

1 AN ACT relating to boards of the Kentucky General Assembly and declaring an
2 emergency.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
5 READ AS FOLLOWS:

6 *As used in Sections 1 to 8 of this Act:*

7 *(1) "Board" means the Medicaid Oversight and Advisory Board;*

8 *(2) "Cabinet" means the Cabinet for Health and Family Services;*

9 *(3) "Commission" means the Legislative Research Commission;*

10 *(4) "Department" means the Department for Medicaid Services; and*

11 *(5) "Medicaid program" means the Kentucky Medical Assistance Program*
12 *established in KRS 205.510 to 205.630 and the Kentucky Children's Health*
13 *Insurance Program established in KRS 205.6483.*

14 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
15 READ AS FOLLOWS:

16 *The Medicaid Oversight and Advisory Board of the Kentucky General Assembly is*
17 *hereby established. The purpose of the board is to optimize delivery of health services*
18 *for continually improving health outcomes and doing so in a cost-efficient and*
19 *effective manner. The board shall review, analyze, study, evaluate, provide legislative*
20 *oversight, and make recommendations to the General Assembly regarding any aspect*
21 *of the Kentucky Medicaid program, including but not limited to benefits and coverage*
22 *policies, access to services and network adequacy, health outcomes and equity,*
23 *reimbursement rates, payment methodologies, delivery system models, financing and*
24 *funding, and administrative regulations.*

25 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
26 READ AS FOLLOWS:

27 *(1) The board shall be composed of the following members:*

1 (a) Ten (10) legislative members, as follows:

2 1. Four (4) members of the House of Representatives appointed by the
3 Speaker of the House of Representatives, each of whom shall serve
4 while a member of the House for the term for which he or she has
5 been elected, one (1) of whom shall be the chair or vice chair of the
6 House Standing Committee on Health Services, and one (1) of whom
7 shall be the chair or vice chair of the House Standing Committee on
8 Families and Children;

9 2. One (1) member of the House of Representatives appointed by the
10 Minority Floor Leader of the House of Representatives, who shall
11 serve while a member of the House for the term for which he or she
12 has been elected;

13 3. Four (4) members of the Senate appointed by the President of the
14 Senate, each of whom shall serve while a member of the Senate for the
15 term for which he or she has been elected, one (1) of whom shall be
16 the chair or vice chair of the Senate Standing Committee on Health
17 Services, and one (1) of whom shall be the chair or vice chair of the
18 Senate Standing Committee on Families and Children; and

19 4. One (1) member of the Senate appointed by the Minority Floor Leader
20 of the Senate, who shall serve while a member of the Senate for the
21 term for which he or she has been elected;

22 (b) Eleven (11) nonlegislative, nonvoting members, as follows:

23 1. The commissioner of the department or his or her designee;

24 2. The chief medical officer of the Commonwealth or his or her
25 designee;

26 3. The chair of the Advisory Council for Medical Assistance established
27 in KRS 205.540 or his or her designee;

- 1 4. The state budget director or his or her designee;
- 2 5. The Auditor of Public Accounts or his or her designee;
- 3 6. The executive director of the Kentucky Association of Health Plans, or
4 its successor organization, or his or her designee;
- 5 7. The director of the Center of Excellence in Rural Health established
6 in KRS 164.937 or his or her designee;
- 7 8. Two (2) members appointed by the Speaker of the House of
8 Representatives, of whom:
- 9 a. One (1) shall have significant Medicaid-specific experience in
10 healthcare administration, financing, policy, or research; and
- 11 b. One (1) shall be a licensed healthcare provider who is a
12 participating Medicaid provider and who serves on one (1) of the
13 technical advisory committees to the Advisory Council for
14 Medical Assistance established in KRS 205.590; and
- 15 9. Two (2) members appointed by the President of the Senate, of whom:
- 16 a. One (1) shall have significant Medicaid-specific experience in
17 healthcare administration, financing, policy, or research; and
- 18 b. One (1) shall be a licensed healthcare provider who is a
19 participating Medicaid provider and who serves on one (1) of the
20 technical advisory committees to the Advisory Council for
21 Medical Assistance established in KRS 205.590; and
- 22 (c) Two (2) nonvoting ex officio members, as follows:
- 23 1. The chair of the House Standing Committee on Appropriations and
24 Revenue; and
- 25 2. The chair of the Senate Standing Committee on Appropriations and
26 Revenue.
- 27 (2) (a) Of the members appointed pursuant to subsection (1)(a)1. of this section,

1 the Speaker of the House of Representatives shall designate one (1) as co-
2 chair of the board.

