

1 AN ACT relating to drugs and medicines and declaring an emergency.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) If an independent institution or postsecondary education institution requires a*
6 *student to receive an immunization, the institution shall allow a student to be*
7 *exempted from the immunization if:*

8 *(a) The vaccine is medically contraindicated;*

9 *(b) The student or the student's legal guardian objects to the immunization due*
10 *to religious beliefs or other conscientiously held beliefs; or*

11 *(c) The student or the student's legal guardian refuses the vaccine after being*
12 *fully informed of the health risks.*

13 *(2) Any individual injured by any act of an independent institution or postsecondary*
14 *education institution in violation of this section shall have a civil cause of action*
15 *to enjoin further violations and to recover actual damages, together with the costs*
16 *of the action and reasonable attorney's fees. If the action is prosecuted by the*
17 *Attorney General or his or her designee, attorney's fees shall not be awarded.*

18 *(3) In addition to any other relief allowed by law, any individual injured by any act*
19 *or omission of a judicial officer of this Commonwealth arising under this section*
20 *shall have a cause of action against the judicial officer to enjoin any violation,*
21 *compel further action, or both. Costs and attorney's fees may be awarded against*
22 *a judicial officer who violates this subsection only upon a finding that the act or*
23 *omission is clearly in excess of the judicial officer's authority.*

24 *(4) Any cause of action under this section may be filed in the Circuit Court of the*
25 *county in which the alleged violation occurred or the county where the plaintiff*
26 *resides.*

27 ➔Section 2. KRS 209.552 is amended to read as follows:

- 1 (1) Every long-term care facility shall require residents to be immunized against
2 pneumococcal disease and influenza. Upon admission, the long-term care facility
3 shall:
- 4 (a) Notify the resident of the requirements of this section and request that the
5 resident agree to be immunized against pneumococcal disease and influenza
6 virus;
- 7 (b) Assess the resident's immunization status for influenza virus and
8 pneumococcal disease;
- 9 (c) Counsel each resident on the risks of influenza and pneumococcal disease; the
10 efficacy, side effects, and contraindications of these immunizations; and the
11 recommendations of the Centers for Disease Control prior to administration of
12 the vaccines; and
- 13 (d) Provide or arrange for immunizations against pneumococcal and influenza in
14 accordance with the recommendations of the Advisory Committee on
15 Immunization Practices of the Centers for Disease Control, unless medically
16 contraindicated, if the resident or long-term care facility does not have
17 documentation of the immunization.
- 18 (2) Every long-term care facility shall document immunization against influenza virus
19 every influenza season, by October 15 or upon admission, whichever comes later,
20 and pneumococcal immunization for each resident. Upon finding that a resident
21 lacks either of these immunizations, the facility shall provide or arrange for the
22 immunization in accordance with the recommendations of the Advisory Committee
23 on Immunization Practices of the Centers for Disease Control, unless medically
24 contraindicated.
- 25 (3) Every long-term care facility shall require each employee, regardless of employment
26 status, to be immunized against pneumococcal and influenza virus. Upon
27 employment, the long-term care facility shall:

- 1 (a) Notify the employee of the requirements of this section and request that the
2 employee agree to be immunized against pneumococcal disease and influenza
3 virus;
- 4 (b) Assess the employee's immunization status for influenza virus and
5 pneumococcal disease;
- 6 (c) Counsel each employee on the risks of influenza and pneumococcal disease;
7 the efficacy, side effects, and contraindications of these immunizations; and
8 the recommendations of the Centers for Disease Control prior to
9 administration of the vaccines; and
- 10 (d) Provide or arrange for immunizations against pneumococcal and influenza in
11 accordance with the recommendations of the Advisory Committee on
12 Immunization Practices of the Centers for Disease Control, unless medically
13 contraindicated, if the employee or the long-term care facility does not have
14 documentation of the appropriate immunizations.
- 15 (4) Every long-term care facility shall document immunization against influenza virus
16 every influenza season, by October 15 or upon employment, whichever comes later,
17 and pneumococcal immunization for each employee. Upon finding that an
18 employee lacks either of these immunizations, the facility shall provide or arrange
19 for immunization in accordance with the recommendations of the Advisory
20 Committee on Immunization Practices of the Centers for Disease Control, unless
21 medically contraindicated.
- 22 (5) The provisions of this section *or any other vaccine requirement imposed by an*
23 *individual facility* shall not apply if:
- 24 (a) The vaccine is medically contraindicated;
- 25 (b) The employee, resident, or resident's legal guardian objects to the
26 immunizations due to religious beliefs; or
- 27 (c) The employee or resident refuses the vaccine after being fully informed of the

1 health risks.

