceeds the expenditure
6 minimum.

7 ~~(3)~~⁽⁴⁾ Before any health facility reduces or terminates a health service or reduces its
8 bed capacity, the facility shall notify the cabinet of its intent. The notice shall be in
9 writing and shall be filed at least thirty (30) days prior to the reduction or
10 termination.~~[A certificate of need shall be required for the reduction or termination~~
11 ~~only if the notice required in this section is not filed].~~

12 ➔Section 15. KRS 216B.066 is amended to read as follows:

13 (1) Before a health facility acquires major medical equipment to be used solely for
14 research, offers a health service solely for research, or makes or obligates a capital
15 expenditure solely for research, which exceeds the prescribed minimum, the health
16 facility shall notify the cabinet of its intent to do so. The notice shall be in writing
17 and shall be made sixty (60) days prior to the acquisition, offering, or making or
18 obligation of the expenditure with respect to which notice is given. The notice shall
19 state the use to be made of the major medical equipment, health service, or capital
20 expenditure.

21 ~~[(2) A certificate of need shall be required for the acquisition of major medical~~
22 ~~equipment solely for research, the offering of a health service solely for research, or~~
23 ~~the making or obligating of a capital expenditure solely for research by a health~~
24 ~~facility, only if:~~

25 ~~(a) The notice required by this section is not filed; or~~

26 ~~(b) The cabinet finds within sixty (60) days after it receives notice that the project~~
27 ~~or transaction for which notice is given will affect the charges of the facility~~

1 ~~for the provision of medical or other patient care services other than services~~
2 ~~which are included in the research, will substantially change the bed capacity~~
3 ~~of the facility, or will substantially change the medical or other patient care~~
4 ~~services of the facility which were offered before the acquisition, offering,~~
5 ~~making or obligation.~~

6 ~~(3) If major medical equipment is acquired, a health service is offered, or a capital~~
7 ~~expenditure is made or obligated and, pursuant to this section, no certificate of need~~
8 ~~is required, the equipment, service, or facilities acquired through the capital~~
9 ~~expenditure shall not be used in a manner which would affect the charges of the~~
10 ~~facility for the provision of medical or other patient care services other than that~~
11 ~~included in the research, substantially change the bed capacity of the facility, or~~
12 ~~substantially change the medical or other patient care services of the facility unless a~~
13 ~~certificate of need is issued.]~~

14 (2)~~[(4)]~~ For purposes of this section, "solely for research" means patient care provided
15 on an occasional and irregular basis and not as part of a research project.

16 ➔Section 16. KRS 216B.115 is amended to read as follows:

17 (1) An appeal to the Franklin Circuit Court may be taken from any final decision of the
18 cabinet with respect to a ~~[certificate of need application, a certificate of need, or a~~
19 ~~]license~~, by any party to the proceedings.

20 (2) An appeal may be taken by filing a petition for review in the Franklin Circuit Court
21 within thirty (30) days after notice of the final decision unless a request for
22 reconsideration has been filed, in which case the petition shall be filed within fifteen
23 (15) days of the cabinet's decision not to reconsider or notice of its decision on
24 reconsideration. The petition shall state completely the grounds upon which the
25 review is sought and shall assign all errors relied upon. The petitioner shall serve a
26 copy of the petition to each person who was a party to the proceedings. Summons
27 shall be issued upon the petition directing the adverse party or parties to file an

1 answer within twenty (20) days after service of summons. The cabinet shall, upon
2 being served with the summons and within thirty (30) days thereafter, file a copy of
3 the record, duly certified by the secretary, the cost of the record to be taxed as costs
4 upon appeal. In lieu of filing of the record, an abstract thereof may be filed if all
5 parties to the appeal agree.

6 ➔Section 17. KRS 216B.131 is amended to read as follows:

7 (1) All moneys derived from applicants seeking ~~certificates of need or~~ licenses or
8 from any other sources connected with this chapter shall be promptly paid over to
9 the State Treasurer, who shall deposit such moneys in a special fund which, in
10 addition to appropriated funds, shall be used to carry out the purposes of this
11 chapter and for no other purpose.

12 (2) Any fine imposed for the violation of this chapter shall, when collected, be paid into
13 the Kentucky nursing incentive scholarship fund.

14 ➔Section 18. KRS 216B.185 is amended to read as follows:

15 (1) The Office of the Inspector General shall accept accreditation by the Joint
16 Commission or another nationally recognized accrediting organization with
17 comparable standards and survey processes, that has been approved by the United
18 States Centers on Medicare and Medicaid Services, as evidence that a hospital
19 demonstrates compliance with all licensure requirements under this chapter. An
20 annual on-site licensing inspection of a hospital shall not be conducted if the Office
21 of the Inspector General receives from the hospital:

22 (a) A copy of the accreditation report within thirty (30) days of the initial
23 accreditation and all subsequent reports; or

24 (b) Documentation from a hospital that holds full accreditation from an approved
25 accrediting organization on or before July 15, 2002.

26 (2) Nothing in this section shall prevent the Office of the Inspector General from
27 making licensing validation inspections and investigations as it deems necessary

1 related to any complaints. The cabinet shall promulgate the necessary administrative
2 regulations to implement the licensing validation process. Any administrative
3 regulations shall reflect the validation procedures for accredited hospitals
4 participating in the Medicare program.

5 (3) A hospital shall pay any licensing fees required by the cabinet in order to maintain a
6 license.

7 (4) A new hospital shall not be exempt from the on-site inspection until meeting the
8 requirements of subsection (1) of this section and administrative regulations
9 promulgated under KRS ~~[216B.040,]~~216B.042~~[,]~~ and 216B.105 for acute, critical
10 access, psychiatric, and rehabilitation facility requirements.

11 (5) Before beginning construction for the erection of a new building, the alteration of
12 an existing building, or a change in facilities for a hospital, the hospital shall submit
13 plans to the Office of Inspector General for approval.

14 (6) To the extent possible, the cabinet shall consider all national standards when
15 promulgating administrative regulations for hospital licensure.

16 ➔Section 19. KRS 216B.250 is amended to read as follows:

17 (1) For purposes of this section, "paying patient" means persons receiving health care
18 services who pay directly for services rendered, patients with private health
19 insurance or health maintenance organization coverage, persons receiving Medicaid
20 or Medicaid benefits under Title XVIII and Title XIX of the Social Security Act and
21 persons receiving veteran's health care benefits. "Paying patient" does not include
22 medically indigent persons with no source of payment whatsoever.

23 (2) (a) When a copy of an itemized statement is requested by any paying patient, each
24 health facility shall furnish to the patient within thirty (30) days of the patient's
25 discharge or within fifteen (15) days of the patient's request, whichever is
26 later, one (1) copy free of charge of the itemized statement of services
27 rendered and charges incurred by the patient.

1 (b) A summary statement of services rendered and charges incurred by the patient
2 shall be included with the invoice sent by a health facility to the patient. Each
3 invoice shall indicate that an itemized statement may be obtained upon
4 request. The Cabinet for Health and Family Services~~[Human Resources]~~
5 shall impose a civil fine of five hundred dollars (\$500) for each violation by a
6 health care facility for failure to provide an itemized statement as required
7 under this section.

8 (c) The itemized statement shall be stamped "Kentucky Revised Statutes prohibit
9 the use of this statement for insurance payment purposes where benefits have
10 been assigned."

11 (3) Each health facility shall post in a publicly visible place in their admission,
12 outpatient areas and, where applicable, emergency areas that an itemized statement
13 is available to any paying patient upon request.

14 (4) The itemized statement rendered shall be the record maintained by the health
15 facility that details the charges made for services rendered to patients and shall
16 indicate whether an assignment of benefits has been obtained.

17 (5) Each health facility shall designate and make available appropriate staff to provide,
18 upon patient request, an explanation of charges listed in the itemized statement.