3 (b) Of the members appointed pursuant to subsection(1)(a)3. of this section, the
4 President of the Senate shall designate one (1) as co-chair of the board.

5 (c) In order to be eligible for appointment under subsection (1)(b)8. or 9. of this
6 section, an individual shall not:

7 1. Be a member of the General Assembly;

8 2. Be employed by a state agency of the Commonwealth of Kentucky; or

9 3. Receive contractual compensation for services rendered to a state
10 agency of the Commonwealth of Kentucky that would conflict with his
11 or her service on the board.

12 (d) For the purpose of appointing members described in subsection (1)(b)8.a.
13 and 9.a. of this section, "significant Medicaid-specific experience in
14 healthcare administration, financing, policy, or research" means:

15 1. Experience in administering the Kentucky Medical Assistance
16 Program;

17 2. A hospital administrator with relevant experience in Medicaid billing
18 or regulatory compliance;

19 3. An attorney licensed to practice law in the Commonwealth of
20 Kentucky with relevant experience in healthcare law;

21 4. A consumer or patient advocate with relevant experience in the area of
22 Medicaid policy; or

23 5. A current or former university professor whose primary area of
24 emphasis is healthcare economics or financing, health equity,
25 healthcare disparities, or Medicaid policy.

26 (e) Individuals appointed to the board under subsection (1)(b)8. or 9. of this
27 section shall:

- 1 1. Serve for a term of two (2) years; and
- 2 2. Not serve more than one (1) consecutive term, after which time he or
- 3 she shall not be reappointed to the board for a period of at least two
- 4 (2) years.
- 5 (f) If an individual appointed to the board pursuant to subsection (1)(b)8.b. or
- 6 9.b. of this section ceases to participate in the Medicaid program or ceases
- 7 to serve on a technical advisory committee to the Advisory Council for
- 8 Medical Assistance established in KRS 205.590, he or she may continue to
- 9 serve on the board until his or her replacement has been appointed.
- 10 (3) (a) Any vacancy which occurs in the membership of the board shall be filled in
- 11 the same manner as the original appointment.
- 12 (b) A member of the board whose term has expired may continue to serve until
- 13 such time as his or her replacement has been appointed.
- 14 (4) Members of the board shall be entitled to reimbursement for expenses incurred in
- 15 the performance of their duties on the board.

16 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
17 READ AS FOLLOWS:

- 18 (1) The board shall meet at least six (6) times during each calendar year.
- 19 (2) The co-chairs of the board shall have joint responsibilities for board meeting
- 20 agendas and presiding at board meetings.
- 21 (3) (a) On an alternating basis, each co-chair shall have the first option to set a
- 22 meeting date.
- 23 (b) A scheduled meeting may be canceled by agreement of both co-chairs.
- 24 (4) A majority of the entire voting membership of the board shall constitute a
- 25 quorum, and all actions of the board shall be by vote of a majority of its entire
- 26 voting membership.

27 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO

1 READ AS FOLLOWS:

2 *The board, consistent with its purpose as established in Section 2 of this Act, shall have*
3 *the authority to:*

4 *(1) Require any of the following entities to provide any and all information necessary*
5 *to carry out the board's duties, including any contracts entered into by the*
6 *department, the cabinet, or any other state agency related to the administration of*
7 *any aspect of the Medicaid program or the delivery of Medicaid benefits or*
8 *services:*

9 *(a) The cabinet;*

10 *(b) The department;*

11 *(c) Any other state agency;*

12 *(d) Any Medicaid managed care organization with whom the department has*
13 *contracted for the delivery of Medicaid services;*

14 *(e) The state pharmacy benefit manager contracted by the department pursuant*
15 *to KRS 205.5512; and*

16 *(f) Any other entity contracted by a state agency to administer or assist in*
17 *administering any aspect of the Medicaid program or the delivery of*
18 *Medicaid benefits or services;*

19 *(2) Establish a uniform format for reports and data submitted to the board and the*
20 *frequency, which may be monthly, quarterly, semiannually, annually, or*
21 *biannually, and the due date for the reports and data;*

22 *(3) Conduct public hearings in furtherance of its general duties, at which it may*
23 *request the appearance of officials of any state agency and solicit the testimony of*
24 *interested groups and the general public;*

25 *(4) Establish any advisory committees or subcommittees of the board that the board*
26 *deems necessary to carry out its duties;*

27 *(5) Recommend that the Auditor of Public Accounts perform a financial or special*

1 audit of the Medicaid program or any aspect thereof; and

2 (6) Subject to selection and approval by the Legislative Research Commission, utilize
3 the services of consultants, analysts, actuaries, legal counsel, and auditors to
4 render professional, managerial, and technical assistance, as needed.

