HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM

2022 REGULAR SESSION

Amend printed copy of **SB 347/HCS 1**

On page 5, after line 18, insert the following:

"➔SECTION 4. A NEW SECTION OF SUBTITLE 5 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "limited health service benefit plan" shall have the same meaning as in Section 8 of this Act.

(2) An air ambulance service provider or any affiliated entity that solicits air ambulance membership subscriptions, accepts membership applications, or charges membership fees shall be deemed to be engaged in the business of insurance to the extent that it contracts, promises, guarantees, or in any other way claims to pay, reimburse, or indemnify:

(a) The copayments, deductibles, or other cost-sharing amounts of a patient relating to air ambulance transport as determined or set by the patient's health insurance provider, health care provider, or other third parties; or

(b) Any post-service payments of costs to third parties relating to air ambulance transport.

(3) An air ambulance service provider or any affiliated entity that is deemed to be engaged in the business of insurance under subsection (2) of this section shall obtain and maintain a certificate of authority or license from the commissioner in accordance with:

Amendment No. HFA Rep. Rep. Deanna Frazier Gordon

Committee Amendment Signed:

Floor Amendment LRC Drafter:

Adopted: Date:

Rejected: Doc. ID: XXXX

(a) KRS 304.38A-020; or

(b) Other applicable provisions of this chapter which permit the offering of a limited health service benefit plan.

(4) An air ambulance membership subject to subsection (2) of this section shall be:

(a) Considered a limited health service benefit plan; and

(b) Subject to the provisions of this chapter applicable to limited health service benefit plans.

➔SECTION 5. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An entity selling air ambulance memberships subject to Section 4 of this Act shall make the following general disclosures, in writing, bold type, and not less than twelve (12) point font, on any advertisement, marketing material, brochure, or contract terms and conditions made available to prospective members or the public:

(1) If eligible and covered by Medicaid or Medicaid managed care, the prospective member is already covered, with no out-of-pocket cost liability, for air ambulance services; and

(2) If eligible and covered under Medicare, or a Medicare Advantage or Medicare supplement policy, or both, the prospective member may already be covered for air ambulance services and should consult with a representative of the Medicare program, or a representative of the prospective member's Medicare Advantage or Medicare supplement plan, to determine:

(a) The level of existing coverage the prospective member has for air ambulance services;

(b) Any out-of-pocket costs applicable to the coverage referenced under paragraph (a) of this subsection; and

(c) Whether the program or plan provider recommends additional supplemental insurance coverage for air ambulance services.

➔SECTION 6. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An entity operating an air ambulance membership program subject to Section 4 of this Act shall implement a patient advocacy program, which shall include, at a minimum, the following components:

(a) A dedicated patient hotline number and dedicated patient resource e-mail address to:

1. Process patient billing and claims; and

2. Address patient questions, complaints, and concerns;

(b) A dedicated patient advocacy page on the air ambulance service provider's Web site that:

1. Is clearly marked as the "patient portal" or "patient advocacy" page;

2. Is easily navigated to; and

3. Contains clearly written and comprehensive resources for patients, including:

a. A layperson's explanation of what to expect during the claims process;

b. Frequently asked questions and answers;

c. Frequently used forms;

d. Information regarding the air ambulance service provider's financial assistance or charity care program required under paragraph (f) of this subsection; and

e. Additional resources for patients, including but not limited to:

i. Contact information for the United States Department of

Transportation, Office of Aviation Consumer Protection;

ii. Contact information for state and federal health agencies and insurance departments; and

iii. Other health consumer informational resources;

(c) Dedicated individuals assigned to review patient complaints and disputes about air ambulance billing and to respond to patients, governmental agencies, and any other concerned parties no later than thirty (30) calendar days from the date the complaint is received;

(d) The inclusion of the patient hotline number and e-mail address required by paragraph (a) of this subsection and the patient advocacy Web site address required by paragraph (b) of this subsection on all patient communication materials, including but not limited to Web sites, brochures, letters, invoices, or billing statements, that are sent to or made available to patients;

(e) Mandatory annual patient advocacy training for all air ambulance service provider personnel who have direct interaction with patients, or family members of patients, via written, verbal, or electronic communications; and

(f) A financial assistance or charity care program to assist patients suffering financial hardship with resolving any unpaid balance owed to the air ambulance carrier.