19 (6) If a health facility knows of a discrepancy in the total charges as reported in an
20 itemized statement and that which is reported to a third party payor, or at any time
21 that a health facility becomes aware of such a discrepancy, the health facility shall
22 provide the patient and third party payor with notification, an explanation and, if
23 applicable, any reconciliation of the discrepancy in total charges.

24 ➔Section 20. KRS 216B.300 is amended to read as follows:

25 As used in KRS 216B.300 to 216B.320 and KRS 216B.990~~(4)~~~~(5)~~, unless the context
26 requires otherwise:

27 (1) "Cabinet" means the Cabinet for Health and Family Services or its designee.

1 "Designee" means any agency established under KRS Chapter 211 or KRS
2 147A.050 whose duties related to this chapter shall be set forth in administrative
3 regulation;

4 (2) "Secretary" means the secretary of the Cabinet for Health and Family Services;

5 (3) "Boarder" means a person who does not require supervision or assistance related to
6 medication, activities of daily living, or a supervised plan of care; and

7 (4) "Boarding home" means any home, facility, institution, lodging, or other
8 establishment, however named, which accommodates three (3) or more adults not
9 related by blood or marriage to the owner, operator, or manager, and which offers or
10 holds itself out to offer room and board on a twenty-four (24) hour basis for hire or
11 compensation. It shall not include any facility which is otherwise licensed and
12 regulated by the cabinet or any hotel as defined in KRS 219.011(3).

13 ➔Section 21. KRS 216B.332 is amended to read as follows:

14 (1) To be eligible for a certificate of compliance, a continuing care retirement
15 community shall certify in writing to the cabinet and shall disclose in writing to
16 each of its residents that:

17 (a) None of the health facilities or health services operated by the continuing care
18 retirement community shall apply for or become certified for participation in
19 the Medicaid program; and

20 (b) No claim for Medicaid reimbursement shall be submitted for any person for
21 any health service provided by the continuing care retirement community.

22 (2) A continuing care retirement community may establish one (1) bed at the nursing
23 home level of care for every four (4) living units or personal care beds operated by
24 the continuing care retirement community collectively. All residents in nursing
25 home beds shall be assessed using the Health Care Financing Administration or
26 Centers for Medicare and Medicaid Services approved long-term care resident
27 assessment instrument.

1 (3) Admissions to continuing care retirement community nursing home beds shall be
2 exclusively limited to on-campus residents. A resident shall not be admitted to a
3 continuing care retirement community nursing home bed prior to ninety (90) days of
4 residency in the continuing care retirement community unless the resident
5 experiences a significant change in health status documented by a physician. No
6 resident admitted to a nursing home bed shall be transferred or discharged without
7 thirty (30) days prior written notice to the resident or his or her guardian.

8 (4) A continuing care retirement community shall assist each resident upon a move-out
9 notice to find appropriate living arrangements. Each continuing care retirement
10 community shall share information on alternative living arrangements provided by
11 the Department for Aging and Independent Living at the time a move-out notice is
12 given to a resident. The written agreement executed by the resident and the
13 continuing care retirement community shall contain provisions for assisting any
14 resident who has received a move-out notice to find appropriate living
15 arrangements, prior to the actual move-out date.

16 ~~[(5) Home health services provided by a continuing care retirement community to its on-~~
17 ~~campus residents shall not require a certificate of need.]~~

18 ➔Section 22. KRS 216B.455 is amended to read as follows:

19 (1) ~~[A certificate of need shall be required for all Level I psychiatric residential~~
20 ~~treatment facilities. The application for a certificate of need shall include formal~~
21 ~~written agreements of cooperation that identify the nature and extent of the~~
22 ~~proposed working relationship between the proposed Level I psychiatric residential~~
23 ~~treatment facility and each of the following agencies, organizations, or facilities~~
24 ~~located in the service area of the proposed facility:~~

25 (a) ~~Regional interagency council for children with emotional disability or severe~~
26 ~~emotional disability as defined in KRS 200.509;~~

27 (b) ~~Department for Community Based Services;~~

1 ~~(c) Local school districts;~~

2 ~~(d) At least one (1) psychiatric hospital; and~~

3 ~~(e) Any other agency, organization, or facility deemed appropriate by the cabinet.~~

4 ~~(2) Notwithstanding provisions for granting of a nonsubstantive review of a certificate~~
5 ~~of need application under KRS 216B.095, the cabinet shall review and approve the~~
6 ~~nonsubstantive review of an application seeking to increase the number of beds as~~
7 ~~permitted by KRS 216B.450 if the application is submitted by an eight (8) bed or~~
8 ~~sixteen (16) bed Level I psychiatric residential treatment facility licensed and~~
9 ~~operating or holding an approved certificate of need on July 13, 2004. The cabinet~~
10 ~~shall base its approval of expanded beds upon the Level I psychiatric residential~~
11 ~~treatment facility's ability to meet standards designed by the cabinet to provide~~
12 ~~stability of care. The standards shall be promulgated by the cabinet in an~~
13 ~~administrative regulation in accordance with KRS Chapter 13A. An application~~
14 ~~under this subsection shall not be subject to any moratorium relating to certificate of~~
15 ~~need.~~

16 ~~(3) All Level I psychiatric residential treatment facilities shall comply with the~~
17 ~~licensure requirements as set forth in KRS 216B.105.~~

18 (2)~~(4)~~ All Level I psychiatric residential treatment facilities shall be certified by the
19 Joint Commission, the Council on Accreditation of Services for Families and
20 Children, or any other accrediting body with comparable standards that is
21 recognized by the state.

22 (3)~~(5)~~ A Level I psychiatric residential treatment facility shall not be located in or on
23 the grounds of a psychiatric hospital. More than one (1) freestanding Level I
24 psychiatric residential treatment facility may be located on the same campus that is
25 not in or on the grounds of a psychiatric hospital.

26 ~~(6) The total number of Level I psychiatric residential treatment facility beds shall not~~
27 ~~exceed three hundred and fifteen (315) beds statewide.~~

1 ~~(7) (a) The Cabinet for Health and Family Services shall investigate the need for~~
2 ~~specialty foster care and post-treatment services for persons discharged from~~
3 ~~Level I and Level II psychiatric residential treatment facilities.~~

4 ~~(b) The cabinet shall report to the Governor and the Legislative Research~~
5 ~~Commission by August 1, 2011, detailing information on specialty~~
6 ~~foster care and post-treatment services for persons discharged from~~
7 ~~Level I and Level II psychiatric residential treatment facilities.]~~

8 ➔ Section 23. KRS 216B.457 is amended to read as follows:

9 (1) ~~[A certificate of need shall be required for all Level II psychiatric residential~~
10 ~~treatment facilities. The need criteria for the establishment of Level II~~
11 ~~psychiatric residential treatment facilities shall be in the state health plan.~~

12 ~~(2) An application for a certificate of need for Level II psychiatric residential~~
13 ~~treatment facilities shall not exceed fifty (50) beds. Level II facility beds may~~
14 ~~be located in a separate part of a psychiatric hospital, a separate part of an~~
15 ~~acute care hospital, or a Level I psychiatric residential treatment facility if the~~
16 ~~Level II beds are located on a separate floor, in a separate wing, or in a~~
17 ~~separate building. A Level II facility shall not refuse to admit a patient who~~
18 ~~meets the medical necessity criteria and facility criteria for Level II facility~~
19 ~~services. Nothing in this section and KRS 216B.450 and 216B.455 shall be~~
20 ~~interpreted to prevent a psychiatric residential treatment facility from~~
21 ~~operating both a Level I psychiatric residential treatment facility and a Level II~~
22 ~~psychiatric residential treatment facility.~~

23 ~~(3) The application for a Level II psychiatric residential treatment facility~~
24 ~~certificate of need shall include formal written agreements of cooperation that~~
25 ~~identify the nature and extent of the proposed working relationship between~~
26 ~~the proposed Level II psychiatric residential treatment facility and each of the~~
27 ~~following agencies, organizations, or entities located in the service area of the~~

1 proposed facility:

2 ~~(a) Regional interagency council for children with emotional disability or severe~~
3 ~~emotional disability created under KRS 200.509;~~

