

1 AN ACT relating to public health and safety.

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

3 ➔Section 1. KRS 214.450 is amended to read as follows:

4 As used in KRS ~~214.450~~~~[214.452]~~ to 214.466, unless the context otherwise requires:

5 (1) **"Autologous donation" means a donation of blood that a person provides for**
6 **their own medical use;**

7 (2) "Blood" means any blood, blood product, blood component, or blood derivative
8 including plasma;~~;~~

9 (3) ~~(a)~~~~(2)~~ "Blood establishment" means a place of business under one (1)
10 management at one (1) general physical location which engages in the
11 collection, preparation, processing, labeling, packaging, and dispensing of
12 blood to any health care facility, health service, or health care provider and
13 which is licensed by the United States Food and Drug Administration.

14 ~~(b)~~ "Blood establishment" does not include autologous ~~blood~~ donation
15 programs permitted under KRS 214.456;~~;~~

16 ~~(4)~~~~(3)~~ "Blood-borne communicable disease" means any of those diseases which are
17 specifically so defined and set forth in administrative regulation promulgated by the
18 United States Food and Drug Administration;~~;~~

19 ~~(5)~~~~(4)~~ **"Directed donation" means a donation of blood for the purpose of**
20 **transfusion into a specified individual;**

21 **(6) "Donor" means either a paid or volunteer donor of blood;**

22 (7) "Health facility" means any health facility set forth under KRS 216B.015 which
23 provides for the transfusion of blood into a living human body;~~;~~

24 ~~(8)~~~~(5)~~ "Health care provider" means any person licensed or certified under the laws
25 of the Commonwealth as a dentist, physician, osteopath, registered nurse, practical
26 nurse, paramedic, emergency medical technician, or physician assistant;~~;~~

27 ~~(9)~~~~(6)~~ "Health service" means any health service as set forth under KRS 216B.015

1 and which provides for the transfusion of blood into a living human body; ~~[-]~~

2 ~~(10)~~⁽⁷⁾ "Transfuse" means to transfer blood from one (1) person to another; ~~and~~ ~~[-]~~

3 ~~(8)~~ "Donor" means either a paid or volunteer donor of blood. ~~[-]~~

4 ~~(11)~~⁽⁹⁾ "Untested blood" means blood that has not been tested or blood for which test
5 results have not yet been returned.

6 ➔Section 2. KRS 214.452 is amended to read as follows:

7 ~~[The following policies shall apply to blood establishments and to donors of blood:]~~

8 (1) All blood establishments within the Commonwealth shall be licensed by the United
9 States Food and Drug Administration and remain in compliance with all applicable
10 federal regulations. The Cabinet for Health and Family Services shall, under
11 administrative regulations promulgated in accordance with ~~[pursuant to]~~ KRS
12 Chapter 13A, establish fees necessary to cover the cost of and adhere to a schedule
13 for regular inspection, by the Office of the Inspector General of the Cabinet for
14 Health and Family Services, of all blood establishments within the Commonwealth
15 to ascertain whether each blood establishment is licensed and in compliance with
16 KRS 214.450 to 214.464 and KRS 214.468. The Office of the Inspector General
17 shall commence its inspection program of blood establishments no later than
18 September 1, 1994.

19 (2) All blood establishments shall use tests approved by the United States Food and
20 Drug Administration to test blood for:

21 (a) The human immunodeficiency virus; ~~[- and for]~~

22 (b) Any known causative agent for any blood-borne communicable disease;

23 (c) Spike proteins;

24 (d) Antibodies to the nucleocapsid protein on the SARS-CoV-2 virus; and

25 (e) Synthetic mRNA, upon approval of the United States Food and Drug
26 Administration of a test for the presence of mRNA ~~[-, using tests approved and~~

27 ~~required, for purposes of blood donation, by the United States Food and Drug~~

1 Administration}.

2 (3) It shall be the duty of the administrator of any blood establishment which collects
3 blood for the purpose of distributing to another health service, health facility, or
4 health care~~[health care]~~ provider the blood for transfusion to:

5 (a) Secure donor consent and a signed written risk factor history and donor
6 consent form for each potential paid or volunteer donor for the purpose of
7 determining if the potential donor:

8 1. Is at high risk for infection with the human immunodeficiency virus;~~;~~
9 ~~or~~

10 2. Has tested confirmatory positive for infection with the human
11 immunodeficiency virus;~~;~~~~or~~

12 3. Has acquired immune deficiency syndrome;~~;~~~~or~~

13 4. Has tested confirmatory positive for infection with any causative agent
14 for acquired immune deficiency syndrome recognized by the United
15 States Centers for Disease Control;~~;~~~~or~~

16 5. Has a blood-borne communicable disease;

17 6. *Has received genetically engineered blood or blood products; or*

18 7. *Has received experimental therapies or medications of any kind*
19 *including but not limited to:*

20 *a. Engineered cell therapy;*

21 *b. Genetically modified or engineered blood products;*

22 *c. Drugs, blood, or blood-derived pharmaceuticals; or*

23 *d. Monoclonal antibody treatments, stem cell therapy, or any other*
24 *human cell derived medication, treatment, or therapy;*

25 (b) Provide a means for a potential donor to self-elect not to donate blood;

26 (c) Refuse donation or sale of blood by *a person who has any of the risk factors*
27 *listed under paragraph (a) of this subsection*~~[persons at high risk for~~

1 infection with the human immunodeficiency virus, or who have been
 2 medically diagnosed as having acquired immune deficiency syndrome, or who
 3 have tested confirmatory positive for infection with the human
 4 immunodeficiency virus, or who have a blood-borne communicable disease];

5 **and**

6 (d) Post a sign in the blood establishment which is visible to all potential donors
 7 and which states: "Persons with acquired immune deficiency syndrome
 8 (AIDS), or who have tested confirmatory positive for infection with the
 9 human immunodeficiency virus (HIV), or who have a blood-borne
 10 communicable disease or who have one (1) or more risk factors for the human
 11 immunodeficiency virus as determined by the United States Centers for
 12 Disease Control, are prohibited by law from donating or selling blood.
 13 Persons violating the law are guilty of a Class D felony. ASK STAFF OF
 14 THIS BLOOD ESTABLISHMENT."

15 (4) **A person shall not be compelled to donate blood or tissue of any kind.**

16 (5) **Blood establishments shall inform donors of the potential uses for blood**
 17 **donations.**

18 (6) **Any blood donated in the Commonwealth that is sold by a blood establishment**
 19 **shall be offered for sale directly to hospitals before being offered for sale to any**
 20 **other entity.**

21 (7) **If there is a hospital blood supply shortage as determined by the Cabinet for**
 22 **Health and Family Services, blood establishments shall not sell blood to any**
 23 **entity if the blood will be used to produce pharmaceuticals** ~~[The provisions of this~~
 24 ~~section shall not be construed to impose requirements which are in conflict with~~
 25 ~~donor eligibility requirements set out in United States Food and Drug~~
 26 ~~Administration or American Association of Blood Banks standards].~~

27 ➔Section 3. KRS 214.454 is amended to read as follows:

- 1 (1) ~~A[No]~~ person shall ***not*** donate blood if the person;
- 2 ***(a) Is at high risk for infection with the human immunodeficiency virus;***
- 3 ***(b) Has tested confirmatory positive for infection with the human***
- 4 ***immunodeficiency virus;***
- 5 ***(c) Has acquired immune deficiency syndrome;***
- 6 ***(d) Has tested confirmatory positive for infection with any causative agent for***
- 7 ***acquired immune deficiency syndrome recognized by the United States***
- 8 ***Centers for Disease Control;***
- 9 ***(e) Has a blood-borne communicable disease;***
- 10 ***(f) Has received genetically engineered blood or blood products; or***
- 11 ***(g) Has received experimental therapies or medications of any kind including***
- 12 ***but not limited to:***
- 13 ***1. Engineered cell therapy;***
- 14 ***2. Genetically modified or engineered blood products;***
- 15 ***3. Drugs, blood, or blood-derived pharmaceuticals; or***
- 16 ***4. Monoclonal antibody treatments, stem cell therapy, or any other***
- 17 ***human cell derived medication, treatment, or therapy*** ~~is at high risk for~~
- 18 ~~infection with the human immunodeficiency virus, or has acquired~~
- 19 ~~immunodeficiency syndrome, or has tested confirmatory positive for the~~
- 20 ~~human immunodeficiency virus or any other known causative agent of a~~
- 21 ~~blood-borne communicable disease].~~

22 (2) ~~A[No]~~ person shall ***not*** give false information to the staff of a blood establishment

23 regarding any item of the person's personal history which would affect the person's

24 suitability as a donor.

