

1 AN ACT relating to freestanding birthing centers.

2 WHEREAS, the right to life is the most fundamental human right, forming the basis
3 for all other rights, as recognized in the principles of natural law, the Constitution of the
4 United States, and the Constitution of Kentucky; and

5 WHEREAS, appropriate and comprehensive perinatal care is essential for ensuring
6 the health and well-being of both the mother and the unborn child, encompassing
7 prenatal, intrapartum, and postpartum care to optimize health outcomes and address
8 potential complications; and

9 WHEREAS, all childbearing women and families have the right to receive
10 comprehensive, evidence-based information regarding their perinatal care and birth
11 setting options; and

12 WHEREAS, accredited freestanding birth centers follow established standards of
13 care, ensuring high-quality, evidence-based maternity services while maintaining
14 collaborative relationships with hospitals and medical providers for seamless transfer
15 when necessary; and

16 WHEREAS, freestanding birth centers provide a safe and regulated alternative for
17 maternity care, offering a medically directed care, midwifery-led model that emphasizes
18 holistic, patient-centered care; and

19 WHEREAS, elective abortion restrictions under Kentucky law, as enacted, include
20 medically necessary exceptions and interventions required to preserve the life of the
21 mother; and

22 WHEREAS, there is a need to clarify the distinction between an elective abortion
23 and illegal termination of the life of an unborn child protected under Kentucky law and
24 medically necessary interventions that affirm the fundamental right to life, ensure
25 compassionate and comprehensive care for mothers and unborn children that are
26 appropriate medical management for serious and life-threatening perinatal medical
27 complications such as spontaneous miscarriage, or to treat conditions such as ectopic and

1 molar pregnancies; and

2 WHEREAS, lifesaving miscarriage management, including medical procedures
3 necessary to address spontaneous abortion, also known as miscarriage, inevitable
4 abortion, or incomplete abortion, is an essential component of comprehensive medical
5 care and is distinct from elective abortion; and

6 WHEREAS, medical conditions such as ectopic pregnancy, molar pregnancy,
7 sepsis, and hemorrhage may necessitate emergency interventions to prevent maternal
8 death or serious and permanent impairment of a life-sustaining organ; and

9 WHEREAS, in cases where a pregnancy has ended, or is in the unavoidable and
10 untreatable process of ending, it is necessary to provide appropriate consultation and
11 medical care, including the removal of a deceased unborn child from the uterine cavity
12 when no fetal cardiac activity is present; and

13 WHEREAS, lifesaving miscarriage management refers to medically necessary
14 interventions performed by healthcare professionals to protect the life of a pregnant
15 woman experiencing a spontaneous pregnancy loss or a life-threatening pregnancy
16 complication, distinguishing these interventions from elective abortion as these
17 interventions are intended solely to address natural pregnancy complications where the
18 unborn child has already died, the pregnancy is no longer viable, or to prevent the death
19 or substantial risk of death to the pregnant woman due to a physical condition, or to
20 prevent the serious, permanent impairment of a life-sustaining organ of a pregnant
21 woman; and

22 WHEREAS, stillbirth, early fetal demise, and the death of an unborn child have
23 many causes, including perinatal and intrapartum complications, hypertension, diabetes,
24 infection, congenital and genetic abnormalities, placental dysfunction, and pregnancy
25 continuing beyond 40 weeks and are catastrophic events with lasting consequences on the
26 expectant mother, family, and all of society; and

27 WHEREAS, initiatives such as Kentucky Perinatal Quality Collaborative (KyPQC),

1 formed in 2019 as a statewide network working in collaboration with healthcare
2 providers, delivery hospitals, insurers, advocacy groups, and state and national
3 stakeholders, demonstrate an ongoing commitment to improve the quality of care during
4 pregnancy, delivery, and throughout the first year of a child's life in the Commonwealth;
5 and

6 WHEREAS, perinatal palliative care programs provide essential support and
7 resources to pregnant women and families facing complex and life-limiting prenatal
8 diagnoses, ensuring compassionate care, informed decision-making, and emotional,
9 spiritual, and medical guidance; and

10 WHEREAS, hospitals, birthing centers, maternal-fetal specialists, and midwives
11 have a shared responsibility to offer or refer patients to perinatal palliative care programs
12 and support services when a prenatal diagnosis indicates that a baby may die before or
13 after birth, or when a newborn is diagnosed with a life-limiting condition; and

14 WHEREAS, the Cabinet for Health and Family Services should maintain a list of
15 perinatal palliative care programs and providers to ensure accessibility and awareness
16 among healthcare professionals and expectant families; and

17 WHEREAS, the 2024 committee opinion of the American College of Obstetricians
18 and Gynecologists' Committee on Obstetric Practice and Ethics expresses support for
19 perinatal palliative care as a coordinated care strategy that comprises options for obstetric
20 and newborn care that include a focus on maximizing quality of life and comfort for
21 newborns with a variety of conditions considered to be life-limiting in early infancy and a
22 dual focus on ameliorating suffering and honoring patient values, perinatal palliative care
23 provided concurrently with life-prolonging treatment; and

24 WHEREAS, the 2024 committee opinion of the American College of Obstetricians
25 and Gynecologists' Committee on Obstetric Practice and Ethics states that the birth plan
26 is an individualized proposal for delivery and neonatal care and a critical prenatal
27 component of perinatal palliative comfort care; and

1 WHEREAS, the American Academy of Pediatrics and the Society for Maternal-
2 Fetal Medicine endorsed the 2024 committee opinion on perinatal palliative care of the
3 American College of Obstetricians and Gynecologists' committees;

4 NOW, THEREFORE,

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

6 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO
7 READ AS FOLLOWS:

8 *(1) As used in this section, "freestanding birthing center" means any health facility,*
9 *place, or institution which is not a hospital, is not in a hospital or a private*
10 *residence, and is established to provide care for labor, delivery, the immediate*
11 *postpartum period, and the newborn immediately following delivery.*

12 *(2) The cabinet shall establish licensure standards for freestanding birthing centers*
13 *that:*

14 *(a) Require accreditation by the Commission for the Accreditation of Birth*
15 *Centers;*

16 *(b) Delineate requirements for medical malpractice insurance;*

17 *(c) Require location within thirty (30) miles of a hospital. If a hospital located*
18 *within thirty (30) miles of a freestanding birthing center ceases operations*
19 *after a freestanding birthing center has been established, the requirement of*
20 *this paragraph shall not apply to the affected freestanding birthing center;*

21 *(d) Do not prohibit a hospital from owning or operating a freestanding birthing*
22 *center that complies with the requirements of this section; and*

23 *(e) Include any other requirements deemed necessary by the cabinet that are*
24 *not inconsistent with the other requirements of this section.*

25 *(3) (a) A freestanding birthing center shall have a medical director who is a*
26 *licensed physician who has, at a minimum, the following functions:*

27 *1. Participation in approval of criteria that would exclude a client or*

- 1 newborn from receiving care at the freestanding birthing center; and
- 2 2. Participation in the quality review functions of the freestanding
- 3 birthing center, including review of transfers and sentinel events.
- 4 (b) The cabinet shall establish a timeline for a freestanding birthing center to
- 5 fill the position of medical director if the position becomes vacant.
- 6 (4) A freestanding birthing center shall obtain written informed consent for each
- 7 client receiving care. The written informed consent shall include:
- 8 (a) A description of the benefits, risks, and eligibility requirements for receiving
- 9 care at the freestanding birthing center;
- 10 (b) A description of the education and credentials of practitioners providing
- 11 clinical care at the freestanding birthing center;
- 12 (c) Instructions for obtaining a copy of the administrative regulations
- 13 promulgated pursuant to this section;
- 14 (d) Instructions for filing a complaint relating to the freestanding birthing
- 15 center with the cabinet;
- 16 (e) A summary of a written protocol for emergencies, including transfer to a
- 17 higher level of care;
- 18 (f) Disclosure of professional liability insurance held by health care providers
- 19 at the freestanding birthing center; and
- 20 (g) A summary of procedures established by the freestanding birthing center
- 21 for professional collaboration with other care providers.
- 22 (5) (a) A freestanding birthing center shall have a written patient transfer
- 23 agreement with a hospital that provides obstetric services. The cabinet shall
- 24 establish minimum requirements for the patient transfer agreement which
- 25 shall include:
- 26 1. Specifying the responsibilities that a freestanding birthing center and
- 27 a hospital assume in the transfer of a patient; and

- 1 2. Establishing the freestanding birthing center's responsibility for:
- 2 a. Notifying the receiving hospital promptly of the impending
- 3 transfer of a patient; and
- 4 b. Arranging for appropriate and safe transportation.
- 5 (b) The cabinet shall establish a process and criteria by which the requirement
- 6 of paragraph (a) of this subsection may be waived if a freestanding birthing
- 7 center submits to the cabinet evidence of a failure by a hospital that
- 8 provides obstetric services to enter into a written patient transfer agreement
- 9 with the freestanding birthing center.
- 10 (6) (a) A freestanding birthing center shall have a written patient transfer
- 11 agreement with a licensed emergency medical transportation service.
- 12 (b) The cabinet shall establish a process and criteria by which the requirement
- 13 of paragraph (a) of this subsection may be waived if a freestanding birthing
- 14 center submits to the cabinet evidence of a failure by a licensed emergency
- 15 medical transportation service to enter into a written patient transfer
- 16 agreement with the freestanding birthing center.
- 17 (7) A certificate of need shall not be required to establish and license a freestanding
- 18 birthing center with no more than four (4) beds.
- 19 (8) (a) Nothing in this section is intended to expand or limit the liability of a health
- 20 care provider, health care facility, or freestanding birthing center.
- 21 (b) In the event of an action for injury or death due to any act or omission of a
- 22 health care provider rendering services at a freestanding birthing center
- 23 from which an injured patient is transferred to any other licensed health
- 24 care provider or licensed health care facility:
- 25 1. The liability of the subsequent licensed health care provider or
- 26 licensed health care facility shall be limited to their own negligent acts
- 27 and omissions that violate their standards of care according to existing

1 law, except as provided in subparagraph 2. of this paragraph; and
 2 2. If the subsequent licensed health care provider or licensed health care
 3 facility owns, operates, or provides care at the freestanding birthing
 4 center from which the injured patient was transferred, then the
 5 licensed health care provider or licensed health care facility shall be
 6 liable for acts or omissions that violate their standards of care and that
 7 occurred at the freestanding birthing center.