4 ~~(b) Community board for mental health or individuals with an intellectual~~
5 ~~disability established under KRS 210.380;~~

6 ~~(c) Department for Community Based Services;~~

7 ~~(d) Local school districts;~~

8 ~~(e) At least one (1) psychiatric hospital; and~~

9 ~~(f) Any other agency, organization, or entity deemed appropriate by the cabinet.~~

10 ~~(4) The application for a certificate of need shall include:~~

11 ~~(a) The specific number of beds proposed for each age group and the specific,~~
12 ~~specialized program to be offered;~~

13 ~~(b) An inventory of current services in the proposed service area; and~~

14 ~~(c) Clear admission and discharge criteria, including age, sex, and other~~
15 ~~limitations.~~

16 ~~(5) All Level II psychiatric residential treatment facilities shall comply with the~~
17 ~~licensure requirements as set forth in KRS 216B.105.~~

18 ~~(2)~~~~(6)~~ All Level II psychiatric residential treatment facilities shall be certified by the
19 Joint Commission, the Council on Accreditation of Services for Families and
20 Children, or any other accrediting body with comparable standards that are
21 recognized by the Centers for Medicare and Medicaid Services.

22 ~~(3)~~~~(7)~~ A Level II psychiatric residential treatment facility shall be under the clinical
23 supervision of a qualified mental health professional with training or experience in
24 mental health treatment of children and youth.

25 ~~(4)~~~~(8)~~ Treatment services shall be provided by qualified mental health professionals
26 or qualified mental health personnel. Individual staff who will provide educational
27 programs shall meet the employment standards outlined by the Kentucky Board of

1 Education and the Education Professional Standards Board.

2 ~~(5)~~~~(9)~~ A Level II psychiatric residential treatment facility shall meet the following
3 requirements with regard to professional staff:

4 (a) A licensed psychiatrist, who is board-eligible or board-certified as a child or
5 adult psychiatrist, shall be employed or contracted to meet the treatment needs
6 of the residents and the functions that shall be performed by a psychiatrist;

7 (b) If a Level II psychiatric residential treatment facility has residents ages twelve
8 (12) and under, the licensed psychiatrist shall be a board-eligible or board-
9 certified child psychiatrist; and

10 (c) The licensed psychiatrist shall be present in the facility to provide professional
11 services to the facility's residents at least weekly.

12 ~~(6)~~~~(10)~~ A Level II psychiatric residential treatment facility shall:

13 (a) Prepare a written staffing plan that is tailored to meet the needs of the specific
14 population of children and youth that will be admitted to the facility based on
15 the facility's admission criteria. The written staffing plan shall include but not
16 be limited to the following:

17 1. Specification of the direct care per-patient staffing ratio that the facility
18 shall adhere to during waking hours and during sleeping hours;

19 2. Delineation of the number of direct care staff per patient, including the
20 types of staff and the mix and qualifications of qualified mental health
21 professionals and qualified mental health personnel, that shall provide
22 direct care and will comprise the facility's per-patient staffing ratio;

23 3. Specification of appropriate qualifications for individuals included in the
24 per-patient staffing ratio by job description, education, training, and
25 experience;

26 4. Provision for ensuring compliance with its written staffing plan, and
27 specification of the circumstances under which the facility may deviate

1 from the per-patient staffing ratio due to patient emergencies, changes in
2 patient acuity, or changes in patient census; and

3 5. Provision for submission of the written staffing plan to the cabinet for
4 approval as part of the facility's application for initial licensure.

5 No initial license to operate as a Level II psychiatric residential treatment
6 facility shall be granted until the cabinet has approved the facility's written
7 staffing plan. Once a facility is licensed, it shall comply with its approved
8 written staffing plan and, if the facility desires to change its approved per-
9 patient staffing ratio, it shall submit a revised plan and have the plan approved
10 by the cabinet prior to implementation of the change;

11 (b) Require full-time professional and direct care staff to meet the continuing
12 education requirements of their profession or be provided with forty (40)
13 hours per year of in-service training; and

14 (c) Develop and implement a training plan for all staff that includes but is not
15 limited to the following:

- 16 1. Behavior-management procedures and techniques;
- 17 2. Physical-management procedures and techniques;
- 18 3. First aid;
- 19 4. Cardiopulmonary resuscitation;
- 20 5. Infection-control procedures;
- 21 6. Child and adolescent growth and development;
- 22 7. Training specific to the specialized nature of the facility;
- 23 8. Emergency and safety procedures; and
- 24 9. Detection and reporting of child abuse and neglect.

25 ~~(Z)~~~~(11)~~ A Level II psychiatric residential treatment facility shall require a criminal
26 records check to be completed on all employees and volunteers. The employment or
27 volunteer services of an individual shall be governed by KRS 17.165, with regard to

1 a criminal records check. A new criminal records check shall be completed at least
2 every two (2) years on each employee or volunteer.

3 ~~(8)~~~~(12)~~ (a) Any employee or volunteer who has committed or is charged with the
4 commission of a violent offense as specified in KRS 439.3401, a sex crime
5 specified in KRS 17.500, or a criminal offense against a victim who is a minor
6 as specified in KRS 17.500 shall be immediately removed from contact with a
7 child within the residential treatment center until the employee or volunteer is
8 cleared of the charge.

9 (b) An employee or volunteer under indictment, legally charged with felonious
10 conduct, or subject to a cabinet investigation shall be immediately removed
11 from contact with a child.

12 (c) The employee or volunteer shall not be allowed to work with the child until a
13 prevention plan has been written and approved by the cabinet, the person is
14 cleared of the charge, or a cabinet investigation reveals an unsubstantiated
15 finding, if the charge resulted from an allegation of child abuse, neglect, or
16 exploitation.

17 (d) Each employee or volunteer shall submit to a check of the central registry. An
18 individual listed on the central registry shall not be a volunteer at or be
19 employed by a Level II psychiatric residential treatment facility.

20 (e) Any employee or volunteer removed from contact with a child pursuant to this
21 subsection may, at the discretion of the employer, be terminated, reassigned to
22 a position involving no contact with a child, or placed on administrative leave
23 with pay during the pendency of the investigation or proceeding.

24 ~~(9)~~~~(13)~~ An initial treatment plan of care shall be developed and implemented for each
25 resident, and the plan of care shall be based on initial history and ongoing
26 assessment of the resident's needs and strengths, with an emphasis on active
27 treatment, transition planning, and after-care services, and shall be completed

1 within seventy-two (72) hours of admission.

2 ~~(10)~~~~(14)~~ A comprehensive treatment plan of care shall be developed and implemented
3 for each resident, and the plan of care shall be based on initial history and ongoing
4 assessment of the resident's needs and strengths, with an emphasis on active
5 treatment, transition planning, and after-care services, and shall be completed
6 within ten (10) calendar days of admission.

7 ~~(11)~~~~(15)~~ A review of the treatment plan of care shall occur at least every thirty (30)
8 days following the first ten (10) days of treatment and shall include the following
9 documentation:

- 10 (a) Dated signatures of appropriate staff, parent, guardian, legal custodian, or
11 conservator;
- 12 (b) An assessment of progress toward each treatment goal and objective with
13 revisions as indicated; and
- 14 (c) A statement of justification for the level of services needed, including
15 suitability for treatment in a less-restrictive environment and continued
16 services.

17 ~~(12)~~~~(16)~~ A Level II psychiatric residential treatment facility shall provide or arrange for
18 the provision of qualified dental, medical, nursing, and pharmaceutical care for
19 residents. The resident's parent, guardian, legal custodian, or conservator may
20 choose a professional for nonemergency services.

21 ~~(13)~~~~(17)~~ A Level II psychiatric residential treatment facility shall ensure that
22 opportunities are provided for recreational activities that are appropriate and
23 adapted to the needs, interests, and ages of the residents.

24 ~~(14)~~~~(18)~~ A Level II psychiatric residential treatment facility shall assist residents in the
25 independent exercise of health, hygiene, and grooming practices.