25 ➔Section 4. KRS 214.456 is amended to read as follows:

26 ~~[The following policies shall apply to autologous and directed blood donations:]~~

27 (1) Any ***person may make an autologous donation or a directed donation of***

1 ~~**blood**~~[otherwise qualified donor who wishes to direct a donation of blood to that
 2 person or to another particular individual may do so. The surcharge for any
 3 autologous or directed donation of blood shall not exceed twenty percent (20%) of
 4 the charge for a regular unit of blood].

5 (2) ~~[If the donation is to another particular individual,]~~The requirements of KRS
 6 214.454 shall be met if the recipient and the recipient's attending physician have
 7 requested **a directed**~~[the]~~ donation.

8 (3) Blood collected as a directed donation may be used for someone other than, or in
 9 addition to, the designated recipient if the donor's blood is not compatible with that
 10 of the designated recipient or if any part of the donation is not needed by the
 11 designated recipient.

12 (4) Each blood establishment shall advise prospective donors of the opportunity for
 13 autologous **donations** and directed donations and of the provisions of ~~[this section~~
 14 ~~and of]~~ KRS **214.450**~~[214.452]~~ to 214.466.

15 (5) **Blood establishments, health facilities, health services, and health care providers**
 16 **shall not:**

17 **(a) Prevent or prohibit autologous donations or directed donations or**
 18 **transfusions; or**

19 **(b) Impose fees for a donation or transfusion using an autologous donation or**
 20 **directed donation of blood that exceed twenty percent (20%) of the charge**
 21 **for a regular unit of blood.**

22 **(6)** Autologous~~[blood]~~ donation programs shall be exempt from KRS 214.454.

23 ➔Section 5. KRS 214.458 is amended to read as follows:

24 (1) Each unit of blood collected by a blood establishment for transfusion shall be
 25 affixed with the United States Food and Drug Administration required label
 26 **and**~~[which includes]~~ a donor identification number through which the following
 27 information can be obtained:

- 1 (a) Date the blood was collected;
- 2 (b) Name of blood establishment;
- 3 (c) Nonidentifying code representing the name of the blood donor;
- 4 (d) A blood establishment serial number for the blood;
- 5 (e) The date of laboratory testing of the blood;
- 6 (f) The name of the person and laboratory testing the blood;
- 7 (g) The laboratory test results; and
- 8 (h) The mRNA status of the blood and the type of mRNA treatment or therapy
- 9 received by the donor, upon approval of the United States Food and Drug
- 10 Administration of a test for the presence of mRNA.
- 11 (2) Each unit of blood received by a blood establishment, ~~or~~ health facility, health
- 12 service, or health care provider within the Commonwealth from an out-of-state
- 13 blood establishment shall contain a label in accordance with the provisions of
- 14 subsection (1) of this section and the blood establishment, ~~or~~ health facility,
- 15 health service, or health care provider shall either test the blood in accordance
- 16 with the requirements for blood establishments within the Commonwealth under the
- 17 provisions of KRS 214.452(2) or may accept documented evidence of the test
- 18 results as are required under subsection (1) of this section for blood collected within
- 19 the Commonwealth.
- 20 (3) Each laboratory testing blood for transfusion shall maintain for ten (10) years from
- 21 the date of testing, and each blood establishment shall maintain for ten (10) years
- 22 from the date of collection, a list containing the information set forth in subsection
- 23 (1) of this section.
- 24 (4) No blood may be transfused into any patient in any health facility or health service
- 25 or by any health care provider unless the unit of blood has affixed to it the label as
- 26 required under this section and the blood has tested negative for:
- 27 (a) The human immunodeficiency virus or any causative agent of AIDS; ~~or~~

1 **(b)** Any blood-borne communicable disease as provided under KRS 214.452;

2 **(c)** *Spike proteins;*

3 **(d)** *Antibodies to the nucleocapsid protein on the SARS-CoV-2 virus; and*

4 **(e)** *Synthetic mRNA, upon approval of the United States Food and Drug*
5 *Administration of a test for the presence of mRNA.*

6 **(5)** When a unit of blood is transfused, a label containing the donor identification
7 number required under this section shall be removed from the unit and affixed to
8 the patient's medical chart or the blood donor identification number for the unit of
9 blood shall be recorded in the patient's medical chart.