8 (9) In accordance with Section 22 of this Act, no person shall perform an abortion in
 9 a freestanding birthing center.

10 ➔Section 2. 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
10 federal, 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
16 and 216B.061;
- 17 (5) "Applicant" means any physician's office requesting a major medical equipment
18 expenditure exceeding the capital expenditure minimum, or any person, health
19 facility, or health service requesting a certificate of need or license;
- 20 (6) "Cabinet" means the Cabinet for Health and Family Services;
- 21 (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 (8) "Capital expenditure minimum" means the annually adjusted amount set by the
2 cabinet. In determining whether an expenditure exceeds the expenditure minimum,
3 the cost of any studies, surveys, designs, plans, working drawings, specifications,
4 and other activities essential to the improvement, expansion, or replacement of any
5 plant or any equipment with respect to which the expenditure is made shall be
6 included. Donations of equipment or facilities to a health facility which if acquired
7 directly by the facility would be subject to review under this chapter shall be
8 considered a capital expenditure, and a transfer of the equipment or facilities for
9 less than fair market value shall be considered a capital expenditure if a transfer of
10 the equipment or facilities at fair market value would be subject to review;
- 11 (9) "Certificate of need" means an authorization by the cabinet to acquire, to establish,
12 to offer, to substantially change the bed capacity, or to substantially change a health
13 service as covered by this chapter;
- 14 (10) "Certified surgical assistant" means a certified surgical assistant or certified first
15 assistant who is certified by the National Surgical Assistant Association on the
16 Certification of Surgical Assistants, the Liaison Council on Certification of Surgical
17 Technologists, or the American Board of Surgical Assistants. The certified surgical
18 assistant is an unlicensed health-care provider who is directly accountable to a
19 physician licensed under KRS Chapter 311 or, in the absence of a physician, to a
20 registered nurse licensed under KRS Chapter 314;
- 21 (11) "Continuing care retirement community" means a community that provides, on the
22 same campus, a continuum of residential living options and support services to
23 persons sixty (60) years of age or older under a written agreement. The residential
24 living options shall include independent living units, nursing home beds, and either
25 assisted living units or personal care beds;
- 26 (12) "Formal review process" means the ninety (90) day certificate-of-need review
27 conducted by the cabinet;

- 1 (13) "Health facility" means any institution, place, building, agency, or portion thereof,
2 public or private, whether organized for profit or not, used, operated, or designed to
3 provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and
4 includes alcohol abuse, drug abuse, and mental health services. This shall include
5 but shall not be limited to health facilities and health services commonly referred to
6 as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical
7 dependency programs, nursing facilities, nursing homes, personal care homes,
8 intermediate care facilities, assisted living communities, family care homes,
9 outpatient clinics, ambulatory care facilities, ambulatory surgical centers,
10 emergency care centers and services, ambulance providers, hospices, community
11 mental health centers, home health agencies, kidney disease treatment centers and
12 freestanding hemodialysis units, freestanding birthing centers as defined in
13 Section 1 of this Act, and others providing similarly organized services regardless
14 of nomenclature;
- 15 (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 (15) "Independent living" means the provision of living units and supportive services,
20 including but not limited to laundry, housekeeping, maintenance, activity direction,
21 security, dining options, and transportation;
- 22 (16) "Intraoperative surgical care" includes the practice of surgical assisting in which the
23 certified surgical assistant or physician assistant is working under the direction of
24 the operating physician as a first or second assist, and which may include the
25 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
6 the 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 (17) "Major medical equipment" means equipment which is used for the provision of
10 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 (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 (21) "Perioperative nursing" means a practice of nursing in which the nurse provides
- 8 preoperative, intraoperative, and postoperative nursing care to surgical patients;
- 9 (22) "Person" means an individual, a trust or estate, a partnership, a corporation, an
- 10 association, a group, state, or political subdivision or instrumentality including a
- 11 municipal corporation of a state;
- 12 (23) "Physician assistant" means the same as the definition provided in KRS 311.550;
- 13 (24) "Record" means, as applicable in a particular proceeding:
- 14 (a) The application and any information provided by the applicant at the request
- 15 of the cabinet;
- 16 (b) Any information provided by a holder of a certificate of need or license in
- 17 response to a notice of revocation of a certificate of need or license;
- 18 (c) Any memoranda or documents prepared by or for the cabinet regarding the
- 19 matter under review which were introduced at any hearing;
- 20 (d) Any staff reports or recommendations prepared by or for the cabinet;
- 21 (e) Any recommendation or decision of the cabinet;
- 22 (f) Any testimony or documentary evidence adduced at a hearing;
- 23 (g) The findings of fact and opinions of the cabinet or the findings of fact and
- 24 recommendation of the hearing officer; and
- 25 (h) Any other items required by administrative regulations promulgated by the
- 26 cabinet;
- 27 (25) "Registered nurse first assistant" means one who:

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

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

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

13 (c) of this subsection;

14 (26) "Secretary" means the secretary of the Cabinet for Health and Family Services;

15 (27) "Sexual assault examination facility" means a licensed health facility, emergency

16 medical facility, primary care center, or a children's advocacy center or rape crisis

17 center that is regulated by the Cabinet for Health and Family Services, and that

18 provides sexual assault examinations under KRS 216B.400;

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

20 approved by the Governor;

21 (29) "Substantial change in a health service" means:

22 (a) The addition of a health service for which there are review criteria and

23 standards in the state health plan; or

24 (b) The addition of a health service subject to licensure under this chapter;

25 (30) "Substantial change in bed capacity" means the addition or reduction of beds by

26 licensure classification within a health facility;

27 (31) "Substantial change in a project" means a change made to a pending or approved

1 project which results in:

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

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

5 (c) A change of location; or

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

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

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

17 (34) "To establish" means to construct, develop, or initiate a health facility;

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

23 (36) "To offer" means, when used in connection with health services, to hold a health
24 facility out as capable of providing, or as having the means of providing, specified
25 health services.

26 ➔Section 3. KRS 216B.020 is amended to read as follows:

27 (1) The provisions of this chapter that relate to the issuance of a certificate of need shall

1 not apply to abortion facilities as defined in KRS 216B.015; any hospital which
2 does not charge its patients for hospital services and does not seek or accept
3 Medicare, Medicaid, or other financial support from the federal government or any
4 state government; assisted living residences; family care homes; state veterans'
5 nursing homes; services provided on a contractual basis in a rural primary-care
6 hospital as provided under KRS 216.380; community mental health centers for
7 services as defined in KRS Chapter 210; primary care centers; rural health clinics;
8 private duty nursing services operating as health care services agencies as defined
9 in KRS 216.718; group homes; licensed residential crisis stabilization units;
10 licensed free-standing residential substance use disorder treatment programs with
11 sixteen (16) or fewer beds, but not including Levels I and II psychiatric residential
12 treatment facilities or licensed psychiatric inpatient beds; outpatient behavioral
13 health treatment, but not including partial hospitalization programs; end stage renal
14 disease dialysis facilities, freestanding or hospital based; swing beds; special
15 clinics, including but not limited to wellness, weight loss, family planning,
16 disability determination, speech and hearing, counseling, pulmonary care, and other
17 clinics which only provide diagnostic services with equipment not exceeding the
18 major medical equipment cost threshold and for which there are no review criteria
19 in the state health plan; nonclinically related expenditures; nursing home beds that
20 shall be exclusively limited to on-campus residents of a certified continuing care
21 retirement community; home health services provided by a continuing care
22 retirement community to its on-campus residents; the relocation of hospital
23 administrative or outpatient services into medical office buildings which are on or
24 contiguous to the premises of the hospital; the relocation of acute care beds which
25 occur among acute care hospitals under common ownership and which are located
26 in the same area development district so long as there is no substantial change in
27 services and the relocation does not result in the establishment of a new service at

1 the receiving hospital for which a certificate of need is required; the redistribution
2 of beds by licensure classification within an acute care hospital so long as the
3 redistribution does not increase the total licensed bed capacity of the hospital;
4 residential hospice facilities established by licensed hospice programs; **freestanding**
5 **birthing centers as defined in Section 1 of this Act**; the following health services
6 provided on site in an existing health facility when the cost is less than six hundred
7 thousand dollars (\$600,000) and the services are in place by December 30, 1991:
8 psychiatric care where chemical dependency services are provided, level one (1)
9 and level two (2) of neonatal care, cardiac catheterization, and open heart surgery
10 where cardiac catheterization services are in place as of July 15, 1990; or
11 ambulance services operating in accordance with subsection (6), (7), or (8) of this
12 section. These listed facilities or services shall be subject to licensure, when
13 applicable.

14 (2) Nothing in this chapter shall be construed to authorize the licensure, supervision,
15 regulation, or control in any manner of:

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

20 (b) Office buildings built by or on behalf of a health facility for the exclusive use
21 of physicians, dentists, and other practitioners of the healing arts; unless the
22 physician's office meets the criteria set forth in KRS 216B.015(5), or unless
23 the physician's office is also an abortion facility as defined in KRS 216B.015,
24 except no capital expenditure or expenses relating to any such building shall
25 be chargeable to or reimbursable as a cost for providing inpatient services
26 offered by a health facility;

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

- 1 1. Do not provide services or hold patients in the facility after midnight;
2 and
3 2. Are exempt from certificate of need and licensure under subsection (3)
4 of this section;
- 5 (d) Dispensaries and first-aid stations located within business or industrial
6 establishments maintained solely for the use of employees, if the facility does
7 not contain inpatient or resident beds for patients or employees who generally
8 remain in the facility for more than twenty-four (24) hours;
- 9 (e) Establishments, such as motels, hotels, and boarding houses, which provide
10 domiciliary and auxiliary commercial services, but do not provide any health
11 related services and boarding houses which are operated by persons
12 contracting with the United States Department of Veterans Affairs for
13 boarding services;
- 14 (f) The remedial care or treatment of residents or patients in any home or
15 institution conducted only for those who rely solely upon treatment by prayer
16 or spiritual means in accordance with the creed or tenets of any recognized
17 church or religious denomination and recognized by that church or
18 denomination; and
- 19 (g) On-duty police and fire department personnel assisting in emergency
20 situations by providing first aid or transportation when regular emergency
21 units licensed to provide first aid or transportation are unable to arrive at the
22 scene of an emergency situation within a reasonable time.
- 23 (3) The following outpatient categories of care shall be exempt from certificate of need
24 and licensure on July 14, 2018:
- 25 (a) Primary care centers;
- 26 (b) Special health clinics, unless the clinic provides pain management services
27 and is located off the campus of the hospital that has majority ownership