26 ~~(15)~~~~(19)~~ A Level II psychiatric residential treatment facility shall assist each resident in
27 securing an adequate allowance of personally owned, individualized, clean, and

1 seasonal clothes that are the correct size.

2 ~~(16)~~~~(20)~~ A Level II psychiatric residential treatment facility shall assist, educate, and
3 encourage each resident in the use of dental, physical, or prosthetic appliances or
4 devices and visual or hearing aids.

5 ~~(17)~~~~(21)~~ The cabinet shall promulgate administrative regulations that include but are not
6 limited to the following:

- 7 (a) Establishing requirements for tuberculosis skin testing for staff of a Level II
8 psychiatric residential treatment facility;
- 9 (b) Ensuring that accurate, timely, and complete resident assessments are
10 conducted for each resident of a Level II psychiatric residential treatment
11 facility;
- 12 (c) Ensuring that accurate, timely, and complete documentation of the
13 implementation of a resident's treatment plan of care occurs for each resident
14 of a Level II psychiatric residential treatment facility;
- 15 (d) Ensuring that an accurate, timely, and complete individual record is
16 maintained for each resident of a Level II psychiatric residential treatment
17 facility;
- 18 (e) Ensuring that an accurate, timely, and complete physical examination is
19 conducted for each resident of a Level II psychiatric residential treatment
20 facility;
- 21 (f) Ensuring accurate, timely, and complete access to emergency services is
22 available for each resident of a Level II psychiatric residential treatment
23 facility; and
- 24 (g) Ensuring that there is accurate, timely, and complete administration of
25 medications for each resident of a Level II psychiatric residential treatment
26 facility.

27 ~~(18)~~~~(22)~~ The cabinet shall, within ninety (90) days of July 15, 2010, promulgate

1 administrative regulations in accordance with KRS Chapter 13A to implement this
 2 section and KRS 216B.450 and 216B.455. When promulgating the administrative
 3 regulations, the cabinet shall not consider only staffing ratios when evaluating the
 4 written staffing plan of an applicant, but shall consider the applicant's overall ability
 5 to provide for the needs of patients.

6 ~~(19)~~~~(23)~~ The cabinet shall report, no later than August 1 of each year, to the Interim
 7 Joint Committee on Health and Welfare regarding the implementation of this
 8 section and KRS 216B.450 and 216B.455. The report shall include but not be
 9 limited to information relating to resident outcomes, such as lengths of stay in the
 10 facility, locations residents were discharged to, and whether residents were
 11 readmitted to a Level II psychiatric residential treatment facility within a twelve
 12 (12) month period.

13 ➔Section 24. KRS 216B.990 is amended to read as follows:

14 (1) Any person who, in willful violation of this chapter, operates a health facility or
 15 abortion facility without first obtaining a license or continues to operate a health
 16 facility or abortion facility after a final decision suspending or revoking a license
 17 shall be fined not less than five hundred dollars (\$500) nor more than ten thousand
 18 dollars (\$10,000) for each violation.

19 ~~(2) [Any person who, in willful violation of this chapter, acquires major medical
 20 equipment, establishes a health facility, or obligates a capital expenditure without
 21 first obtaining a certificate of need, or after the applicable certificate of need has
 22 been withdrawn, shall be fined one percent (1%) of the capital expenditure involved
 23 but not less than five hundred dollars (\$500) for each violation.]~~

24 ~~(3)~~ Any hospital acting by or through its agents or employees which violates any
 25 provision of KRS 216B.400 shall be punished by a fine of not less than one hundred
 26 dollars (\$100) nor more than five hundred dollars (\$500).

27 ~~(3)~~~~(4)~~ Any health facility which willfully violates KRS 216B.250 shall be fined one

1 hundred dollars (\$100) per day for failure to post required notices and one hundred
2 dollars (\$100) per instance for willfully failing to provide an itemized statement
3 within the required time frames.

4 ~~(4)~~~~(5)~~ In addition to the civil penalties established under KRS 216B.306(1) and (4),
5 any person who advertises, solicits boarders, or operates a boarding home without
6 first obtaining a registration as required by KRS 216B.305 and any person who aids
7 or abets the operation of a boarding home that is not registered shall be imprisoned
8 for no more than twelve (12) months.

9 ~~(5)~~~~(6)~~ Any person or entity establishing, managing, or operating an abortion facility
10 or conducting the business of an abortion facility which otherwise violates any
11 provision of this chapter or any administrative regulation promulgated thereunder
12 regarding abortion facilities shall be subject to revocation or suspension of the
13 license of the abortion facility. In addition, any violation of any provision of this
14 chapter regarding abortion facilities or any administrative regulation related thereto
15 by intent, fraud, deceit, unlawful design, willful and deliberate misrepresentation, or
16 by careless, negligent, or incautious disregard for the statute or administrative
17 regulation, either by persons acting individually or in concert with others, shall
18 constitute a violation and shall be punishable by a fine not to exceed one thousand
19 dollars (\$1,000) for each offense. Each day of continuing violation shall be
20 considered a separate offense. The venue for prosecution of the violation shall be in
21 any county of the state in which the violation, or any portion thereof, occurred.

22 ~~(6)~~~~(7)~~ Any hospital acting by or through its agents or employees that violates any
23 provision of KRS 216B.150 shall be punished by a fine of not less than one hundred
24 dollars (\$100) nor more than five hundred dollars (\$500) for each violation.

25 ➔Section 25. KRS 218A.175 is amended to read as follows:

26 (1) (a) As used in this section, "pain management facility" means a facility where the
27 majority of patients of the practitioners at the facility are provided treatment

1 for pain that includes the use of controlled substances and:

- 2 1. The facility's primary practice component is the treatment of pain; or
- 3 2. The facility advertises in any medium for any type of pain management
- 4 services.

5 (b) "Pain management facility" does not include the following:

- 6 1. A hospital, including a critical access hospital, as defined in KRS
- 7 Chapter 216, a facility owned by the hospital, or the office of a hospital-
- 8 employed physician;
- 9 2. A school, college, university, or other educational institution or program
- 10 to the extent that it provides instruction to individuals preparing to
- 11 practice as physicians, podiatrists, dentists, nurses, physician assistants,
- 12 optometrists, or veterinarians;
- 13 3. A hospice program or residential hospice facility licensed under KRS
- 14 Chapter 216B;
- 15 4. An ambulatory surgical center licensed under KRS Chapter 216B; or
- 16 5. A long-term-care facility as defined in KRS 216.510.

17 (2) (a) Only a physician having a full and active license to practice medicine issued
18 under KRS Chapter 311 shall have an ownership or investment interest in a
19 pain management facility. Credit extended by a financial institution as defined
20 in KRS 136.500 to the facility shall not be deemed an investment interest
21 under this subsection. This ownership or investment requirement shall not be
22 enforced against any pain management facility existing and operating on April
23 24, 2012, unless there is an administrative sanction or criminal conviction
24 relating to controlled substances imposed on the facility, any person employed
25 by the facility, or any person working at the facility as an independent
26 contractor for an act or omission done within the scope of the facility's
27 licensure or the person's employment.