(2) This section shall not be enforced in a manner that conflicts with federal law, including federal preemption of state regulation of air carriers.

➔Section 7. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

(1) Fraternal benefit societies (as identified in Subtitle 29), except as stated in Subtitle 29.

(2) Nonprofit hospital, medical-surgical, dental, and health service corporations (as identified

in Subtitle 32) except as stated in Subtitle 32.

(3) Burial associations (as identified in KRS Chapter 303), except as stated in Subtitle 31.

(4) Assessment or cooperative insurers (as identified in KRS Chapter 299), except as stated in KRS Chapter 299.

(5) Insurance premium finance companies (as identified in Subtitle 30), except as stated in Subtitle 30.

(6) Qualified organizations which issue charitable gift annuities within the Commonwealth of Kentucky. For the purposes of this subsection:

(a) A "qualified organization" means one which is:

1. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a charitable organization, if it files a copy of federal form 990 with the Division of Consumer Protection in the Office of the Attorney General; or

2. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a religious organization; or

3. Exempt as a publicly owned or nonprofit, privately endowed educational institution approved or licensed by the State Board of Education, the Southern Association of Colleges and Schools, or an equivalent public authority of the jurisdiction where the institution is located; and

(b) A "charitable gift annuity" means a giving plan or method by which a gift of cash or other property is made to a qualified organization in exchange for its agreement to pay an annuity.

(7) A religious organization, as identified in this subsection, or its participants, that:

(a) Is a nonprofit religious organization;

(b) Is limited to participants who are members of the same denomination or religion;

(c) Matches its participants who have financial, physical, or medical needs with participants who choose to assist with those needs;

(d) 1. Includes the following notice for delivery to all participants, printed in not less than ten (10) point, bold-faced type on or accompanying all applications, guideline materials, or any similar documents:

"NOTICE: UNDER KENTUCKY LAW, THE RELIGIOUS ORGANIZATION FACILITATING THE SHARING OF MEDICAL EXPENSES IS NOT AN INSURANCE COMPANY, AND ITS GUIDELINES, PLAN OF OPERATION, OR ANY OTHER DOCUMENT OF THE RELIGIOUS ORGANIZATION DO NOT CONSTITUTE OR CREATE AN INSURANCE POLICY. PARTICIPATION IN THE RELIGIOUS ORGANIZATION OR A SUBSCRIPTION TO ANY OF ITS DOCUMENTS SHALL NOT BE CONSIDERED INSURANCE. ANY ASSISTANCE YOU RECEIVE WITH YOUR MEDICAL BILLS WILL BE TOTALLY VOLUNTARY. NEITHER THE ORGANIZATION OR ANY PARTICIPANT SHALL BE COMPELLED BY LAW TO CONTRIBUTE TOWARD YOUR MEDICAL BILLS. WHETHER OR NOT YOU RECEIVE ANY PAYMENTS FOR MEDICAL EXPENSES, AND WHETHER OR NOT THIS ORGANIZATION CONTINUES TO OPERATE, YOU SHALL BE PERSONALLY RESPONSIBLE FOR THE PAYMENT OF YOUR MEDICAL BILLS."

2. A participant shall acknowledge receipt of the "Notice" by signing below the "Notice" on the application;

(e) Suggests amounts to give that are voluntary among the participants, with no assumption of risk or promise to pay either among the participants or between the

participants and the organization.

(8) ***(a) Except as provided in paragraph (b) of this subsection,*** a public or private ambulance service licensed and regulated by the Cabinet for Health and Family Services to the extent that it solicits membership subscriptions, accepts membership applications, charges membership fees, and furnishes prepaid or discounted ambulance services to subscription members and designated members of their households.

(b) This subsection shall not apply to air ambulance services.