- 1 interest;
- 2 (c) Specialized medical technology services, unless providing a State Health Plan
- 3 service;
- 4 (d) Retail-based health clinics and ambulatory care clinics that provide
- 5 nonemergency, noninvasive treatment of patients;
- 6 (e) Ambulatory care clinics treating minor illnesses and injuries;
- 7 (f) Mobile health services, unless providing a service in the State Health Plan;
- 8 (g) Rehabilitation agencies;
- 9 (h) Rural health clinics; and
- 10 (i) Off-campus, hospital-acquired physician practices.
- 11 (4) The exemptions established by subsections (2) and (3) of this section shall not
- 12 apply to the following categories of care:
- 13 (a) An ambulatory surgical center as defined by KRS 216B.015(4);
- 14 (b) A health facility or health service that provides one (1) of the following types
- 15 of services:
- 16 1. Cardiac catheterization;
- 17 2. Megavoltage radiation therapy;
- 18 3. Adult day health care;
- 19 4. Behavioral health services;
- 20 5. Chronic renal dialysis;{
- 21 ~~6. Birthing services;}~~ or
- 22 ~~6.7.}~~Emergency services above the level of treatment for minor illnesses or
- 23 injuries;
- 24 (c) A pain management facility as defined by KRS 218A.175(1);
- 25 (d) An abortion facility that requires licensure pursuant to KRS 216B.0431; or
- 26 (e) A health facility or health service that requests an expenditure that exceeds the
- 27 major medical expenditure minimum.

- 1 (5) An existing facility licensed as an intermediate care or nursing home shall notify
2 the cabinet of its intent to change to a nursing facility as defined in Public Law 100-
3 203. A certificate of need shall not be required for conversion of an intermediate
4 care or nursing home to the nursing facility licensure category.
- 5 (6) Ambulance services owned and operated by a city government, which propose to
6 provide services in coterminous cities outside of the ambulance service's designated
7 geographic service area, shall not be required to obtain a certificate of need if the
8 governing body of the city in which the ambulance services are to be provided
9 enters into an agreement with the ambulance service to provide services in the city.
- 10 (7) Ambulance services owned by a hospital shall not be required to obtain a certificate
11 of need for the sole purpose of providing non-emergency and emergency transport
12 services originating from its hospital.
- 13 (8) (a) As used in this subsection, "emergency ambulance transport services" means
14 the transportation of an individual that has an emergency medical condition
15 with acute symptoms of sufficient severity that the absence of immediate
16 medical attention could reasonably be expected to place the individual's health
17 in serious jeopardy or result in the serious impairment or dysfunction of the
18 individual's bodily organs.
- 19 (b) A city or county government that has conducted a public hearing for the
20 purposes of demonstrating that an imperative need exists in the city or county
21 to provide emergency ambulance transport services within its jurisdictional
22 boundaries shall not be required to obtain a certificate of need for the city or
23 county to:
- 24 1. Directly provide emergency ambulance transport services as defined in
25 this subsection within the city's or county's jurisdictional boundaries; or
 - 26 2. Enter into a contract with a hospital or hospitals within its jurisdiction,
27 or within an adjoining county if there are no hospitals located within the

1 county, for the provision of emergency ambulance transport services as
2 defined in this subsection within the city's or county's jurisdictional
3 boundaries.

4 (c) Any license obtained under KRS Chapter 311A by a city or county for the
5 provision of ambulance services operating under a certificate of need
6 exclusion pursuant to this subsection shall be held exclusively by the city or
7 county government and shall not be transferrable to any other entity.

8 (d) Prior to obtaining the written agreement of a city, an ambulance service
9 operating under a county government certificate of need exclusion pursuant to
10 this subsection shall not provide emergency ambulance transport services
11 within the boundaries of any city that:

- 12 1. Possesses a certificate of need to provide emergency ambulance
13 services;
- 14 2. Has an agency or department thereof that holds a certificate of need to
15 provide emergency ambulance services; or
- 16 3. Is providing emergency ambulance transport services within its
17 jurisdictional boundaries pursuant to this subsection.

18 (9) (a) Except where a certificate of need is not required pursuant to subsection (6),
19 (7), or (8) of this section, the cabinet shall grant nonsubstantive review for a
20 certificate of need proposal to establish an ambulance service that is owned by
21 a:

- 22 1. City government;
- 23 2. County government; or
- 24 3. Hospital, in accordance with paragraph (b) of this subsection.

25 (b) A notice shall be sent by the cabinet to all cities and counties that a certificate
26 of need proposal to establish an ambulance service has been submitted by a
27 hospital. The legislative bodies of the cities and counties affected by the

1 hospital's certificate of need proposal shall provide a response to the cabinet
2 within thirty (30) days of receiving the notice. The failure of a city or county
3 legislative body to respond to the notice shall be deemed to be support for the
4 proposal.

5 (c) An ambulance service established under this subsection shall not be
6 transferred to another entity that does not meet the requirements of paragraph
7 (a) of this subsection without first obtaining a substantive certificate of need.

8 (10) Notwithstanding any other provision of law, a continuing care retirement
9 community's nursing home beds shall not be certified as Medicaid eligible unless a
10 certificate of need has been issued authorizing applications for Medicaid
11 certification. The provisions of subsection (5) of this section notwithstanding, a
12 continuing care retirement community shall not change the level of care licensure
13 status of its beds without first obtaining a certificate of need.

14 (11) An ambulance service established under subsection (9) of this section shall not be
15 transferred to an entity that does not qualify under subsection (9) of this section
16 without first obtaining a substantive certificate of need.

17 (12) (a) The provisions of subsections (7), (8), and (9) of this section shall expire on
18 July 1, 2026.

19 (b) All actions taken by cities, counties, and hospitals, exemptions from obtaining
20 a certificate of need, and any certificate of need granted under subsections (7),
21 (8), and (9) of this section prior to July 1, 2026, shall remain in effect on and
22 after July 1, 2026.

23 ➔Section 4. KRS 196.173 is amended to read as follows:

24 (1) Except as provided in subsection (2) of this section, an inmate housed in a jail,
25 penitentiary, or local or state correctional or detention facility, residential center, or
26 reentry center who is known to be pregnant shall be restrained solely with
27 handcuffs in front of her body unless further restraint is required to protect herself

1 or others.

2 (2) (a) Except in an extraordinary circumstance, no inmate who is known to be
3 pregnant shall be restrained during labor, during transport to a medical facility
4 or freestanding birthing center for delivery, or during postpartum recovery.

5 (b) As used in this subsection, "extraordinary circumstance" means that
6 reasonable grounds exist to believe the inmate presents an immediate and
7 credible:

8 1. Serious threat of hurting herself, staff, or others; or

9 2. Risk of escape that cannot be reasonably minimized through any method
10 other than restraints.

11 ➔Section 5. KRS 211.122 is amended to read as follows:

12 (1) The Cabinet for Health and Family Services shall, in cooperation with maternal and
13 infant health and mental health professional societies:

14 (a) Develop written information on perinatal mental health disorders and make it
15 available on its website for access by freestanding birthing centers, hospitals
16 that provide labor and delivery services, and the public; and

17 (b) Provide access on its website to one (1) or more evidence-based clinical
18 assessment tools designed to detect the symptoms of perinatal mental health
19 disorders for use by health care providers providing perinatal care and health
20 care providers providing pediatric infant care.

21 (2) The Cabinet for Health and Family Services shall establish the Kentucky Maternal
22 and Infant Health Collaborative. The collaborative shall be composed of the
23 following members appointed by the secretary of the Cabinet for Health and Family
24 Services:

25 (a) Four (4) representatives of health care facilities that provide obstetrical,
26 newborn, maternal, and infant health care, one (1) of whom shall be a member
27 of the Kentucky Chapter of the American College of Obstetricians and

- 1 Gynecologists;
- 2 (b) Two (2) providers of maternal mental health care;
- 3 (c) Two (2) representatives of university mental health training programs;
- 4 (d) Two (2) maternal health advocates;
- 5 (e) Three (3) women, each of whom shall have experience living with at least one
- 6 (1) of the following:
- 7 1. Perinatal mental health disorders;
- 8 2. Substance use disorder; and
- 9 3. Intimate partner violence;
- 10 (f) One (1) public health director of a local health department in the
- 11 Commonwealth; and
- 12 (g) The commissioner of the Department for Public Health or his or her designee.
- 13 (3) The purposes of the collaborative shall be:
- 14 (a) Improving the quality of prevention and treatment of perinatal mental health
- 15 disorders;
- 16 (b) Promoting the implementation of evidence-based bundles of care to improve
- 17 patient safety;
- 18 (c) Identifying unaddressed gaps in service related to perinatal mental health
- 19 disorders that are linked to geographic, racial, and ethnic inequalities; lack of
- 20 screenings; and insufficient access to treatments, professionals, or support
- 21 groups; and
- 22 (d) Exploring grant and other funding opportunities and making
- 23 recommendations for funding allocations to address the need for services and
- 24 supports for perinatal mental health disorders.
- 25 (4) The collaborative shall annually review the operations of the Kentucky Maternal
- 26 Psychiatry Access Program established in KRS 211.123.
- 27 (5) The objectives set forth in subsection (3) of this section may be achieved by

1 incorporating the collaborative's findings and recommendations into other programs
2 administered by the Cabinet for Health and Family Services that are intended to
3 improve maternal health care quality and safety.

4 (6) On or before November 1 of each year, the collaborative shall submit a report to the
5 Interim Joint Committee on Families and Children, the Interim Joint Committee on
6 Health Services, and the Advisory Council for Medical Assistance describing the
7 collaborative's work and any recommendations to address identified gaps in
8 services and supports for perinatal mental health disorders.

9 ➔Section 6. KRS 211.647 is amended to read as follows:

10 (1) The office, on receipt of an auditory screening report of an infant from a hospital or
11 freestanding~~[alternative]~~ birthing center in accordance with KRS 216.2970, shall
12 review each auditory screening report that indicates a potential hearing loss. The
13 office shall contact the parents to schedule follow-up evaluations or make a referral
14 for evaluations within three (3) business days.