5 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
6 READ AS FOLLOWS:

7 (1) The board, consistent with its purpose as established in Section 2 of this Act,
8 shall:

9 (a) On an ongoing basis, conduct an impartial review of all state laws and
10 administrative regulations governing the Medicaid program and
11 recommend to the General Assembly any changes it finds desirable with
12 respect to program administration, including delivery system models,
13 program financing, benefits and coverage policies, reimbursement rates,
14 payment methodologies, provider participation, or any other aspect of the
15 program;

16 (b) On an ongoing basis, review any change or proposed change in federal laws
17 and administrative regulations governing the Medicaid program and report
18 to the Legislative Research Commission on the probable costs, possible
19 budgetary implications, potential effect on healthcare outcomes, and the
20 overall desirability of any change or proposed change in federal laws or
21 administrative regulations governing the Medicaid program;

22 (c) At the request of the Speaker of the House of Representatives or the
23 President of the Senate, evaluate proposed changes to state laws affecting
24 the Medicaid program and report to the Speaker or the President on the
25 probable costs, possible budgetary implications, potential effect on
26 healthcare outcomes, and overall desirability as a matter of public policy;

27 (d) At the request of the Legislative Research Commission, research issues

1 related to the Medicaid program;

2 (e) Beginning in 2026 and at least once every five (5) years thereafter, cause a
3 review to be made of the administrative expenses and operational cost of the
4 Medicaid program. The review shall include but not be limited to evaluating
5 the level and growth of administrative costs, the potential for legislative
6 changes to reduce administrative costs, and administrative changes the
7 department may make to reduce administrative costs or staffing needs. At
8 the discretion of the Legislative Research Commission, the review may be
9 conducted by a consultant retained by the board;

10 (f) Beginning in 2027 and at least once every five (5) years thereafter, cause a
11 program evaluation to be conducted of the Medicaid program. In any
12 instance in which a program evaluation indicates inadequate operating or
13 administrative system controls or procedures, inaccuracies, inefficiencies,
14 waste, extravagance, unauthorized or unintended activities, or other
15 deficiencies, the board shall report its findings to the Legislative Research
16 Commission. The program evaluation shall be performed by a consultant
17 retained by the board;

18 (g) Beginning in 2028 and at least once every five (5) years thereafter, cause an
19 actuarial analysis to be performed of the Medicaid program, to evaluate the
20 sufficiency and appropriateness of Medicaid reimbursement rates
21 established by the department and those paid by any managed care
22 organization contracted by the department for the delivery of Medicaid
23 services. The actuarial analysis shall be performed by an actuary retained
24 by the board;

25 (h) Beginning in 2029 and at least once every five (5) years thereafter, cause
26 the overall health of the Medicaid population to be assessed. The
27 assessment shall include but not be limited to a review of health outcomes,

- 1 healthcare disparities among program beneficiaries and as compared to the
2 general population, and the effect of the overall health of the Medicaid
3 population on program expenses. The assessment shall be performed by a
4 consultant retained by the board; and
- 5 (i) Beginning in 2026 and annually thereafter, publish a report covering the
6 board's evaluations and recommendations with respect to the Medicaid
7 program. The report shall be submitted to the Legislative Research
8 Commission no later than December 1 of each year, and shall include at a
9 minimum a summary of the board's current evaluation of the program and
10 any legislative recommendations made by the board.
- 11 (2) The board, consistent with its purpose as established in Section 2 of this Act,
12 may:
- 13 (a) Review all new or amended administrative regulations related to the
14 Medicaid program and provide comments to the Administrative Regulation
15 Review Subcommittee established in KRS 13A.020;
- 16 (b) Make recommendations to the General Assembly, the Governor, the
17 secretary of the cabinet, and the commissioner of the department regarding
18 program administration including benefits and coverage policies, access to
19 services and provider network adequacy, healthcare outcomes and
20 disparities, reimbursement rates, payment methodologies, delivery system
21 models, funding, and administrative regulations. Recommendations made
22 pursuant to this section shall be nonbinding and shall not have the force of
23 law; and
- 24 (c) On or before December 1 of each calendar year, adopt an annual research
25 agenda. The annual research agenda may include studies, research, and
26 investigations considered by the board to be significant. Board staff shall
27 prepare a list of study and research topics related to the Medicaid program

1 for consideration by the board in the adoption of the annual research
 2 agenda. An annual research agenda adopted by the board may be amended
 3 by the Legislative Research Commission to include any studies or reports
 4 mandated by the General Assembly during the next succeeding regular
 5 session.