10 ~~**(6)**~~ ~~**(5)**~~ Any unit of blood not containing the label required under this section shall be
11 destroyed by the health facility, health service, or health care provider.

12 ~~**(7)**~~ ~~**(6)**~~ Any unit of blood testing confirmatory positive for an agent of a blood-borne
13 communicable disease and in the possession of a health facility, health service, or
14 health care provider may be donated to educational or scientific research
15 institutions for the purpose of scientific research only and not for transfusion.

16 **(8)** *Upon approval of the United States Food and Drug Administration of a test for*
17 *the presence of mRNA, a health facility, health service, or health care provider*
18 *shall:*

19 **(a)** *Inform a patient of the presence of mRNA in blood to be administered;*

20 **(b)** *Obtain written consent from the patient before administering blood with the*
21 *presence of mRNA;*

22 **(c)** *Provide counseling on the risks, benefits, and alternatives to receiving blood*
23 *with mRNA present; and*

24 **(d)** *Record the mRNA status of blood transfusions administered in the patient's*
25 *medical record.*

26 **(9)** *A patient shall not receive different care or services based on the consent or*
27 *refusal to receive blood with mRNA present.*

1 **(10) A patient may consent or refuse to receive blood with mRNA present regardless of**
2 **any past medical decisions made by the patient.**

3 ➔Section 6. KRS 214.464 is amended to read as follows:

4 (1) (a) Untested blood may be transfused only in an emergency situation in which the
5 attending physician determines a patient is in imminent danger of death or
6 serious physical injury and no tested and labeled blood as set forth under KRS
7 214.458 is readily available to alleviate the emergency situation; provided,
8 however, that the attending physician shall obtain specific prior consent for
9 the transfusion from the patient in the emergency situation or if the patient's
10 condition renders the patient incapable of giving consent, seek from the next
11 of kin of the patient, if available, prior informed consent to transfuse any
12 untested blood. **As used in**~~For purposes of~~ this section, the patient's "next of
13 kin" means, in the following order;

- 14 1. The spouse of the patient;
- 15 2. If there is none, then the mother or father of the patient;
- 16 3. If there is none, then any adult son or daughter of the patient; or
- 17 4. If there is none, then any brother or sister of the patient.

18 (b) Physical evidence of consent shall become a part of the patient's permanent
19 medical record.

20 (2) Blood establishments may release untested blood, collected under standards set
21 forth in KRS 214.452, at the request of a physician, or health facility, or health
22 service in an emergency as provided under this section. If blood has not been tested,
23 the test shall be performed as soon after the transfusion as possible. If the blood
24 subsequently tests positive **on any tests required under Section 2 of this Act**~~for~~
25 ~~any blood-borne communicable disease~~, the patient's attending physician shall be
26 immediately notified. The attending physician shall, in turn, notify the patient of the
27 test results. The patient or next of kin shall indicate notification of receipt of the test

1 results and any offer of treatment or referral to another health care~~[health-care]~~
2 provider on a form provided by the health facility or health service and approved by
3 the Cabinet for Health and Family Services.

4 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO
5 READ AS FOLLOWS:

6 *A state agency shall not acquire or maintain a list containing the vaccination status of*
7 *the citizens of the Commonwealth.*

8 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO
9 READ AS FOLLOWS:

10 *Each hospital licensed under this chapter shall:*

11 *(1) Invest in blood transfusion prevention strategies; and*

12 *(2) By January 1, 2026, establish a task force for bloodless medicine and surgery to*
13 *design and implement strategies to reduce the need for blood transfusions.*

14 ➔SECTION 9. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
15 IS CREATED TO READ AS FOLLOWS:

16 *(1) All health benefit plans shall provide coverage for any directed or autologous*
17 *blood transfusion.*