15 (2) The office shall secure information missing from birth certificates or hospital
16 referral reports which is relevant to identifying infants with a hearing loss.

17 (3) The office shall establish standards for infant audiological assessment and
18 diagnostic centers based on accepted national standards, including but not limited to
19 the "Guidelines for the Audiologic Assessment of Children From Birth to 5 Years
20 of Age" as published by the American Speech-Language-Hearing Association
21 (ASHA) and the "Year 2007 Position Statement: Principles and Guidelines for
22 Early Hearing Detection and Intervention Programs" as published by the Joint
23 Committee on Infant Hearing (JCIH). The office may promulgate administrative
24 regulations in accordance with KRS Chapter 13A to establish the standards for the
25 centers.

26 (4) The office shall maintain a list of approved infant audiological assessment and
27 diagnostic centers that meet the standards established by the office. An audiological

1 assessment and diagnostic center included on the list shall meet the standards
2 established by the office. An approved center may voluntarily choose not to be
3 included on the list.

4 (5) An approved audiology assessment and diagnostic center shall agree to provide
5 requested data to the office for each infant evaluated and on any newly identified
6 children ages birth to three (3) years with a permanent childhood hearing loss
7 within forty-eight (48) hours and make a referral to the Kentucky Early Intervention
8 System point of entry in the service area of the child's residence for services under
9 KRS 200.664. A center shall submit documentation to the office of a referral made
10 to the Kentucky Early Intervention System. A referral received by the Kentucky
11 Early Intervention System from a center shall be considered a referral from the
12 office.

13 (6) If the audiological evaluation performed by the office contains evidence of a
14 hearing loss, within forty-eight (48) hours the office shall:

15 (a) Contact the attending physician and parents and provide information to the
16 parents in an accessible format as supplied by the Kentucky Commission on
17 the Deaf and Hard of Hearing; and

18 (b) Make a referral to the Kentucky Early Intervention System point of entry in
19 the service area of the child's residence for services under KRS 200.664.

20 (7) The office shall forward a report of an audiological evaluation that indicates a
21 hearing loss, with no information that personally identifies the child, to:

22 (a) The Kentucky Commission on the Deaf and Hard of Hearing for census
23 purposes; and

24 (b) The Kentucky Birth Surveillance Registry for information purposes.

25 (8) Cumulative demographic data of identified infants with a hearing loss shall be made
26 available to agencies and organizations including but not limited to the Cabinet for
27 Health and Family Services and the Early Childhood Advisory Council, requesting

1 the information for planning purposes.

2 ➔Section 7. KRS 211.660 is amended to read as follows:

- 3 (1) The Department for Public Health shall establish and maintain a Kentucky birth
4 surveillance registry that will provide a system for the collection of information
5 concerning birth defects, stillbirths, and high-risk conditions. The system may cover
6 all or part of the Commonwealth.
- 7 (2) In establishing the system, the department may review vital statistics records, and
8 shall also consider expanding the current list of congenital anomalies and high-risk
9 conditions as reported on birth certificates.
- 10 (3) (a) The department may require general acute-care hospitals licensed under KRS
11 Chapter 216B to maintain a list of all inpatients and voluntarily to maintain a
12 list of all outpatients up to the age of five (5) years with a primary diagnosis
13 of a congenital anomaly or high-risk condition as defined by the department
14 upon the recommendation of the appointed advisory committee. Hospital
15 participation regarding its outpatients shall be voluntary and subject to the
16 discretion of each hospital.
- 17 (b) The department may require medical laboratories licensed under KRS Chapter
18 333 to maintain medical records for all persons up to the age of five (5) years
19 with a primary diagnosis of or a laboratory test result indicating congenital
20 anomaly or high-risk condition as defined by the department upon the
21 recommendation of the appointed advisory committee.
- 22 (4) Each licensed ***freestanding***~~[free-standing]~~ birthing center, general acute-care
23 hospital licensed under KRS Chapter 216B, and medical laboratory licensed under
24 KRS Chapter 333 shall grant, if required or otherwise participating voluntarily
25 under the provisions of subsection (3) of this section, to any Kentucky Birth
26 Surveillance Registry personnel or his or her designee, upon presentation of proper
27 identification, access to the medical records of any patient meeting the criteria in

1 subsection (3) of this section. If the department's agent determines that copying of
2 the medical records is necessary, associated costs shall be borne by the Department
3 for Public Health at the rate pursuant to KRS 422.317.

4 (5) No liability of any kind, character, damages, or other relief shall arise or be
5 enforced against any licensed freestanding~~[free-standing]~~ birthing center, general
6 acute-care hospital, or medical laboratory by reason of having provided the
7 information or material to the Kentucky Birth Surveillance Registry.

8 (6) The Department for Public Health may implement the provisions of KRS 211.651
9 to 211.670 through the promulgation of administrative regulations in accordance
10 with the provisions of KRS Chapter 13A.

11 ➔Section 8. KRS 213.046 is amended to read as follows:

12 (1) A certificate of birth for each live birth which occurs in the Commonwealth shall be
13 filed with the state registrar within five (5) working days after such birth and shall
14 be registered if it has been completed and filed in accordance with this section and
15 applicable administrative regulations. No certificate shall be held to be complete
16 and correct that does not supply all items of information called for in this section
17 and in KRS 213.051, or satisfactorily account for their omission except as provided
18 in KRS 199.570(3). If a certificate of birth is incomplete, the state registrar shall
19 immediately notify the responsible person and require that person to supply the
20 missing items, if that information can be obtained.

21 (2) When a birth occurs in a health facility~~[an institution]~~ or en route thereto, the
22 person in charge of the health facility~~[institution]~~ or that person's designated
23 representative, shall obtain the personal data, prepare the certificate, secure the
24 signatures required, and file the certificate as directed in subsection (1) of this
25 section or as otherwise directed by the state registrar within the required five (5)
26 working days. The physician, midwife, or other person in attendance shall provide
27 the medical information required for the certificate and certify to the fact of birth

1 within five (5) working days after the birth. If the physician, midwife, or other
2 person in attendance does not certify to the fact of birth within the five (5) working
3 day period, the person in charge of the health facility~~[institution]~~ shall complete
4 and sign the certificate.

- 5 (3) When a birth occurs in a health facility~~[hospital]~~ or en route thereto to a woman
6 who is unmarried, the person in charge of the health facility~~[hospital]~~ or that
7 person's designated representative shall immediately before or after the birth of a
8 child, except when the mother or the alleged father is a minor:
- 9 (a) Meet with the mother prior to the release from the health facility~~[hospital]~~;
 - 10 (b) Attempt to ascertain whether the father of the child is available in the health
11 facility~~[hospital]~~, and, if so, to meet with him, if possible;
 - 12 (c) Provide written materials and oral, audio, or video materials about paternity;
 - 13 (d) Provide the unmarried mother, and, if possible, the father, with the voluntary
14 paternity form necessary to voluntarily establish paternity;
 - 15 (e) Provide a written and an oral, audio, or video description of the rights and
16 responsibilities, the alternatives to, and the legal consequences of
17 acknowledging paternity;
 - 18 (f) Provide written materials and information concerning genetic paternity
19 testing;
 - 20 (g) Provide an opportunity to speak by telephone or in person with staff who are
21 trained to clarify information and answer questions about paternity
22 establishment;
 - 23 (h) If the parents wish to acknowledge paternity, require the voluntary
24 acknowledgment of paternity obtained through the health facility-
25 based~~[hospital-based]~~ program be signed by both parents and be authenticated
26 by a notary public;
 - 27 (i) Upon both the mother's and father's request, help the mother and father in

- 1 completing the affidavit of paternity form;
- 2 (j) Upon both the mother's and father's request, transmit the affidavit of paternity
- 3 to the state registrar; and
- 4 (k) In the event that the mother or the alleged father is a minor, information set
- 5 forth in this section shall be provided in accordance with Civil Rule 17.03 of
- 6 the Kentucky Rules of Civil Procedure.

7 If the mother or the alleged father is a minor, the paternity determination shall be

8 conducted pursuant to KRS Chapter 406.

9 (4) The voluntary acknowledgment of paternity and declaration of paternity forms

10 designated by the Vital Statistics Branch shall be the only documents having the

11 same weight and authority as a judgment of paternity.

12 (5) The Cabinet for Health and Family Services shall:

13 (a) Provide to all public and private health facilities offering obstetric or

14 midwifery services~~[birthing hospitals]~~ in the state written materials in

15 accessible formats and audio or video materials concerning paternity

16 establishment forms necessary to voluntarily acknowledge paternity;

17 (b) Provide copies of a written description in accessible formats and an audio or

18 video description of the rights and responsibilities of acknowledging

19 paternity; and

20 (c) Provide staff training, guidance, and written instructions regarding voluntary

21 acknowledgment of paternity as necessary to operate the health services-

22 based~~[hospital-based]~~ program.

23 (6) When a birth occurs outside a health facility~~[an institution]~~, verification of the birth

24 shall be in accordance with the requirements of the state registrar and a birth

25 certificate shall be prepared and filed by one (1) of the following in the indicated

26 order of priority:

27 (a) The health care provider~~[physician]~~ in attendance at or immediately after the

1 birth; or, in the absence of such a person,

2 (b) A midwife or any other person in attendance at or immediately after the birth;
3 or, in the absence of such a person,

4 (c) The father, the mother, or in the absence of the father and the inability of the
5 mother, the person in charge of the premises where the birth occurred or of
6 the health facility~~institution~~ to which the child was admitted following the
7 birth.

8 (7) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a
9 birth certificate.

10 (8) If a birth occurs on a moving conveyance within the United States and the child is
11 first removed from the conveyance in the Commonwealth, the birth shall be
12 registered in the Commonwealth, and the place where the child is first removed
13 shall be considered the place of birth. If a birth occurs on a moving conveyance
14 while in international waters or air space or in a foreign country or its air space and
15 the child is first removed from the conveyance in the Commonwealth, the birth
16 shall be registered in the Commonwealth, but the certificate shall show the actual
17 place of birth insofar as can be determined.