6 (3) At the discretion of the Legislative Research Commission, studies and research
 7 projects included in an annual research agenda adopted by the board pursuant to
 8 subsection (2)(c) of this section may be conducted by outside consultants,
 9 analysts, or researchers to ensure the timely completion of the research agenda.

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

12 The Legislative Research Commission shall have exclusive jurisdiction over the
 13 employment of personnel necessary to carry out the provisions of Sections 1 to 8 of this
 14 Act. Staff and operating costs of the board shall be provided from the budget of the
 15 Legislative Research Commission.

16 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
 17 READ AS FOLLOWS:

18 The officers and personnel of any state agency and any other person may serve at the
 19 request of the board on any advisory committees that the board may create. State
 20 officers and personnel may serve on these advisory committees without forfeiture of
 21 office or employment and with no loss or diminution in the compensation, status,
 22 rights, and privileges which they otherwise enjoy.

23 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO
 24 READ AS FOLLOWS:

25 (1) As used in this section:

26 (a) "340B covered entity":

27 1. Means a health care facility that is registered as a covered entity under

- 1 42 U.S.C. sec. 256b, as amended; and
- 2 2. Includes any pharmacy owned or contracted by a covered health care
- 3 facility to dispense covered drugs on behalf of the health care facility;
- 4 (b) "340B price" or "340B pricing" means the amount required to be paid to
- 5 the manufacturer of a covered drug as established pursuant to 42 U.S.C.
- 6 sec. 256b, as amended; and
- 7 (c) "Covered drug" has the same meaning as in 42 U.S.C. sec. 256b, as
- 8 amended.
- 9 (2) A manufacturer shall not discriminate, or cause others to discriminate, against a
- 10 340B covered entity by refusing or withholding 340B pricing for a covered drug if
- 11 the manufacturer offers the same drug at a 340B price in any other state.
- 12 Discrimination prohibited under this section also includes but is not limited to
- 13 any manufacturer-imposed condition, limitation, or delay on the sale of or
- 14 purchase of a covered drug at a 340B price, unless the condition, limitation, or
- 15 delay is expressly required under federal or state law.
- 16 (3) In addition to any private right of action, any person who believes that a
- 17 manufacturer is in violation of subsection (2) of this section may make a
- 18 complaint to the Attorney General who may, pursuant to KRS 315.235,
- 19 investigate the complaint.
- 20 (4) Nothing in this section shall be construed or interpreted to be less restrictive than,
- 21 or in conflict with, any other federal or state law.

22 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO

23 READ AS FOLLOWS:

- 24 (1) The Department for Medicaid Services shall administer the state's Medicaid
- 25 program under a fee-for-service model, Medicaid managed care model, or other
- 26 Medicaid delivery system model as permitted under federal law.
- 27 (2) If at any time on or after January 1, 2026, the Department for Medicaid Services

1 chooses to utilize a Medicaid managed care model for the administration of any
2 part of the state's Medicaid program, the Department for Medicaid Services shall
3 not award a contract for the delivery of Medicaid services to more than three (3)
4 Medicaid managed care organizations or other entities seeking to provide
5 Medicaid benefits under this chapter.

6 (3) Nothing in this section prohibits the administration of the Medicaid program
7 under more than one (1) delivery system model.

8 ➔Section 11. Notwithstanding any provision of law to the contrary, the Cabinet
9 for Health and Family Services, Department for Medicaid Services shall procure new
10 Medicaid managed care contracts in accordance with KRS Chapter 45A and Section 10
11 of this Act. Contracts procured under this section shall have an effective date no later
12 than January 1, 2027.

13 ➔Section 12. Whereas there is urgent need to establish legislative oversight of the
14 Kentucky Medical Assistance Program in order to ensure efficient program
15 administration and timely access to benefits and to provide members of the General
16 Assembly with the information and data necessary to make informed decisions about the
17 Kentucky Medical Assistance program, an emergency is declared to exist, and Sections 1
18 to 8 of this Act take effect upon its passage and approval by the Governor or upon its
19 otherwise becoming a law.