(9) A direct primary care agreement established under KRS 311.6201, 311.6202, 314.198, and 314.199.

➔Section 8. KRS 304.17C-010 is amended to read as follows:

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

(1) "At the time of enrollment" means the same as defined in KRS 304.17A-005(2);

(2) "Enrollee" means an individual who is enrolled in a limited health service benefit plan;

(3) "Health care provider" or "provider" means the same as defined in KRS 304.17A-005(23);

(4) "Insurer" means any insurance company, health maintenance organization, self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA, provider-sponsored integrated health delivery network, self-insured employer-organized association, nonprofit hospital, medical-surgical, dental, health service corporation, or limited health service organization authorized to transact health insurance business in Kentucky who offers a limited health service benefit plan; and

(5) "Limited health service benefit plan"***:***

(a) Means any policy or certificate that provides services for dental, vision, mental health, substance abuse, chiropractic, pharmaceutical, podiatric, ***air ambulance***

transport as provided in Section 4 of this Act, or other such services as may be determined by the commissioner to be offered under a limited health service benefit plan***; and*** ~~[.]~~

(b) ~~[A limited health service benefit plan]~~***Except for air ambulance transport as provided in Section 4 of this Act,*** shall not include hospital, medical, surgical, or emergency services except as these services are provided incidental to the plan.

➔Section 9. KRS 304.38A-010 is amended to read as follows:

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

(1) "Enrollee" means an individual who is enrolled in a limited health services benefit plan;

(2) "Evidence of coverage" means any certificate, agreement, contract, or other document issued to an enrollee stating the limited health services to which the enrollee is entitled. All coverages described in an evidence of coverage issued by a limited health service organization are deemed to be "limited health services benefit plans" to the extent defined in KRS 304.17C-010 unless exempted by the commissioner;

(3) "Limited health service"***:***

(a) Means dental care services, vision care services, mental health services, substance abuse services, chiropractic services, pharmaceutical services, podiatric care services, ***air ambulance transport as provided in Section 4 of this Act,*** and such other services as may be determined by the commissioner to be limited health services***; and*** ~~[.]~~

(b) Except for air ambulance transport as provided in Section 4 of this Act, ~~[limited health service]~~shall not include hospital, medical, surgical, or emergency services except as these services are provided incidental to the limited health services set forth in this subsection;

(4) "Limited health service contract" means any contract entered into by a limited health

service organization with a policyholder to provide limited health services;

(5) "Limited health service organization" means**:**

(a) A corporation, partnership, limited liability company, or other entity that undertakes to provide or arrange limited health service or services to enrollees***; and*** ~~[.]~~

(b) ~~[A limited health service organization]~~Does not include a provider or an entity when providing or arranging for the provision of limited health services under a contract with a limited health service organization, health maintenance organization, or a health insurer; and

(6) "Provider" means the same as defined in KRS 304.17A-005(23).

➔Section 10. (1) Sections 4 to 11 of this Act are intended to help preserve the long-standing jurisdiction that states have over the regulation of the business of insurance as expressly established by the McCarran-Ferguson Act, 15 U.S.C. sec. 1011 et seq., and affirm the ability of states to regulate the business of insurance without threat of federal obstruction.

(2) Sections 4 to 11 of this Act regulate the business of insurance consistent with the McCarran-Ferguson Act, 15 U.S.C. sec. 1011 et seq., standards by defining and regulating the particular practice of risk transferring and spreading under air ambulance subscription memberships.

(3) Legislating protection from consumer harm in air ambulance membership insurance contracts is an appropriate and necessary measure fulfilling the states' responsibility and authority under the McCarran Ferguson Act, 15 U.S.C. sec. 1011 et seq., to exercise broad regulatory authority over the business of insurance.

➔Section 11. Any entity subject to Section 6 of this Act shall implement the patient advocacy program required under that section within one year of the effective date of Section 6 of this Act.

➔Section 12. Sections 4 to 11 of this Act shall take effect April 15, 2023."; and

Renumber the subsequent section accordingly.