18 (9) The following provisions shall apply if the mother was married at the time of either
19 conception or birth or anytime between conception and birth:

20 (a) If there is no dispute as to paternity, the name of the husband shall be entered
21 on the certificate as the father of the child. The surname of the child shall be
22 any name chosen by the parents; however, if the parents are separated or
23 divorced at the time of the child's birth, the choice of surname rests with the
24 parent who has legal custody following birth;

25 (b) If the mother claims that the father of the child is not her husband and the
26 husband agrees to such a claim and the putative father agrees to the statement,
27 a three (3) way affidavit of paternity may be signed by the respective parties

1 and duly notarized. The state registrar of vital statistics shall enter the name of
2 a nonhusband on the birth certificate as the father and the surname of the child
3 shall be any name chosen by the mother; and

4 (c) If a question of paternity determination arises which is not resolved under
5 paragraph (b) of this subsection, it shall be settled by the District Court.

6 (10) The following provisions shall apply if the mother was not married at the time of
7 either conception or birth or between conception and birth or the marital
8 relationship between the mother and her husband has been interrupted for more than
9 ten (10) months prior to the birth of the child:

10 (a) The name of the father shall not be entered on the certificate of birth. The
11 state registrar shall upon acknowledgment of paternity by the father and with
12 consent of the mother pursuant to KRS 213.121, enter the father's name on the
13 certificate. The surname of the child shall be any name chosen by the mother
14 and father. If there is no agreement, the child's surname shall be determined
15 by the parent with legal custody of the child;

16 (b) If an affidavit of paternity has been properly completed and the certificate of
17 birth has been filed accordingly, any further modification of the birth
18 certificate regarding the paternity of the child shall require an order from the
19 District Court;

20 (c) In any case in which paternity of a child is determined by a court order, the
21 name of the father and surname of the child shall be entered on the certificate
22 of birth in accordance with the finding and order of the court; and

23 (d) In all other cases, the surname of the child shall be any name chosen by the
24 mother.

25 (11) If the father is not named on the certificate of birth, no other information about the
26 father shall be entered on the certificate. In all cases, the maiden name of the
27 gestational mother shall be entered on the certificate.

- 1 (12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to
2 apply to the state registrar for an amendment of a birth certificate showing as the
3 surname of the child, any surname chosen by the mother or parents as provided
4 under this section.
- 5 (13) The birth certificate of a child born as a result of artificial insemination shall be
6 completed in accordance with the provisions of this section.
- 7 (14) Each birth certificate filed under this section shall include all Social Security
8 numbers that have been issued to the parents of the child.
- 9 (15) Either of the parents of the child, or other informant, shall attest to the accuracy of
10 the personal data entered on the certificate in time to permit the filing of the
11 certificate within five (5) days prescribed in subsection (1) of this section.
- 12 (16) When a birth certificate is filed for any birth that occurred outside **a health**
13 **facility**~~[an institution]~~, the Cabinet for Health and Family Services shall forward
14 information regarding the need for an auditory screening for an infant and a list of
15 options available for obtaining an auditory screening for an infant. The list shall
16 include the Office for Children with Special Health Care Needs, local health
17 departments as established in KRS Chapter 212, **health facilities**~~[hospitals]~~ offering
18 obstetric **or midwifery** services, ~~[alternative birthing centers required to provide an~~
19 ~~auditory screening under KRS 216.2970,]~~audiological assessment and diagnostic
20 centers approved by the Office for Children with Special Health Care Needs in
21 accordance with KRS 211.647 and licensed audiologists, and shall specify the
22 hearing methods approved by the Office for Children with Special Health Care
23 Needs in accordance with KRS 216.2970.
- 24 **(17) As used in this section, "health facility" has the same meaning as in Section 2 of**
25 **this Act.**
- 26 ➔Section 9. KRS 214.155 is amended to read as follows:
- 27 (1) The Cabinet for Health and Family Services shall operate a newborn screening

1 program for heritable and congenital disorders that includes but is not limited to
 2 procedures for conducting initial newborn screening tests on infants twenty-eight
 3 (28) days or less of age and definitive diagnostic evaluations provided by a state
 4 university-based specialty clinic for infants whose initial screening tests resulted in
 5 a positive test. The secretary of the cabinet shall, by administrative regulation
 6 promulgated pursuant to KRS Chapter 13A:

- 7 (a) Prescribe the times and manner of obtaining a specimen and transferring a
 8 specimen for testing;
- 9 (b) Prescribe the manner of procedures, testing specimens, and recording and
 10 reporting the results of newborn screening tests; and
- 11 (c) Establish and collect fees to support the newborn screening program.

- 12 (2) The administrative officer or other person in charge of each **health**
 13 **facility**~~[institution]~~ caring for infants twenty-eight (28) days or less of age and the
 14 person required in pursuance of the provisions of KRS 213.046 shall register the
 15 birth of a child and cause to have administered to every such infant or child in ~~its~~
 16 ~~or~~ his, **her, or the facility's** care tests for heritable disorders, including but not
 17 limited to phenylketonuria (PKU), sickle cell disease, congenital hypothyroidism,
 18 galactosemia, medium-chain acyl-CoA dehydrogenase deficiency (MCAD), very
 19 long-chain acyl-CoA deficiency (VLCAD), short-chain acyl-CoA dehydrogenase
 20 deficiency (SCAD), maple syrup urine disease (MSUD), congenital adrenal
 21 hyperplasia (CAH), biotinidase disorder, cystic fibrosis (CF), 3-methylcrotonyl-
 22 CoA carboxylase deficiency (3MCC), 3-OH 3-CH3 glutaric aciduria (HMG),
 23 argininosuccinic acidemia (ASA), beta-ketothiolase deficiency (BKT), carnitine
 24 uptake defect (CUD), citrullinemia (CIT), glutaric acidemia type I (GA I), Hb
 25 S/beta-thalassemia (Hb S/Th), Hb S/C disease (Hb S/C), homocystinuria (HCY),
 26 isovaleric acidemia (IVA), long-chain L-3-OH acyl-CoA dehydrogenase deficiency
 27 (LCAD), methylmalonic acidemia (Cbl A,B), methylmalonic acidemia mutase

1 deficiency (MUT), multiple carboxylase deficiency (MCD), propionic acidemia
2 (PA), trifunctional protein deficiency (TFP), tyrosinemia type I (TYR I), spinal
3 muscular atrophy (SMA), and krabbe disease. The listing of tests for heritable
4 disorders to be performed shall include all conditions consistent with the
5 recommendations of the American College of Medical Genetics.

6 (3) The administrative officer or other person in charge of each **health**
7 **facility**~~[institution]~~ caring for infants twenty-eight (28) days or less of age and the
8 person required in pursuance of the provisions of KRS 213.046 shall register the
9 birth of a child and cause to have administered to every such infant or child in~~[-its~~
10 ~~or]~~ his, **her, or the facility's** care a screening for critical congenital heart disease
11 (CCHD) prior to discharge unless CCHD has been ruled out or diagnosed with prior
12 echocardiogram or prenatal diagnosis of CCHD.

13 (4) Each health care provider of newborn care shall provide an infant's parent or
14 guardian with information about the newborn screening tests required under
15 subsections (2) and (3) of this section. The **health facility**~~[institution]~~ or health care
16 provider shall arrange for appropriate and timely follow-ups to the newborn
17 screening tests, including but not limited to additional diagnoses, evaluation, and
18 treatment when indicated.

19 (5) Nothing in this section shall be construed to require the testing of any child whose
20 parents are members of a nationally recognized and established church or religious
21 denomination, the teachings of which are opposed to medical tests, and who object
22 in writing to the testing of his or her child on that ground.

23 (6) The cabinet shall make available the names and addresses of health care providers,
24 including but not limited to physicians, nurses, and nutritionists, who may provide
25 postpartum home visits to any family whose infant or child has tested positive for a
26 newborn screening test.

27 (7) A parent or guardian shall be provided information by the **health**

1 facility~~[institution]~~ or health care provider of newborn care about the availability
2 and costs of screening tests not specified in subsections (2) and (3) of this section.
3 The parent or guardian shall be responsible for costs relating to additional screening
4 tests performed under this subsection, and these costs shall not be included in the
5 fees established for the cabinet's newborn screening program under subsection (1)
6 of this section. All positive results of additional screening of these tests shall be
7 reported to the cabinet by the health facility~~[institution]~~ or health care provider.

8 (8) (a) For the purposes of this subsection, a qualified laboratory means a clinical
9 laboratory not operated by the cabinet that is accredited pursuant to 42 U.S.C.
10 sec. 263a, licensed to perform newborn screening testing in any state, and
11 reports its screening results using normal pediatric reference ranges.

12 (b) The cabinet shall enter into agreements with public or private qualified
13 laboratories to perform newborn screening tests if the laboratory operated by
14 the cabinet is unable to screen for a condition specified in subsection (2) of
15 this section.

16 (c) The cabinet may enter into agreements with public or private qualified
17 laboratories to perform testing for conditions not specified in subsection (2) of
18 this section. Any agreement entered into under this paragraph shall not
19 preclude a health facility~~[an institution]~~ or health care provider from
20 conducting newborn screening tests for conditions not specified in subsections
21 (2) and (3) of this section by utilizing other public or private qualified
22 laboratories.

23 (9) The secretary for health and family services or his or her designee shall apply for
24 any federal funds or grants available through the Public Health Service Act and
25 may solicit and accept private funds to expand, improve, or evaluate programs to
26 provide screening, counseling, testing, or specialty services for newborns or
27 children at risk for heritable disorders.

1 (10) *As used in this section, "health facility" has the same meaning as in Section 2 of*
 2 *this Act.*

3 (11) This section shall be cited as the James William Lazzaro and Madison Leigh Heflin
 4 Newborn Screening Act.

5 ➔Section 10. KRS 214.565 is amended to read as follows:

6 As used in KRS 214.565 to 214.571:

7 (1) "Department" means the Department for Public Health in the Cabinet for Health
 8 and Family Services;

9 (2) *"Health care provider" means a licensed provider who has the care of pregnant*
 10 *women within his or her professional scope of practice; and*

11 (3) "Health facility" has the same meaning as in KRS 216B.015~~;~~ and

12 ~~(3) "Physician" means any person licensed to practice medicine under KRS Chapter~~
 13 ~~311.~~

14 ➔Section 11. KRS 214.567 is amended to read as follows:

15 (1) The department shall make available to the public on its website~~[Web site]~~
 16 educational resources regarding the incidence of congenital cytomegalovirus,
 17 including information about:

18 (a) The transmission of congenital cytomegalovirus before and during pregnancy;

19 (b) Birth defects caused by congenital cytomegalovirus;

20 (c) Methods of diagnosing congenital cytomegalovirus;

21 (d) Available preventive measures; and

22 (e) Resources available to the family of an infant born with congenital
 23 cytomegalovirus.

