

1 AN ACT relating to healthcare.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) Unless otherwise required by law, a health facility as defined in KRS 216B.015,*
6 *or a health care provider enrolled in the Kentucky Medicaid program, may*
7 *submit a current or prospective employee to a check of the:*

8 *(a) Child abuse and neglect; or*

9 *(b) Adult abuse;*

10 *registries maintained by the Cabinet for Health and Family Services.*

11 *(2) The Cabinet for Health and Family Services shall promulgate administrative*
12 *regulations in accordance with KRS Chapter 13A as necessary to implement this*
13 *section.*

14 ➔Section 2. KRS 209.032 is amended to read as follows:

15 (1) As used in this section:

16 (a) "Employee" means a person who:

17 1. Is hired directly or through a contract by a vulnerable adult services
18 provider who has duties that involve or may involve one-on-one contact
19 with a patient, resident, or client; or

20 2. Is a volunteer who has duties that are equivalent to the duties of an
21 employee providing direct services and the duties involve, or may
22 involve, one-on-one contact with a patient, resident, or client;

23 (b) "Validated substantiated finding of adult abuse, neglect, or exploitation"
24 means that the cabinet has:

25 1. Entered a final order concluding by a preponderance of the evidence that
26 an individual has committed adult abuse, neglect, or exploitation against
27 a different adult for whom the individual was providing care or services

1 as an employee or otherwise with the expectation of compensation;

2 2. The individual has been afforded an opportunity for an administrative
3 hearing under procedures compliant with KRS Chapter 13B, and an
4 appeal to the Circuit Court of the county where the abuse, neglect, or
5 exploitation is alleged to have occurred or, if the individual consents, to
6 the Franklin Circuit Court; and

7 3. That any appeal, including the time allowed for filing an appeal, has
8 concluded or expired; and

9 (c) "Vulnerable adult service provider" means:

10 1. Adult day health care program centers as defined in KRS 216B.0441;

11 2. Adult day training facilities;

12 3. Assisted-living communities as defined in KRS 194A.700;

13 4. Boarding homes as defined in KRS 216B.300;

14 5. Group homes for individuals with an intellectual disability and
15 developmentally disabled (ID/DD);

16 6. Home health agencies as defined in KRS 216.935;

17 7. Hospice programs or residential hospice facilities licensed under KRS
18 Chapter 216B;

19 8. Long-term-care hospitals as defined in 42 U.S.C. sec.
20 1395ww(d)(1)(B)(iv);

21 9. Long-term-care facilities as defined in KRS 216.510;

22 10. Personal services agencies as defined in KRS 216.710;

23 11. Providers of home and community-based services authorized under KRS
24 Chapter 205, including home and community based waiver services and
25 supports for community living services; and

26 12. State-owned and operated psychiatric hospitals.

27 (2) A vulnerable adult services provider shall query the cabinet as to whether a

1 validated substantiated finding of adult abuse, neglect, or exploitation has been
2 entered against an individual who is a bona fide prospective employee of the
3 provider. The provider may periodically submit similar queries as to its current
4 employees and volunteers. The cabinet shall, except as provided under subsection
5 (5) of this section and any administrative regulations promulgated thereunder,
6 reply to either type of query only that it has or has not entered such a finding
7 against the named individual.

8 (3) An individual may query the cabinet as to whether the cabinet's records indicate
9 that a validated substantiated finding of adult abuse, neglect, or exploitation has
10 been entered against him or her. The cabinet shall reply only that it has or has not
11 entered such a finding against the named individual, although this limitation shall
12 not be construed to prevent the individual who is the subject of the investigation
13 from obtaining cabinet records under other law, including the Kentucky Open
14 Records Act. An individual making a query under this subsection may direct that
15 the results of the query be provided to an alternative recipient seeking to utilize the
16 care or services of the querying individual.

17 (4) Every cabinet investigation of adult abuse, neglect, or exploitation committed by an
18 employee or a person otherwise acting with the expectation of compensation shall
19 be conducted in a manner affording the individual being investigated the level of
20 due process required to qualify any substantiated finding as a validated
21 substantiated finding of adult abuse, neglect, or exploitation.

22 (5) The cabinet shall promulgate administrative regulations in accordance with KRS
23 Chapter 13A to implement the provisions of this section. Included in these
24 administrative regulations shall be:

25 (a) An error resolution process allowing an individual whose name is erroneously
26 reported to have been the subject of a validated substantiated finding of adult
27 abuse, neglect, or exploitation to request the correction of the cabinet's

1 records;~~and~~

2 (b) A designation of the process by which queries may be submitted in
3 accordance with this section, which shall require that the queries be made
4 using a secure methodology and only by providers and persons authorized to
5 submit a query under this section; ***and***

6 ***(c) Notwithstanding any provision of law to the contrary including but not***
7 ***limited to subsection (2) of this section, a process of notification by which***
8 ***the cabinet shall notify a vulnerable adult service provider who queries the***
9 ***cabinet pursuant to this section that the queried individual has appealed a***
10 ***substantiated finding of adult abuse, neglect, or exploitation and that the***
11 ***appeal is pending.***

12 (6) If the cabinet does not respond to a query under subsection (2) of this section within
13 twenty-four (24) hours and a vulnerable adult services provider hires or utilizes an
14 employee provisionally, the provider shall not be subject to liability solely on the
15 basis of hiring or utilizing the employee before having received the cabinet's
16 response.

17 (7) This section shall only apply to instances of abuse, neglect, or exploitation
18 substantiated on or after July 15, 2014, which shall be compiled into a central
19 registry for the purpose of queries submitted under this section.