- 1 (b) A facility qualifying for the exemption permitted by paragraph (a) of this
2 subsection whose ownership has been continuously held jointly and
3 exclusively by practitioners having full and active licenses to practice in
4 Kentucky since April 24, 2012, may, after June 24, 2015:
- 5 1. Open and operate no more than two (2) additional facilities in locations
6 other than those locations existing and operating on April 24, 2012;
 - 7 2. Transfer whole or partial ownership between existing practitioner
8 owners;
 - 9 3. Transfer whole or partial ownership interests to new owners if the new
10 owners are physicians having full and active licenses to practice in
11 Kentucky and the facility notifies the cabinet of the transfer thirty (30)
12 days before it occurs; and
 - 13 4. Pass the ownership interest of a deceased former owner through that
14 person's estate to a physician having a full and active license to practice
15 in Kentucky without disqualifying the facility's grandfathered status
16 under this subsection if the facility notifies the cabinet of the transfer
17 thirty (30) days before it occurs in cases where the interest is being
18 transferred to a physician who is not an existing owner in the facility.
- 19 (3) Regardless of the form of facility ownership, beginning on July 20, 2012, at least
20 one (1) of the owners or an owner's designee who is a physician employed by and
21 under the supervision of the owner shall be physically present practicing medicine
22 in the facility for at least fifty percent (50%) of the time that patients are present in
23 the facility, and that physician owner or designee shall:
- 24 (a) Hold a current subspecialty certification in pain management by a member
25 board of the American Board of Medical Specialties, or hold a current
26 certificate of added qualification in pain management by the American
27 Osteopathic Association Bureau of Osteopathic Specialists;

- 1 (b) Hold a current subspecialty certification in hospice and palliative medicine by
2 a member board of the American Board of Medical Specialties, or hold a
3 current certificate of added qualification in hospice and palliative medicine by
4 the American Osteopathic Association Bureau of Osteopathic Specialists;
- 5 (c) Hold a current board certification by the American Board of Pain Medicine;
- 6 (d) Hold a current board certification by the American Board of Interventional
7 Pain Physicians;
- 8 (e) Have completed a fellowship in pain management or an accredited residency
9 program that included a rotation of at least five (5) months in pain
10 management; or
- 11 (f) If the facility is operating under a registration filed with the Kentucky Board
12 of Medical Licensure, have completed or hold, or be making reasonable
13 progress toward completing or holding, a certification or training substantially
14 equivalent to the certifications or training specified in this subsection, as
15 authorized by the Kentucky Board of Medical Licensure by administrative
16 regulation.
- 17 (4) A pain management facility shall accept private health insurance as one (1) of the
18 facility's allowable forms of payment for goods or services provided and shall
19 accept payment for services rendered or goods provided to a patient only from the
20 patient or the patient's insurer, guarantor, spouse, parent, guardian, or legal
21 custodian.
- 22 (5) If the pain management facility is operating under a license issued by the cabinet,
23 the cabinet shall include and enforce the provisions of this section as additional
24 conditions of that licensure. If the pain management facility is operating as the
25 private office or clinic of a physician under KRS 216B.020~~{(2)}~~, the Kentucky
26 Board of Medical Licensure shall enforce the provisions of this section. The
27 provisions of this subsection shall not apply to the investigation or enforcement of

1 criminal liability.

2 (6) Any person who violates the provisions of this section shall be guilty of a Class A
3 misdemeanor.

4 ➔Section 26. KRS 304.17-312 is amended to read as follows:

5 As used in KRS 304.17-313, 304.18-037, 304.32-280, and 304.38-210:

6 (1) "Home health agency" means a public agency or private organization, or a
7 subdivision of such an agency or organization which is licensed as a home health
8 agency by the Cabinet for Health and Family Services~~[Kentucky Health Facilities~~
9 ~~and Health Services Certificate of Need and Licensure Board]~~ and is certified to
10 participate as a home health agency under Title XVIII of the Social Security Act.

11 (2) "Home health care" means the care and treatment provided by a home health agency
12 which is prescribed and supervised by a physician. The care and treatment shall
13 include but not be limited to one (1) or more of the following:

14 (a) Part-time or intermittent skilled nursing services provided by an advanced
15 practice registered nurse, registered nurse, or licensed practical nurse;

16 (b) Physical, respiratory, occupational, or speech therapy;

17 (c) Home health aide services;

18 (d) Medical appliances and equipment, drugs and medication, and laboratory
19 services, to the extent that such items and services would have been covered
20 under the policy if the covered person had been in a hospital.

21 (3) "Home health aide services" means those services provided by a home health aide
22 and supervised by a registered nurse which are directed towards the personal care of
23 the patient. Such services shall include but not be limited to the following:

24 (a) Helping the patient with bath, care of mouth, skin, and hair;

25 (b) Helping the patient to the bathroom or in using a bedpan;

26 (c) Helping the patient in and out of bed and assisting with ambulation;

27 (d) Helping the patient with prescribed exercises which the patient and home

- 1 health aide have been taught by appropriate professional personnel;
- 2 (e) Assisting with medication ordinarily self-administered that has been
- 3 specifically ordered by a physician;
- 4 (f) Performing incidental household services as are essential to the patient's
- 5 health care at home provided that such services would have been performed if
- 6 the patient was in a hospital or skilled nursing facility; and
- 7 (g) Reporting to the professional nurse supervisor changes in the patient's
- 8 condition or family situation.

9 ➔Section 27. KRS 304.17-313 is amended to read as follows:

- 10 (1) All insurers issuing individual health insurance policies in the Commonwealth
- 11 providing coverage on an expense incurred basis shall make available and offer to
- 12 the purchaser coverage for home health care. The coverage may contain a
- 13 limitation on the number of home health care visits for which benefits are payable,
- 14 but the number of such visits shall not be less than sixty (60) in any calendar year or
- 15 in any continuous period of twelve (12) months for each person covered under the
- 16 policy. Each visit by an authorized representative of a home health agency shall be
- 17 considered as one (1) home health care visit, except that at least four (4) hours of
- 18 home health aide service shall be considered as one (1) home health visit.
- 19 (2) Home health care coverage shall be subject to the same deductible and coinsurance
- 20 provisions as are other services covered by insurers issuing individual health
- 21 insurance policies in the Commonwealth.
- 22 (3) Home health care shall not be reimbursed unless an attending physician certifies
- 23 that hospitalization or confinement in a skilled nursing facility *licensed by the*
- 24 *Cabinet for Health and Family Services*~~[as defined by the Kentucky Health~~
- 25 ~~Facilities and Health Services Certificate of Need and Licensure Board]~~ would
- 26 otherwise be required if home health care was not provided.
- 27 (4) Medicare beneficiaries shall be deemed eligible to receive home health care benefits

1 under an individual health insurance policy providing coverage on an expense
 2 incurred basis provided that the policy shall only pay for those home health care
 3 services which are not paid for by Medicare and do not exceed the maximum
 4 liability of the policy.

5 (5) Pursuant to the provisions of this section, all insurers issuing individual health
 6 insurance policies in the Commonwealth on an expense incurred basis shall inform
 7 the beneficiaries of such policies, in writing, of the specific home health care
 8 benefits which are covered. Such written notification shall take place at the time of
 9 issuance or reissuance of the policy.

10 ➔Section 28. KRS 304.17-317 is amended to read as follows:

11 (1) All individual health insurance policies providing coverage on an expense incurred
 12 basis shall provide coverage for health care treatment or services rendered by
 13 ambulatory surgical centers licensed by the Cabinet for Health and Family
 14 Services~~[approved by the Kentucky Health Facilities and Health Services~~
 15 ~~Certificate of Need and Licensure Board]~~. The health coverage for health care
 16 treatment or services rendered by an ambulatory surgical center shall be on the same
 17 basis as coverage provided for the same health care treatment or services rendered
 18 by a hospital.

19 (2) The requirements of this section shall apply to all health insurance policies
 20 delivered or issued for delivery in this state on and after October 1, 1978.

21 ➔Section 29. KRS 304.17A-147 is amended to read as follows:

22 Notwithstanding any provision of law, a health plan issued or renewed on or after July 15,
 23 2000, that provides coverage for surgical first assisting or intraoperative surgical care
 24 benefits or services shall be construed as providing coverage for a certified surgical
 25 assistant who performs services as identified in KRS 216B.015(13)~~[(16)]~~.

26 ➔Section 30. KRS 304.17A-1473 is amended to read as follows:

27 Notwithstanding any provision of law, a health benefit plan issued or renewed on or after

1 July 15, 2001, that provides coverage for surgical first assisting or intraoperative surgical
2 care benefits or services shall be construed as providing coverage for a certified surgical
3 assistant or physician assistant who performs services as identified in KRS
4 216B.015(13)~~(16)~~.