24 (2) The department may solicit and accept the assistance of relevant medical
 25 associations or community resources to develop, promote, and distribute the public
 26 educational resources.

27 (3) A health facility or health care provider~~[physician]~~ providing obstetric or prenatal

1 services shall provide pregnant women or women who may become pregnant with
2 the information listed in subsection (1) of this section or provide the patients with a
3 link to the website~~[Web site]~~ described in subsection (1) of this section.

4 ➔Section 12. KRS 214.569 is amended to read as follows:

5 Every infant in this state who is given an auditory screening test described in KRS
6 216.2970, and fails the initial two (2) screenings or has other risk factors associated with
7 congenital cytomegalovirus, shall be tested for congenital cytomegalovirus not later than
8 twenty-one (21) days after the date of birth by the health facility or health care
9 provider~~[physician]~~ providing services to the infant, unless the parents or guardians of
10 the infant opt out of testing.

11 ➔Section 13. KRS 216.2920 is amended to read as follows:

12 As used in KRS 216.2920 to 216.2929, unless the context requires otherwise:

13 (1) "Ambulatory facility" means an outpatient facility, including an ambulatory
14 surgical facility, ~~[freestanding birth center,]~~freestanding or mobile technology unit,
15 or an urgent treatment center, that is not part of a hospital and that provides one (1)
16 or more ambulatory procedures to patients not requiring hospitalization;

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

18 (3) "Charge" means all amounts billed by a hospital or ambulatory facility, including
19 charges for all ancillary and support services or procedures, prior to any adjustment
20 for bad debts, charity contractual allowances, administrative or courtesy discounts,
21 or similar deductions from revenue. However, if necessary to achieve comparability
22 of information between providers, charges for the professional services of hospital-
23 based or ambulatory-facility-based physicians shall be excluded from the
24 calculation of charge;

25 (4) "Facility" means any hospital, health care service, freestanding birthing center, or
26 other health care facility, whether operated for profit or not;

27 (5) "Health care~~[Health care]~~ provider" or "provider" means any pharmacist as defined

- 1 pursuant to KRS Chapter 315, and any of the following independent practicing
2 practitioners:
- 3 (a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;
 - 4 (b) Chiropractors licensed pursuant to KRS Chapter 312;
 - 5 (c) Dentists licensed pursuant to KRS Chapter 313;
 - 6 (d) Optometrists licensed pursuant to KRS Chapter 320;
 - 7 (e) Physician assistants regulated pursuant to KRS Chapter 311;
 - 8 (f) Nurse practitioners licensed pursuant to KRS Chapter 314; and
 - 9 (g) Other health-care practitioners as determined by the Cabinet for Health and
10 Family Services by administrative regulation promulgated pursuant to KRS
11 Chapter 13A;
- 12 (6) "Hospital" means a facility licensed pursuant to KRS Chapter 216B as either an
13 acute-care hospital, psychiatric hospital, rehabilitation hospital, or chemical
14 dependency treatment facility;
- 15 (7) "Procedures" means those surgical, medical, radiological, diagnostic, or therapeutic
16 procedures performed by a provider, as periodically determined by the cabinet in
17 administrative regulations promulgated pursuant to KRS Chapter 13A as those for
18 which reports to the cabinet shall be required. "Procedures" also includes
19 procedures that are provided in hospitals or other ambulatory facilities, or those that
20 require the use of special equipment, including fluoroscopic equipment, computer
21 tomographic scanners, magnetic resonance imagers, mammography, ultrasound
22 equipment, or any other new technology as periodically determined by the cabinet;
- 23 (8) "Quality" means the extent to which a provider renders care that obtains for patients
24 optimal health outcomes; and
- 25 (9) "Secretary" means the secretary of the Cabinet for Health and Family Services.
- 26 ➔Section 14. KRS 216.2970 is amended to read as follows:
- 27 (1) As a condition of licensure or relicensure, all health facilities~~[hospitals]~~ offering

1 obstetric or midwifery services ~~and alternative birthing centers with at least forty~~
 2 ~~(40) births per year~~ shall provide an auditory screening for all infants using one (1)
 3 of the methods approved by the Office for Children with Special Health Care Needs
 4 by administrative regulation promulgated in accordance with KRS Chapter 13A.

5 (2) An auditory screening report that indicates a finding of potential hearing loss shall
 6 be forwarded by the health facility~~hospital or alternative birthing center~~ within
 7 twenty-four (24) hours of receipt to the:

8 (a) Attending physician or health care provider;

9 (b) Parents;

10 (c) Office for Children with Special Health Care Needs for evaluation or referral
 11 for further evaluation in accordance with KRS 211.647; and

12 (d) Audiological assessment and diagnostic center approved by the office if a
 13 follow-up assessment has been scheduled prior to the infant's discharge from
 14 the hospital.

15 (3) An auditory screening report that does not indicate a potential hearing loss shall be
 16 forwarded within one (1) week to the Office for Children with Special Health Care
 17 Needs with no information that personally identifies the child.

18 ➔Section 15. KRS 216.2921 is amended to read as follows:

19 (1) The Cabinet for Health and Family Services shall collect, pursuant to KRS
 20 216.2925, analyze, and disseminate information in a timely manner on the cost,
 21 quality, and outcomes of health services provided by health facilities and health
 22 care~~health care~~ providers in the Commonwealth. The cabinet shall make every
 23 effort to make health data findings that can serve as a basis to educate consumers
 24 and providers for the purpose of improving patient morbidity and mortality
 25 outcomes available to the public, and state and local leaders in health policy,
 26 through the cost-effective and timely use of the media and the internet and through
 27 distribution of the findings to health facilities and health care~~health care~~

1 providers for further dissemination to their patients.

2 (2) The secretary of the Cabinet for Health and Family Services shall serve as chief
3 administrative officer for the health data collection functions of KRS 216.2920 to
4 216.2929.

5 (3) Neither the secretary nor any employee of the cabinet shall be subject to any
6 personal liability for any loss sustained or damage suffered on account of any action
7 or inaction of under KRS 216.2920 to 216.2929.

8 ➔Section 16. KRS 216.2923 is amended to read as follows:

9 (1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the
10 secretary may:

11 (a) Appoint temporary volunteer advisory committees, which may include
12 individuals and representatives of interested public or private entities or
13 organizations;

14 (b) Apply for and accept any funds, property, or services from any person or
15 government agency;

16 (c) Make agreements with a grantor of funds or services, including an agreement
17 to make any study allowed or required under KRS 216.2920 to 216.2929; and

18 (d) Contract with a qualified, independent third party for any service necessary to
19 carry out the provisions of KRS 216.2920 to 216.2929; however, unless
20 permission is granted specifically by the secretary a third party hired by the
21 secretary shall not release, publish, or otherwise use any information to which
22 the third party has access under its contract.

23 (2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the
24 secretary shall:

25 (a) Periodically participate in or conduct analyses and studies that relate to:

26 1. Health-care costs;

27 2. Health-care quality and outcomes;

- 1 3. *Health care*~~[Health care]~~ providers and health services; and
- 2 4. Health insurance costs;
- 3 (b) Promulgate administrative regulations pursuant to KRS Chapter 13A that
- 4 relate to its meetings, minutes, and transactions related to KRS 216.2920 to
- 5 216.2929; and
- 6 (c) Prepare annually a budget proposal that includes the estimated income and
- 7 proposed expenditures for the administration and operation of KRS 216.2920
- 8 to 216.2929.

9 (3) The cabinet may promulgate administrative regulations pursuant to KRS Chapter

10 13A that impose civil fines not to exceed five hundred dollars (\$500) for each

11 violation for knowingly failing to file a report as required under KRS 216.2920 to

12 216.2929. The amount of any fine imposed shall not be included in the allowed

13 costs of a facility for Medicare or Medicaid reimbursement.

14 ➔Section 17. KRS 216.2925 is amended to read as follows:

15 (1) The Cabinet for Health and Family Services shall establish by promulgation of

16 administrative regulations pursuant to KRS Chapter 13A those data elements

17 required to be submitted to the cabinet by all hospitals and ambulatory facilities,

18 including a timetable for submission and acceptable data forms. Each hospital and

19 ambulatory facility shall be required to report on a quarterly basis information

20 regarding the charge for and quality of the procedures and health-care services

21 performed therein, and as stipulated by administrative regulations promulgated

22 pursuant to KRS Chapter 13A. The cabinet shall accept data that, at the option of

23 the provider, is submitted through a third party, including but not limited to

24 organizations involved in the processing of claims for payment, so long as the data

25 elements conform to the requirements established by the cabinet. The cabinet may

26 conduct statistical surveys of a sample of hospitals, ambulatory facilities, or other

27 providers in lieu of requiring the submission of information by all hospitals,

1 ambulatory facilities, or providers. On at least a biennial basis, the cabinet shall
2 conduct a statistical survey that addresses the status of women's health, specifically
3 including data on patient age, ethnicity, geographic region, and payor sources. The
4 cabinet shall rely on data from readily available reports and statistics whenever
5 possible.