18 *(2) Except as provided in subsection (3) of this section, the coverage required by this*
19 *section shall not be subject to copayments, coinsurance, deductibles, or any other*
20 *cost-sharing requirements.*

21 *(3) If the application of any requirement of this section would be the sole cause of a*
22 *health benefit plan's failure to qualify as a Health Savings Account-qualified*
23 *High Deductible Health Plan under 26 U.S.C. sec. 223, as amended, then the*
24 *requirement shall not apply to that health benefit plan until the minimum*
25 *deductible under 26 U.S.C. sec. 223, as amended, is satisfied.*

26 ➔Section 10. KRS 205.522 is amended to read as follows:

27 (1) With respect to the administration and provision of Medicaid benefits pursuant to

1 this chapter, the Department for Medicaid Services, any managed care organization
2 contracted to provide Medicaid benefits pursuant to this chapter, and the state's
3 medical assistance program shall be subject to, and comply with, the following, as
4 applicable:

- 5 (a) KRS 304.17A-129;
- 6 (b) KRS 304.17A-145;
- 7 (c) KRS 304.17A-163;
- 8 (d) KRS 304.17A-1631;
- 9 (e) KRS 304.17A-167;
- 10 (f) KRS 304.17A-235;
- 11 (g) KRS 304.17A-257;
- 12 (h) KRS 304.17A-259;
- 13 (i) KRS 304.17A-263;
- 14 (j) KRS 304.17A-264;
- 15 (k) KRS 304.17A-515;
- 16 (l) KRS 304.17A-580;
- 17 (m) KRS 304.17A-600, 304.17A-603, and 304.17A-607;~~and~~
- 18 (n) KRS 304.17A-740 to 304.17A-743; **and**
- 19 **(o) Section 9 of this Act.**

20 (2) A managed care organization contracted to provide Medicaid benefits pursuant to
21 this chapter shall comply with the reporting requirements of KRS 304.17A-732.

22 ➔Section 11. KRS 164.2871 is amended to read as follows:

23 (1) The governing board of each state postsecondary educational institution is
24 authorized to purchase liability insurance for the protection of the individual
25 members of the governing board, faculty, and staff of such institutions from liability
26 for acts and omissions committed in the course and scope of the individual's
27 employment or service. Each institution may purchase the type and amount of

- 1 liability coverage deemed to best serve the interest of such institution.
- 2 (2) All retirement annuity allowances accrued or accruing to any employee of a state
3 postsecondary educational institution through a retirement program sponsored by
4 the state postsecondary educational institution are hereby exempt from any state,
5 county, or municipal tax, and shall not be subject to execution, attachment,
6 garnishment, or any other process whatsoever, nor shall any assignment thereof be
7 enforceable in any court. Except retirement benefits accrued or accruing to any
8 employee of a state postsecondary educational institution through a retirement
9 program sponsored by the state postsecondary educational institution on or after
10 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent
11 provided in KRS 141.010 and 141.0215.
- 12 (3) Except as provided in KRS Chapter 44, the purchase of liability insurance for
13 members of governing boards, faculty and staff of institutions of higher education
14 in this state shall not be construed to be a waiver of sovereign immunity or any
15 other immunity or privilege.
- 16 (4) The governing board of each state postsecondary education institution is authorized
17 to provide a self-insured employer group health plan to its employees, which plan
18 shall:
- 19 (a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and
20 (b) Except as provided in subsection (5) of this section, be exempt from
21 conformity with Subtitle 17A of KRS Chapter 304.
- 22 (5) A self-insured employer group health plan provided by the governing board of a
23 state postsecondary education institution to its employees shall comply with:
- 24 (a) KRS 304.17A-129;
25 (b) KRS 304.17A-133;
26 (c) KRS 304.17A-145;
27 (d) KRS 304.17A-163 and 304.17A-1631;

- 1 (e) KRS 304.17A-261;
2 (f) KRS 304.17A-262;
3 (g) KRS 304.17A-264;~~[and]~~
4 (h) KRS 304.17A-265; and
5 (i) Section 9 of this Act.