5 ➔Section 31. KRS 304.18-035 is amended to read as follows:

6 (1) All group or blanket health insurance policies and certificates issued thereunder
7 providing coverage on an expense incurred basis shall provide coverage for health
8 care treatment or services rendered by ambulatory surgical centers *licensed by the*
9 *Cabinet for Health and Family Services*~~[approved by the Kentucky Health~~
10 ~~Facilities and Health Services Certificate of Need and Licensure Board]~~. The
11 coverage for health care treatment or services rendered by an ambulatory surgical
12 center shall be on the same basis as coverage provided for the same health care
13 treatment or services rendered by a hospital.

14 (2) The requirements of this section shall apply to all insurance policies, and certificates
15 issued thereunder, delivered or issued for delivery in this state on and after October
16 1, 1978.

17 ➔Section 32. KRS 304.18-037 is amended to read as follows:

18 (1) All insurers issuing group or blanket health insurance policies and certificates
19 issued thereunder in the Commonwealth providing coverage on an expense incurred
20 basis shall make available and offer to the master policyholder coverage for home
21 health care. The coverage may contain a limitation on the number of home health
22 care visits for which benefits are payable, but the number of such visits shall not be
23 less than sixty (60) in any calendar year or in any continuous period of twelve (12)
24 months for each person covered under the policy. Each visit by an authorized
25 representative of a home health agency shall be considered as one (1) home health
26 care visit except that at least four (4) hours of home health aide service shall be
27 considered as one (1) home health visit.

- 1 (2) Home health care coverage shall be subject to the same deductible and coinsurance
2 provisions as are other services covered by insurers issuing group or blanket health
3 insurance policies in the Commonwealth.
- 4 (3) Home health care shall not be reimbursed unless an attending physician certifies
5 that hospitalization or confinement in a skilled nursing facility licensed by the
6 Cabinet for Health and Family Services~~[as defined by the Kentucky Health~~
7 ~~Facilities and Health Services Certificate of Need and Licensure Board]~~ would
8 otherwise be required if home health care was not provided.
- 9 (4) Medicare beneficiaries shall be deemed eligible to receive home health care benefits
10 under a group or blanket health insurance policy provided that the policy shall only
11 pay for those home health care services which are not paid for by Medicare and do
12 not exceed the maximum liability of the policy.
- 13 (5) Pursuant to the provisions of this section, all insurers issuing group or blanket
14 health insurance policies and certificates issued thereunder in the Commonwealth
15 providing coverage on an expense incurred basis which include coverage for home
16 health care shall inform the beneficiaries of such policies, in writing, of the specific
17 home health care benefits which are covered. Such written notification shall take
18 place at the time of issuance or reissuance of the policy.
- 19 ➔Section 33. KRS 304.32-156 is amended to read as follows:
- 20 (1) All individual or group service or indemnity type contracts and all certificates
21 thereunder issued by a nonprofit corporation shall provide coverage for health care
22 treatment or services rendered by ambulatory surgical centers licensed by the
23 Cabinet for Health and Family Services~~[approved by the Kentucky Health~~
24 ~~Facilities and Health Services Certificate of Need and Licensure Board]~~. The
25 coverage for health care treatment or services rendered by an ambulatory surgical
26 center shall be on the same basis as coverage provided for the same health care
27 treatment or services rendered by a hospital.

1 (2) The requirements of this section shall apply to all member or subscriber contracts
2 and all certificates thereunder, delivered or issued for delivery in this state on or
3 after October 1, 1978.

4 ➔Section 34. KRS 304.32-280 is amended to read as follows:

5 (1) All nonprofit hospital, medical-surgical, dental and health service corporations
6 issuing policies in the Commonwealth which provide hospital, medical, or surgical
7 expense benefits shall make available and offer to include benefits for home health
8 care. On group benefits the option for home health care benefits shall be made
9 available and offered to the master policyholder. The coverage may contain a
10 limitation on the number of home health care visits for which benefits are payable,
11 but the number of such visits shall not be less than sixty (60) in any calendar year or
12 in any continuous period of twelve (12) months for each person covered under the
13 policy. Each visit by an authorized representative of a home health agency shall be
14 considered as one (1) home health care visit except that at least four (4) hours of
15 home health aide service shall be considered as one (1) home health visit.

16 (2) Home health care coverage shall be subject to the same deductible and coinsurance
17 provisions as are other services covered by nonprofit hospital, medical-surgical,
18 dental and health service corporations which issue policies in the Commonwealth
19 that provide hospital, medical, or surgical expense benefits.

20 (3) Home health care shall not be reimbursed unless an attending physician certifies
21 that hospitalization or confinement in a skilled nursing facility *licensed by the*
22 *Cabinet for Health and Family Services*~~[as defined by the Kentucky Health~~
23 ~~Facilities and Health Services Certificate of Need and Licensure Board]~~ would
24 otherwise be required if home health care was not provided.

25 (4) Medicare beneficiaries shall be deemed eligible to receive home health care benefits
26 under a policy, contract, plan entered into, issued, delivered or amended in this state
27 by a nonprofit hospital, medical-surgical, dental and health service corporation

1 which provides hospital, medical or surgical expense benefits provided that the
2 policy, contract or plan shall only pay for those home health care services which are
3 not paid for by Medicare and do not exceed the maximum liability of the policy,
4 contract or plan.

5 (5) Pursuant to the provisions of this section, all nonprofit hospital, medical-surgical,
6 dental and health service corporations issuing policies in the Commonwealth which
7 provide hospital, medical, or surgical expense benefits or coverage for home health
8 care shall inform the beneficiaries of such policies, in writing, of the specific home
9 health care benefits which are covered. Such written notification shall take place at
10 the time of issuance or reissuance of the policy.

11 ➔Section 35. KRS 304.38-020 is amended to read as follows:

12 (1) The purpose of this subtitle is to encourage and guarantee the development of health
13 maintenance organizations by licensing and regulating their operation to insure that
14 they provide high quality health care services through state licensed organizations
15 meeting reasonable standards as to administration, services, and financial
16 soundness.

17 (2) It is the intent of this subtitle to complement the provisions of the ~~certificate of~~
18 ~~need and~~ licensure provisions of KRS Chapter 216B.

19 (3) It is the intent of this subtitle to complement the Federal Health Maintenance
20 Organization Act of 1973, as amended (P.L. 93-222), and nothing in this subtitle is
21 intended to be in conflict with the federal statutes and regulations promulgated
22 thereunder.

23 ➔Section 36. KRS 304.38-040 is amended to read as follows:

24 (1) A corporation, limited liability company, or partnership may apply to the
25 commissioner for and obtain a certificate of authority to establish and operate a
26 health maintenance organization in compliance with this subtitle.

27 (2) Health maintenance organizations which are corporations may be organized by

1 applying the provisions of KRS Chapter 271B, if for profit, and KRS Chapter 273,
2 if for nonstock, nonprofit, to the extent that the same are not inconsistent with the
3 express provisions of this subtitle.

4 (3) Each application for a certificate of authority shall be submitted to the
5 commissioner upon a form prescribed by the commissioner and shall set forth or be
6 accompanied by:

7 ~~(a) [Evidence that the applicant has been issued a certificate of need in
8 accordance with the provisions of KRS Chapter 216B or evidence that no
9 certificate of need is required by KRS Chapter 216B;~~

10 ~~(b)]~~Articles of incorporation, articles of organization, partnership agreement, or
11 other applicable documents in quadruplicate, acknowledged and verified by
12 the applicant;

13 ~~(b)~~~~(c)~~ The initial bylaws, operating agreement, or other equivalent documents
14 of the organization in triplicate, or any other similar documents;

15 ~~(c)~~~~(d)~~ A statement which shall include describing the health maintenance
16 organization:

- 17 1. The health services to be offered;
- 18 2. The financial risks to be assumed;
- 19 3. The initial geographic area to be served;
- 20 4. Pro forma financial projections for the first three (3) years of operations
21 including the assumptions the projections are based upon;
- 22 5. The sources of working capital and funding;
- 23 6. A description of the persons to be covered by the health maintenance
24 organization;
- 25 7. Any proposed reinsurance arrangements;
- 26 8. Any proposed management, administrative, or cost-sharing
27 arrangements; and

1 9. A description of the health maintenance organization's proposed method
2 of marketing;

3 ~~(d)~~~~(e)~~ The names, addresses, and positions of the initial board of directors,
4 board of trustees, or other governing body responsible for the conduct of the
5 affairs of the applicant;

6 ~~(e)~~~~(f)~~ Any proposed evidence of coverage to be issued by the applicant to
7 individuals, enrollees, groups, or other contract holders; and

8 ~~(f)~~~~(g)~~ Evidence of financial responsibility as provided in KRS 304.38-060.