6 (2) The cabinet shall require for submission to the cabinet by any group of providers,
7 except for physicians providing services or dispensaries, first aid stations, or clinics
8 located within business or industrial establishments maintained solely for the use of
9 their employees, including those categories within the definition of provider
10 contained in KRS 216.2920 and any further categories determined by the cabinet, at
11 the beginning of each fiscal year after January 1, 1995, and within the limits of the
12 state, federal, and other funds made available to the cabinet for that year, and as
13 provided by cabinet promulgation of administrative regulations pursuant to KRS
14 Chapter 13A, the following:

15 (a) A list of medical conditions, health services, and procedures for which data on
16 charge, quality, and outcome shall be collected and published;

17 (b) A timetable for filing information provided for under paragraph (a) of this
18 subsection on a quarterly basis;

19 (c) A list of data elements that are necessary to enable the cabinet to analyze and
20 disseminate risk-adjusted charge, quality, and outcome information, including
21 mortality and morbidity data;

22 (d) An acceptable format for data submission that shall include use of the
23 uniform:

24 1. Health claim form pursuant to KRS 304.14-135 or any other universal
25 health claim form to be determined by the cabinet if in the form of hard
26 copy; or

27 2. Electronic submission formats as required under the federal Health

- 1 Insurance Portability and Accountability Act of 1996, 42 U.S.C. sec.
2 300gg et seq., in the form of magnetic computer tape, computer
3 diskettes, or other electronic media through an electronic network;
- 4 (e) Procedures to allow health care~~health-care~~ providers at least thirty (30) days
5 to review information generated from any data required to be submitted by
6 them, with any reports generated by the cabinet to reflect valid corrections by
7 the provider before the information is released to the public; and
- 8 (f) Procedures pertaining to the confidentiality of data collected.
- 9 (3) The cabinet shall coordinate but not duplicate its data-gathering activities with other
10 data-collection activities conducted by the Department of Insurance, as well as
11 other state and national agencies that collect health-related service, utilization,
12 quality, outcome, financial, and health-care personnel data, and shall review all
13 administrative regulations promulgated pursuant to KRS 216.2920 to 216.2929 to
14 prevent duplicate filing requirements. The cabinet shall periodically review the use
15 of all data collected under KRS 216.2920 to 216.2929 to assure its use is consistent
16 with legislative intent.
- 17 (4) The cabinet shall conduct outcome analyses and effectiveness studies and prepare
18 other reports pertaining to issues involving health-care charges and quality.
- 19 (5) The cabinet may independently audit any data required to be submitted by providers
20 as needed to corroborate the accuracy of the submitted data. Any audit may be at
21 the expense of the cabinet and shall, to the extent practicable, be coordinated with
22 other audits performed by state agencies.
- 23 (6) The cabinet may initiate activities set forth in subsection (1) or (2) of this section at
24 any time after July 15, 1996.
- 25 (7) The Cabinet for Health and Family Services shall collect all data elements under
26 this section using only the uniform health insurance claim form pursuant to KRS
27 304.14-135, the Professional 837 (ASC X12N 837) format, the Institutional 837

1 (ASC X12N 837) format, or its successor as adopted by the Centers for Medicare
2 and Medicaid Services.

3 ➔Section 18. KRS 216.2927 is amended to read as follows:

4 (1) The following types of data shall be deemed as relating to personal privacy and,
5 except by court order, shall not be published or otherwise released by the cabinet or
6 its staff and shall not be subject to inspection under KRS 61.870 to 61.884:

7 (a) Any data, summary of data, correspondence, or notes that identify or could be
8 used to identify any individual patient or member of the general public, unless
9 the identified individual gives written permission to release the data or
10 correspondence;

11 (b) Any correspondence or related notes from or to any employee or employees
12 of a provider if the correspondence or notes identify or could be used to
13 identify any individual employee of a provider, unless the corresponding
14 persons grant permission to release the correspondence; and

15 (c) Data considered by the cabinet to be incomplete, preliminary, substantially in
16 error, or not representative, the release of which could produce misleading
17 information.

18 (2) Health care~~Health care~~ providers submitting required data to the cabinet shall not
19 be required to obtain individual permission to release the data, except as specified
20 in subsection (1) of this section, and, if submission of the data to the cabinet
21 complies with pertinent administrative regulations promulgated pursuant to KRS
22 Chapter 13A, shall not be deemed as having violated any statute or administrative
23 regulation protecting individual privacy.

24 (3) (a) No less than sixty (60) days after the annual report or reports are published
25 and except as otherwise provided, the cabinet shall make all aggregate data
26 which does not allow disclosure of the identity of any individual patient, and
27 which was obtained for the annual period covered by the reports, available to

1 the public.

2 (b) Persons or organizations requesting use of the data shall agree to abide by a
3 public-use data agreement and by HIPAA privacy rules referenced in 45
4 C.F.R. Part 164. The public-use data agreement shall include, at a minimum, a
5 prohibition against the sale or further release of data, and guidelines for the
6 use and analysis of the data released to the public related to provider quality,
7 outcomes, or charges.

8 (4) Collection of data about individual patients shall include information commonly
9 used to identify an individual for assigning a unique patient identifier. Upon
10 assigning a unique patient identifier, all direct identifying information shall be
11 stripped from the data and shall not be retained by the cabinet or the cabinet's
12 designee.

13 (5) All data and information collected shall be kept in a secure location and under lock
14 and key when specifically responsible personnel are absent.

15 (6) Only designated cabinet staff shall have access to raw data and information. The
16 designated staff shall be made aware of their responsibilities to maintain
17 confidentiality. Staff with access to raw data and information shall sign a statement
18 indicating that the staff person accepts responsibility to hold that data or identifying
19 information in confidence and is aware of penalties under state or federal law for
20 breach of confidentiality. Data which, because of small sample size, breaches the
21 confidence of individual patients, shall not be released.

22 (7) Any employee of the cabinet who violates any provision of this section shall be
23 fined not more than five hundred dollars (\$500) for each violation or be confined in
24 the county jail for not more than six (6) months, or both, and shall be removed and
25 disqualified from office or employment.

26 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO
27 READ AS FOLLOWS:

- 1 (1) As used in this section:
- 2 (a) "Baby" includes both an unborn child as defined in KRS 311.781 and an
- 3 infant as defined in KRS 311.821;
- 4 (b) "Perinatal" means occurring in, concerned with, or being in the period
- 5 around the time of birth; and
- 6 (c) "Pregnant" has the same meaning as in Section 22 of this Act.
- 7 (2) All hospitals and freestanding birthing centers offering obstetric services and
- 8 maternal-fetal medicine, and the pregnant woman's attending physician or
- 9 midwife, shall offer to provide or make referrals to a perinatal palliative care
- 10 program or perinatal palliative care support services for pregnant women, birth
- 11 fathers, and family members when there is a:
- 12 (a) Prenatal diagnosis indicating that a baby may die before or after birth;
- 13 (b) Diagnosis of fetal anomalies where the likelihood of long-term survival is
- 14 uncertain or minimal; or
- 15 (c) Newborn who is diagnosed with a potentially life-limiting illness.
- 16 (3) Perinatal palliative care programs and support services shall include but not be
- 17 limited to:
- 18 (a) Coordination of care between medical, obstetric, neonatal, and perinatal
- 19 palliative care providers, hospital staff, and the pregnant woman, birth
- 20 father, and family members;
- 21 (b) Care and specialized support through the remainder of a pregnancy, the
- 22 birth, the newborn period, and the death;
- 23 (c) Providing anticipatory guidance, education, and support for pregnant
- 24 women, birth fathers, and family members before, during, and after
- 25 delivery;
- 26 (d) Providing resources and referrals as needed;
- 27 (e) Assistance with making medical decisions;

- 1 (f) Counseling;
 2 (g) Education, including specific information about the baby's diagnosis;
 3 (h) Emotional support;
 4 (i) Guidance on what to expect throughout the grieving process;
 5 (j) Assistance with the creation of memories and keepsakes;
 6 (k) Preparation for meeting the baby and understanding the limitations that
 7 may be present at birth;
 8 (l) Pastoral, emotional, and spiritual support for pregnant women, birth
 9 fathers, and family members; and
 10 (m) Preparing a plan of care for the baby, which may include medical
 11 interventions as needed in the home, hospital, or neonatal hospice.
 12 (4) The Cabinet for Health and Family Services shall create and maintain a list of
 13 perinatal palliative care programs and service providers on its website.
 14 (5) Nothing in this section shall be interpreted as permitting any violation of Section
 15 21 or 22 of this Act.

16 ➔Section 20. KRS 311.720 is amended to read as follows:

17 As used in KRS 311.710 to 311.820, and laws of the Commonwealth unless the context
 18 otherwise requires:

- 19 (1) (a) "Abortion" means the performance of any act with the intent~~use of any~~
 20 ~~means whatsoever~~ to terminate the clinically diagnosable pregnancy of a
 21 woman known to be pregnant with knowledge that the termination by those
 22 means will, with reasonable likelihood, cause the death of the unborn child
 23 by one (1) or more of the following means:
 24 1. Administering, prescribing, or providing any abortion-inducing drug
 25 as defined in KRS 311.7731, potion, medicine, or any other substance
 26 or device to a pregnant female; or
 27 2. Using an instrument or external force on a pregnant female.

- 1 **(b) "Abortion" does not mean those actions that require separating the**
 2 **pregnant woman from her unborn child when performed by a licensed**
 3 **physician as provided in Section 21 of this Act**~~[intent to cause fetal death];~~
- 4 (2) "Accepted medical procedures" means procedures of the type performed in the
 5 manner and in a facility with equipment sufficient to meet the standards of medical
 6 care which physicians engaged in the same or similar lines of work, would
 7 ordinarily exercise and devote to the benefit of their patients;
- 8 (3) "Cabinet" means the Cabinet for Health and Family Services of the Commonwealth
 9 of Kentucky;
- 10 (4) "Consent," as used in KRS 311.710 to 311.820 with reference to those who must
 11 give their consent, means an informed consent expressed by a written agreement to
 12 submit to an abortion on a written form of consent to be promulgated by the
 13 secretary for health and family services;
- 14 (5) "Family planning services" means educational, medical, and social services and
 15 activities that enable individuals to determine the number and spacing of their
 16 children and to select the means by which this may be achieved;
- 17 (6) "Fetus" means a human being from fertilization until birth;
- 18 (7) "Hospital" means those institutions licensed in the Commonwealth of Kentucky
 19 pursuant to the provisions of KRS Chapter 216;
- 20 (8) "Human being" means any member of the species homo sapiens from fertilization
 21 until death;
- 22 (9) "Medical emergency" means any condition which, on the basis of the physician's
 23 **reasonable medical**~~[good faith—clinical]~~ judgment, so complicates the medical
 24 condition of a pregnant female as to necessitate the immediate abortion of her
 25 pregnancy to avert her death or for which a delay will create serious risk of
 26 substantial and irreversible impairment of a major bodily function;
- 27 (10) "Medical necessity" means a medical condition of a pregnant woman that, in the

1 reasonable ***medical*** judgment of the physician who is attending the woman, so
2 complicates the pregnancy that it necessitates the immediate performance or
3 inducement of an abortion;

4 (11) "Partial-birth abortion" means an abortion in which the physician performing the
5 abortion partially vaginally delivers a living fetus before killing the fetus and
6 completing the delivery;