2 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO
3 READ AS FOLLOWS:

4 (1) If a health facility requires an employee, regardless of employment status, to
5 receive an immunization, the health facility shall allow an employee to be
6 exempted from the immunization if:

7 (a) The vaccine is medically contraindicated;

8 (b) The employee objects to the immunization due to religious beliefs or other
9 conscientiously held beliefs; or

10 (c) The employee refuses the vaccine after being fully informed of the health
11 risks.

12 (2) Any individual injured by any act of a health facility in violation of this section
13 shall have a civil cause of action to enjoin further violations and to recover actual
14 damages, together with the costs of the action and reasonable attorney's fees. If
15 the action is prosecuted by the Attorney General or his or her designee, attorney's
16 fees shall not be awarded.

17 (3) In addition to any other relief allowed by law, any individual injured by any act
18 or omission of a judicial officer of this Commonwealth arising under this section
19 shall have a cause of action against the judicial officer to enjoin any violation,
20 compel further action, or both. Costs and attorney's fees may be awarded against
21 a judicial officer who violates this subsection only upon a finding that the act or
22 omission is clearly in excess of the judicial officer's authority.

23 (4) Any cause of action under this section may be filed in the Circuit Court of the
24 county in which the alleged violation occurred or the county where the plaintiff
25 resides.

26 ➔SECTION 4. A NEW SECTION OF KRS 217.005 TO 217.215 IS CREATED
27 TO READ AS FOLLOWS:

1 (1) In accordance with 21 U.S.C. sec. 360bbb-3, any individual who administers an
2 unapproved drug that has been approved for emergency use by the secretary of
3 the United States Food and Drug Administration shall inform the individual to
4 whom the drug is administered of the following:

5 (a) The drug has been authorized for emergency use;

6 (b) The significant known and potential benefits and risks of such use, and of
7 the extent to which the benefits and risks are unknown;

8 (c) The option to accept or refuse administration of the drug;

9 (d) Medical consequences, if any, of refusing administration of the drug; and

10 (e) Alternatives to the drug that are available and of their benefits and risks.

11 (2) No individual in the Commonwealth shall be required by any person, as defined
12 in KRS 446.010, in Kentucky to receive administration of a drug that has only
13 received emergency use approval by the secretary of the United States Food and
14 Drug Administration.

15 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO
16 READ AS FOLLOWS:

17 (1) If an employer requires an employee, regardless of employment status, to receive
18 an immunization, the employer shall allow an employee to be exempted from the
19 immunization if:

20 (a) The vaccine is medically contraindicated;

21 (b) The employee objects to the immunization due to religious beliefs or other
22 conscientiously held beliefs; or

23 (c) The employee refuses the vaccine after being fully informed of the health
24 risks.

25 (2) Any individual injured by any act of an employer in violation of this section shall
26 have a civil cause of action to enjoin further violations and to recover actual
27 damages, together with the costs of the action and reasonable attorney's fees. If

1 the action is prosecuted by the Attorney General or his or her designee, attorney's
2 fees shall not be awarded.

3 (3) In addition to any other relief allowed by law, any individual injured by any act
4 or omission of a judicial officer of this Commonwealth arising under this section
5 shall have a cause of action against the judicial officer to enjoin any violation,
6 compel further action, or both. Costs and attorney's fees may be awarded against
7 a judicial officer who violates this subsection only upon a finding that the act or
8 omission is clearly in excess of the judicial officer's authority.

9 (4) Any cause of action under this section may be filed in the Circuit Court of the
10 county in which the alleged violation occurred or the county where the plaintiff
11 resides.

12 ➔Section 6. Whereas the Commonwealth of Kentucky has a paramount interest in
13 protecting the rights of all citizens to make informed decisions about their health, an
14 emergency is declared to exist, and this Act takes effect upon its passage and approval by
15 the Governor or upon its otherwise becoming law.