9 ➔Section 37. KRS 304.38-090 is amended to read as follows:

10 Organizations subject to the provisions of this subtitle shall make and file with the
11 commissioner and the *Cabinet for Health and Family Services*~~[Kentucky Certificate of~~
12 ~~Need and Licensure Board]~~ annually before March 1 of each year, a statement under oath
13 upon a form to be prescribed by the commissioner covering the preceding year, and shall
14 include (a) a financial statement of the organization, including a balance sheet, receipts,
15 and disbursements for the preceding year; (b) the number of persons enrolled during the
16 year, the number of enrollees as of the end of the year, the number of enrollments
17 terminated during the year, and any other information relating to the operation of the
18 health maintenance organization as may be prescribed by the commissioner in order to
19 enable the commissioner to evaluate the performance of the health maintenance
20 organization.

21 ➔Section 38. KRS 304.38-130 is amended to read as follows:

22 (1) The commissioner may suspend or revoke any certificate of authority issued to a
23 health maintenance organization under this subtitle if the commissioner finds that
24 any of the conditions exist for which the commissioner could suspend or revoke a
25 certificate of authority as provided in Subtitles 2 and 3 of this chapter or if the
26 commissioner finds that any of the following conditions exist:

27 (a) The health maintenance organization is operating significantly in

- 1 contravention of its basic organizational document or in a manner contrary to
2 that described in and reasonably inferred from any other information
3 submitted under KRS 304.38-040, unless amendments to such submissions
4 have been filed with and approved by the commissioner;
- 5 (b) The health maintenance organization issues evidence of coverage or uses a
6 schedule of charges for health care services which do not comply with the
7 requirements of KRS 304.38-050 or Subtitle 17A of this chapter;
- 8 (c) The health maintenance organization does not provide or arrange for health
9 care services as approved by the commissioner in KRS 304.38-050(1)(a);
- 10 (d) The *Cabinet for Health and Family Services* ~~certificate of need and licensure~~
11 ~~board~~ certifies to the commissioner that the health maintenance organization
12 fails to meet the requirements of the board or that the health maintenance
13 organization is unable to fulfill its obligations to furnish health care services;
- 14 (e) The health maintenance organization is no longer financially responsible and
15 may reasonably be expected to be unable to meet its obligations to enrollees or
16 prospective enrollees;
- 17 (f) The health maintenance organization, or any person on its behalf, has
18 advertised or merchandised its services in an untrue, misrepresentative,
19 misleading, deceptive, or unfair manner;
- 20 (g) The continued operation of the health maintenance organization would be
21 hazardous to its enrollees;
- 22 (h) The health maintenance organization has otherwise failed to substantially
23 comply with this subtitle; or
- 24 (i) The health maintenance organization has contracted with the Department for
25 Medicaid Services to act as a managed care organization providing Medicaid
26 benefits pursuant to KRS Chapter 205 and has exhibited willful or frequent
27 and repeated failure to comply with KRS 304.17A-700 to 304.17A-730,

1 205.593, and 304.14-135 and KRS 205.522, 205.532 to 205.536, and
2 304.17A-515.

3 (2) If the certificate of authority of a health maintenance organization is suspended, the
4 health maintenance organization shall not, during the period of the suspension,
5 enroll any additional enrollees except newborn children or other newly acquired
6 dependents of existing enrollees, and shall not engage in any advertising or
7 solicitation whatsoever.

8 (3) If the certificate of authority of a health maintenance organization is revoked, the
9 organization shall proceed, immediately following the effective date of the order of
10 revocation, to wind up its affairs, and shall conduct no further business except as
11 may be essential to the orderly conclusion of the affairs of the organization. It shall
12 engage in no further advertising or solicitation whatsoever. The commissioner may,
13 by written order, permit the further operation of the organization as the
14 commissioner may find to be in the best interest of enrollees, to the end that
15 enrollees will be afforded the greatest practical opportunity to obtain continuing
16 health care coverage. If the commissioner permits such further operation the health
17 maintenance organization will continue to collect the periodic prepayments required
18 of enrollees.

19 ➔Section 39. KRS 304.38-210 is amended to read as follows:

20 (1) Health maintenance organizations issuing policies in the Commonwealth which
21 provide hospital, medical, or surgical expense benefits shall make available and
22 offer to include benefits for home health care. On group benefits the option for
23 home health care benefits shall be made available and offered to the master
24 policyholder. The coverage may contain a limitation on the number of home health
25 care visits for which benefits are payable, but the number of such visits shall not be
26 less than sixty (60) in any calendar year or in any continuous period of twelve (12)
27 months for each person covered under the policy. Each visit by an authorized

1 representative of a home health agency shall be considered as one (1) home health
2 care visit except that at least four (4) hours of home health service shall be
3 considered as one (1) home health visit.

4 (2) Home health care coverage shall be subject to the same deductible and coinsurance
5 provisions as are other services covered by health maintenance organizations which
6 issue policies in the Commonwealth that provide hospital, medical, or surgical
7 expense benefits.

8 (3) Home health care shall not be reimbursed unless an attending physician certifies
9 that hospitalization or confinement in a skilled nursing facility licensed by the
10 Cabinet for Health and Family Services ~~[as defined by the Kentucky Health~~
11 ~~Facilities and Health Services Certificate of Need and Licensure Board]~~ would
12 otherwise be required if home health care was not provided.

13 (4) Medicare beneficiaries shall be deemed eligible to receive home health care benefits
14 under a policy, contract or plan entered into, issued, delivered, or amended in this
15 state by a health maintenance organization which provides hospital, medical, or
16 surgical expense benefits provided that the policy, contract or plan shall only pay
17 for those home health care services which are not paid for by Medicare and do not
18 exceed the maximum liability of the policy, contract or plan.

19 (5) Pursuant to the provisions of this section, all health maintenance organizations
20 issuing policies in the Commonwealth which provide hospital, medical, or surgical
21 expense benefits or coverage for home health care shall inform the beneficiaries of
22 such policies, in writing, of the specific home health care benefits which are
23 covered. Such written notification shall take place at the time of issuance or
24 reissuance of the policy.

25 ➔Section 40. KRS 311.377 is amended to read as follows:

26 (1) Any person who applies for, or is granted staff privileges after June 17, 1978, by
27 any health services organization subject to licensing under ~~[the certificate of need~~

1 ~~and licensure provisions of~~ KRS Chapter 216B, shall be deemed to have waived as
2 a condition of such application or grant, any claim for damages for any good faith
3 action taken by any person who is a member, participant in or employee of or who
4 furnishes information, professional counsel, or services to any committee, board,
5 commission, or other entity which is duly constituted by any licensed hospital,
6 licensed hospice, licensed home health agency, health insurer, health maintenance
7 organization, health services corporation, organized medical staff, medical society,
8 or association affiliated with the American Medical Association, American Podiatry
9 Association, American Dental Association, American Osteopathic Association, or
10 the American Hospital Association, or a medical care foundation affiliated with
11 such a medical society or association, or governmental or quasigovernmental
12 agency when the entity is performing the designated function of review of
13 credentials or retrospective review and evaluation of the competency of professional
14 acts or conduct of other health care personnel. This subsection shall have equal
15 application to, and the waiver be effective for, those persons who, subsequent to
16 June 17, 1978, continue to exercise staff privileges previously granted by any such
17 health services organization.