7 (12) **"Perinatal care" means the health care provided to both the mother and child,**
8 **including prenatal, intrapartum, and postpartum care, with a focus on optimizing**
9 **outcomes and addressing potential complications;**

10 **(13)** "Physician" means any person licensed to practice medicine in the Commonwealth
11 or osteopathy pursuant to this chapter;

12 **(14)**~~(13)~~ "Probable gestational age of the embryo or fetus" means the gestational age
13 that, in the judgment of a physician, is, with reasonable probability, the gestational
14 age of the embryo or fetus at the time that the abortion is planned to be performed;

15 **(15)**~~(14)~~ "Public agency" means the Commonwealth of Kentucky; any agency,
16 department, entity, or instrumentality thereof; any city, county, agency, department,
17 entity, or instrumentality thereof; or any other political subdivision of the
18 Commonwealth, agency, department, entity, or instrumentality thereof;

19 **(16) "Reasonable medical judgment" means the range of conclusions or**
20 **recommendations that licensed medical practitioners with similarly sufficient**
21 **training and experience may communicate to a patient based upon current**
22 **available medical evidence;**

23 **(17) "Unborn child" has the same meaning as "unborn human being" in Section 22**
24 **of this Act;**

25 **(18)**~~(15)~~ "Vaginally delivers a living fetus before killing the fetus" means deliberately
26 and intentionally delivers into the vagina a living fetus, or a substantial portion
27 thereof, for the purpose of performing a procedure the physician knows will kill the

1 fetus, and kills the fetus; and

2 ~~(19)~~~~(16)~~ "Viability" means that stage of human development when the life of the
3 unborn child may be continued by natural or life-supportive systems outside the
4 womb of the mother.

5 ➔Section 21. KRS 311.723 is amended to read as follows:

- 6 (1) No *action that requires separating a pregnant woman from her unborn*
7 *child*~~[abortion]~~ shall be performed, except *the following when performed* by a
8 physician *based upon his or her reasonable medical judgment*~~[after either]~~:
- 9 (a) *A medical procedure performed with the intent to save the life or preserve*
10 *the health of an unborn child*~~[He determines that, in his best clinical~~
11 ~~judgment, the abortion is necessary];~~~~[or]~~
- 12 (b) *Lifesaving miscarriage management, which includes medically necessary*
13 *interventions when the pregnancy has ended or is in the unavoidable and*
14 *untreatable process of ending due to spontaneous or incomplete*
15 *miscarriage;*
- 16 (c) *Sepsis and hemorrhage emergency medical interventions required when a*
17 *miscarriage or impending miscarriage results in a life-threatening infection*
18 *or excessive bleeding;*
- 19 (d) *A medically necessary intervention, inducement, or delivery for the removal*
20 *of a dead child from the uterine cavity, when documented in the woman's*
21 *medical record along with the results of an obstetric ultrasound test,*
22 *confirming that fetal cardiac activity is not present at a gestational age*
23 *when it should be present;*
- 24 (e) *The removal of an ectopic pregnancy or a pregnancy that is not implanted*
25 *normally within the endometrial cavity;*
- 26 (f) *The use of methotrexate or similar medications to treat an ectopic*
27 *pregnancy;*

1 (g) The removal of a molar pregnancy;

2 (h) A medical procedure necessary based on reasonable medical judgment to
 3 prevent the death or substantial risk of death of the pregnant woman due to
 4 a physical condition, or to prevent serious, permanent impairment of a life-
 5 sustaining organ of a pregnant woman. However, the physician shall make
 6 reasonable medical efforts under the circumstances to preserve both the life
 7 of the mother and the life of the unborn child in a manner consistent with
 8 reasonable medical practice; or

9 (i) Medical treatment provided to the mother by a licensed physician, which
 10 results in the accidental or unintentional injury or death of the unborn
 11 human being [He receives what he reasonably believes to be a written
 12 statement signed by another physician, hereinafter called the "referring
 13 physician," certifying that in the referring physician's best clinical judgment
 14 the abortion is necessary, and, in addition, he receives a copy of the report
 15 form required by KRS 213.101].

16 (2) No treatment or procedure authorized under subsection (1) of this
 17 section [abortion] shall be performed except in compliance with regulations which
 18 the cabinet shall promulgate [issue] to ensure that:

19 (a) 1. Before the treatment or procedure [abortion] is performed, the pregnant
 20 woman shall have a private medical consultation either with the
 21 physician who is to provide the treatment or perform the
 22 procedure [abortion] or with the referring physician in a place, at a time
 23 and of a duration reasonably sufficient to enable the physician to
 24 determine whether, based upon his or her reasonable medical [best
 25 clinical] judgment, the action [abortion] is necessary;

26 2. The physician shall document in the pregnant woman's medical
 27 record the pregnant woman's informed consent to the treatment or

1 *procedure following a discussion, acknowledged in writing by the*
 2 *woman, of the risks, benefits, and alternatives to the treatment or*
 3 *procedure, sufficient in scope for a reasonable person to make an*
 4 *informed decision;*

5 (b) The physician who is to *provide the treatment or* perform the
 6 *procedure*~~[abortion]~~ or the referring physician will describe the basis for his
 7 *or her reasonable medical*~~[best-clinical]~~ judgment that the *action*~~[abortion]~~ is
 8 necessary on a form prescribed by the cabinet as required by KRS 213.101;
 9 and

10 (c) *1.* Paragraph (a) of this subsection shall not apply when, in the *reasonable*
 11 medical judgment of the attending physician based on the particular
 12 facts of the case before him *or her*, there exists a medical emergency. In
 13 *the*~~[such a]~~ case *of a medical emergency*, the physician shall describe
 14 the basis of his *or her reasonable* medical judgment that an emergency
 15 exists on a form prescribed by the cabinet as required by KRS 213.101;
 16 *and*

17 *2. If an emergency exists which limits the time available for*
 18 *documentation or the scope of the informed consent discussion, the*
 19 *physician shall endeavor to complete the requirements of this*
 20 *subsection to the extent possible without undue risk to the woman's*
 21 *life or health and shall promptly complete any required documentation*
 22 *when the emergency no longer exists.*

23 (3) Notwithstanding any statute to the contrary, nothing in this chapter shall be
 24 construed as prohibiting a physician from prescribing or a woman from using birth
 25 control methods or devices, including, but not limited to, intrauterine devices, oral
 26 contraceptives, or any other birth control method or device.

27 *(4) Nothing in this section shall be interpreted as permitting any violation of Section*

1 **22 of this Act.**

2 ➔Section 22. KRS 311.772 is amended to read as follows:

- 3 (1) As used in this section:
- 4 (a) "Fertilization" means that point in time when a male human sperm penetrates
5 the zona pellucida of a female human ovum;
- 6 (b) "Pregnant" means the human female reproductive condition of having a living
7 unborn human being within her body throughout the entire embryonic and
8 fetal stages of the unborn child from fertilization to full gestation and
9 childbirth; and
- 10 (c) "Unborn human being" means an individual living member of the species
11 homo sapiens throughout the entire embryonic and fetal stages of the unborn
12 child from fertilization to full gestation and childbirth.
- 13 (2) The provisions of this section shall become effective immediately upon, and to the
14 extent permitted, by the occurrence of any of the following circumstances:
- 15 (a) Any decision of the United States Supreme Court which reverses, in whole or
16 in part, Roe v. Wade, 410 U.S. 113 (1973), thereby restoring to the
17 Commonwealth of Kentucky the authority to prohibit abortion; or
- 18 (b) Adoption of an amendment to the United States Constitution which, in whole
19 or in part, restores to the Commonwealth of Kentucky the authority to prohibit
20 abortion.
- 21 (3) (a) **Except as provided in Section 21 of this Act,** no person may knowingly:
- 22 1. Administer to, prescribe for, procure for, or sell to any pregnant woman
23 any medicine, drug, or other substance with the specific intent of
24 causing or abetting the termination of the life of an unborn human being;
25 or
- 26 2. Use or employ any instrument or procedure upon a pregnant woman
27 with the specific intent of causing or abetting the termination of the life

1 of an unborn human being.

2 (b) Any person who violates paragraph (a) of this subsection shall be guilty of a
3 Class D felony.

4 (4) The following shall not be a violation of subsection (3) of this section:

5 (a) For a licensed physician to perform a medical procedure necessary in
6 reasonable medical judgment to prevent the death or substantial risk of death
7 due to a physical condition, or to prevent the serious, permanent impairment
8 of a life-sustaining organ of a pregnant woman. However, the physician shall
9 make reasonable medical efforts under the circumstances to preserve both the
10 life of the mother and the life of the unborn human being in a manner
11 consistent with reasonable medical practice; or

12 (b) Medical treatment provided to the mother by a licensed physician which
13 results in the accidental or unintentional injury or death to the unborn human
14 being.

15 (5) Nothing in this section may be construed to subject the pregnant mother upon
16 whom any abortion is performed or attempted to any criminal conviction and
17 penalty.

18 (6) Nothing in this section may be construed to prohibit the sale, use, prescription, or
19 administration of a contraceptive measure, drug, or chemical, if it is administered
20 prior to the time when a pregnancy could be determined through conventional
21 medical testing and if the contraceptive measure is sold, used, prescribed, or
22 administered in accordance with manufacturer instructions.

23 (7) The provisions of this section shall be effective relative to the appropriation of
24 Medicaid funds, to the extent consistent with any executive order by the President
25 of the United States, federal statute, appropriation rider, or federal regulation that
26 sets forth the limited circumstances in which states must fund abortion to remain
27 eligible to receive federal Medicaid funds pursuant to 42 U.S.C. ~~sec.~~^{secs.} 1396 et

1 seq.

2 ➔Section 23. The Cabinet for Health and Family Services shall promulgate
3 updated administrative regulations in accordance with KRS Chapter 13A to implement
4 the requirements of Section 1 of this Act by December 1, 2025.

5 ➔Section 24. Sections 1 to 18 of this Act may be cited as the Mary Carol Akers
6 Birth Centers Act.

7 ➔Section 25. Sections 20 to 22 of this Act may be cited as the Love Them Both
8 Act of 2025.

9 ➔Section 26. Whereas it is critical to ensure the health and well-being of a
10 woman experiencing a crisis pregnancy, an emergency is declared to exist, and Sections
11 20, 21, and 22 of this Act take effect upon its passage and approval by the Governor or
12 upon its otherwise becoming a law.