18 (2) At all times in performing a designated professional review function, the
19 proceedings, records, opinions, conclusions, and recommendations of any
20 committee, board, commission, medical staff, professional standards review
21 organization, or other entity, as referred to in subsection (1) of this section, shall be
22 confidential and privileged and shall not be subject to discovery, subpoena, or
23 introduction into evidence, in any civil action in any court, including but not limited
24 to medical malpractice actions, actions arising out of review of credentials or
25 retrospective review and evaluation as referred to in subsection (1) of this section,
26 and actions by an applicant for or grantee of staff privileges as referred to in
27 subsection (1) of this section, or in any administrative proceeding before any board,

1 body, or committee, whether federal, state, county, or city, except as specifically
2 provided with regard to the board in KRS 311.605(2). The confidentiality and
3 privilege protections of this subsection shall only be available to a person or entity
4 that attests to participating in a patient safety and quality improvement initiative,
5 including the program established by the Patient Safety and Quality Improvement
6 Act of 2005, 42 U.S.C. secs. 299b-21 to 299b-26. This subsection shall not apply to
7 any proceedings or matters governed exclusively by federal law or federal
8 regulation.

9 (3) Nothing in subsection (2) of this section shall be construed to restrict or limit the
10 right to discover or use in any civil action or other administrative proceeding any
11 evidence, document, or record which is subject to discovery independently of the
12 proceedings of the entity to which subsection (1) of this section refers.

13 (4) No person who presents or offers evidence in proceedings described in subsection
14 (2) of this section or who is a member of any entity before which such evidence is
15 presented or offered may refuse to testify in discovery or upon a trial of any civil
16 action as to any evidence, document, or record described in subsection (3) of this
17 section or as to any information within his own knowledge, except as provided in
18 subsection (5) of this section.

19 (5) No person shall be permitted or compelled to testify concerning his testimony or the
20 testimony of others except that of a defendant given in any proceeding referred to in
21 subsection (2) of this section, or as to any of his opinions formed as a result of the
22 proceeding.

23 (6) In any action in which the denial, termination, or restriction of staff membership or
24 privileges by any health care facility shall be in issue, agents, employees, or other
25 representatives of a health care entity may with the consent of the health care entity
26 testify concerning any evidence presented in proceedings related to the facility's
27 denial of staff membership or privileges.

1 (7) Nothing in this section shall be construed to restrict or prevent the presentation of
2 testimony, records, findings, recommendations, evaluations, opinions, or other
3 actions of any entity described in subsection (1) of this section, in any statutory or
4 administrative proceeding related to the functions or duties of the entity.

5 (8) In addition to the foregoing, the immunity provisions of the federal Health Care
6 Quality Improvement Act of 1986, *Pub. L. No.*~~[P.L.]~~ 99-660, shall be effective
7 arising under state laws as of July 15, 1988.

8 ➔Section 41. KRS 311.760 is amended to read as follows:

9 An abortion may be performed in this state only under the following circumstances:

10 (1) During the first trimester of pregnancy by a woman upon herself upon the advice of
11 a licensed physician or by a licensed physician.

12 (2) After the first trimester of pregnancy, except in cases of emergency to protect the
13 life or health of the pregnant woman, where an abortion is permitted under other
14 provisions of KRS 311.710 to 311.820, by a duly licensed physician in a hospital
15 licensed by the Cabinet for Health and Family Services~~[duly licensed by the~~
16 ~~Kentucky Health Facilities and Health Services Certificate of Need and Licensure~~
17 ~~Board]~~.

18 ➔Section 42. KRS 314.027 is amended to read as follows:

19 (1) Funding for the Kentucky nursing incentive scholarship fund shall be supplied
20 partly by funds received from penalties and fines, to include~~[,]~~ but not be limited
21 to~~[, certificate of need]~~ penalties assessed on hospitals, nursing facilities, nursing
22 homes, personal care homes, and family care homes under the provisions of KRS
23 216.560 and 216B.131(2).

24 (2) Additional funding shall be provided by an assessment of five dollars (\$5) to be
25 added to each nurse licensure renewal application fee payable to the board, proceeds
26 of which shall be annually allocated to the Kentucky nursing incentive scholarship
27 fund.

1 (3) The board may cancel any contract between it and any applicant or recipient upon
2 failure by the applicant or recipient to meet requirements of KRS 314.025 to
3 314.027 or board administrative regulations. Failure to complete the terms of the
4 contract shall subject the applicant to legal action for the recovery of all assistance
5 provided, together with attorney fees and interest at a compound rate of eight
6 percent (8%) from the date of disbursement from the Kentucky nursing incentive
7 scholarship fund.

8 ➔Section 43. KRS 347.040 is amended to read as follows:

9 (1) The secretaries of the Cabinet for Health and Family Services and the Education
10 and Workforce Development Cabinet and the chief state school officer shall jointly
11 develop and implement a statewide plan, with adequate opportunity for public
12 comment, to serve all persons with developmental disabilities not otherwise entitled
13 to and receiving the same services under another state or federal act, which will
14 include provisions for:

- 15 (a) Identification and prompt and adequate interdisciplinary assessment;
- 16 (b) Case management services; and
- 17 (c) Services and residential alternatives as defined by this chapter in the least
18 restrictive, individually appropriate environment.

19 (2) The first plan and annual updates shall be presented to the Legislative Research
20 Commission which shall refer it to an appropriate committee for review and
21 comment.

22 (3) The plan shall include:

- 23 (a) The number of institution residents on waiting lists for placement in the
24 community;
- 25 (b) The number of persons outside institutions on waiting lists for placement in
26 the institution;
- 27 (c) The number of persons for whom no placement is made nor services provided

- 1 because of a lack of community resources;
- 2 (d) The number, type, nature, and cost of services necessary for placement to
- 3 occur;
- 4 (e) The status of compliance with the plan;
- 5 (f) The cabinets' specific efforts to increase residential and institutional services
- 6 and documentation of the success of these efforts; and
- 7 (g) The specific plans for new efforts to enhance the opportunities for persons
- 8 with developmental disabilities to move into less restrictive environments.

9 ~~[(4) The state health plan shall be developed consistently with the plan required under~~
10 ~~this chapter.]~~

11 ➔Section 44. The following KRS sections are repealed:

12 211.9523 Abolition of category of nonemergency health transportation provider --
13 Conversion to disabled persons carrier or Class II ground ambulance provider.

14 216B.010 Legislative findings and purposes.

15 216B.035 Administrative staff assistance -- Records -- Oaths.

16 216B.040 Functions of cabinet in administering chapter -- Regulatory authority.

17 216B.061 Actions requiring certificates of need -- Prohibitions against dividing projects
18 to evade expenditure minimums and against ex parte contacts -- Ambulatory
19 surgical centers.

20 216B.0615 Prohibition against transferring a certificate of need -- Penalty.

21 216B.062 Timetable for submission of application for certificate of need to be
22 established by administrative regulation -- Review procedure.

23 216B.085 Hearing procedures -- Notification of cabinet's decisions -- Appeals.

24 216B.086 Revocation of certificate of need -- Hearings -- Prohibition against ex parte
25 contacts.

26 216B.090 Reconsideration of cabinet's decisions.

27 216B.095 Nonsubstantive review of application.

- 1 216B.125 Civil action for judicial enforcement of chapter.
- 2 216B.130 Expenditure minimums or limits to be adjusted annually.
- 3 216B.180 Certificate of need not required for respite-service beds in intermediate-care
4 facility for individuals with an intellectual disability.
- 5 216B.182 Conversion of licensed nursing home beds to licensed intermediate care
6 facility beds between July 1, 2004, and September 1, 2005.
- 7 ➔Section 45. Whereas the continuing increase in health care costs is a burden on
8 Kentucky households and consumers, an emergency is declared to exist, and this Act
9 takes effect upon its passage and approval by the Governor or upon otherwise becoming
10 law.