- 6 (6) (a) A self-insured employer group health plan provided by the governing board of
7 a state postsecondary education institution to its employees shall provide a
8 special enrollment period to pregnant women who are eligible for coverage in
9 accordance with the requirements set forth in KRS 304.17-182.
10 (b) The governing board of a state postsecondary education institution shall, at or
11 before the time an employee is initially offered the opportunity to enroll in the
12 plan or coverage, provide the employee a notice of the special enrollment
13 rights under this subsection.

14 ➔Section 12. KRS 18A.225 is amended to read as follows:

- 15 (1) (a) The term "employee" for purposes of this section means:
16 1. Any person, including an elected public official, who is regularly
17 employed by any department, office, board, agency, or branch of state
18 government; or by a public postsecondary educational institution; or by
19 any city, urban-county, charter county, county, or consolidated local
20 government, whose legislative body has opted to participate in the state-
21 sponsored health insurance program pursuant to KRS 79.080; and who
22 is either a contributing member to any one (1) of the retirement systems
23 administered by the state, including but not limited to the Kentucky
24 Retirement Systems, County Employees Retirement System, Kentucky
25 Teachers' Retirement System, the Legislators' Retirement Plan, or the
26 Judicial Retirement Plan; or is receiving a contractual contribution from
27 the state toward a retirement plan; or, in the case of a public

- 1 postsecondary education institution, is an individual participating in an
2 optional retirement plan authorized by KRS 161.567; or is eligible to
3 participate in a retirement plan established by an employer who ceases
4 participating in the Kentucky Employees Retirement System pursuant to
5 KRS 61.522 whose employees participated in the health insurance plans
6 administered by the Personnel Cabinet prior to the employer's effective
7 cessation date in the Kentucky Employees Retirement System;
- 8 2. Any certified or classified employee of a local board of education or a
9 public charter school as defined in KRS 160.1590;
- 10 3. Any elected member of a local board of education;
- 11 4. Any person who is a present or future recipient of a retirement
12 allowance from the Kentucky Retirement Systems, County Employees
13 Retirement System, Kentucky Teachers' Retirement System, the
14 Legislators' Retirement Plan, the Judicial Retirement Plan, or the
15 Kentucky Community and Technical College System's optional
16 retirement plan authorized by KRS 161.567, except that a person who is
17 receiving a retirement allowance and who is age sixty-five (65) or older
18 shall not be included, with the exception of persons covered under KRS
19 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively
20 employed pursuant to subparagraph 1. of this paragraph; and
- 21 5. Any eligible dependents and beneficiaries of participating employees
22 and retirees who are entitled to participate in the state-sponsored health
23 insurance program;
- 24 (b) The term "health benefit plan" for the purposes of this section means a health
25 benefit plan as defined in KRS 304.17A-005;
- 26 (c) The term "insurer" for the purposes of this section means an insurer as defined
27 in KRS 304.17A-005; and

- 1 (d) The term "managed care plan" for the purposes of this section means a
2 managed care plan as defined in KRS 304.17A-500.
- 3 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
4 recommendation of the secretary of the Personnel Cabinet, shall procure, in
5 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
6 from one (1) or more insurers authorized to do business in this state, a group
7 health benefit plan that may include but not be limited to health maintenance
8 organization (HMO), preferred provider organization (PPO), point of service
9 (POS), and exclusive provider organization (EPO) benefit plans
10 encompassing all or any class or classes of employees. With the exception of
11 employers governed by the provisions of KRS Chapters 16, 18A, and 151B,
12 all employers of any class of employees or former employees shall enter into
13 a contract with the Personnel Cabinet prior to including that group in the state
14 health insurance group. The contracts shall include but not be limited to
15 designating the entity responsible for filing any federal forms, adoption of
16 policies required for proper plan administration, acceptance of the contractual
17 provisions with health insurance carriers or third-party administrators, and
18 adoption of the payment and reimbursement methods necessary for efficient
19 administration of the health insurance program. Health insurance coverage
20 provided to state employees under this section shall, at a minimum, contain
21 the same benefits as provided under Kentucky Kare Standard as of January 1,
22 1994, and shall include a mail-order drug option as provided in subsection
23 (13) of this section. All employees and other persons for whom the health care
24 coverage is provided or made available shall annually be given an option to
25 elect health care coverage through a self-funded plan offered by the
26 Commonwealth or, if a self-funded plan is not available, from a list of
27 coverage options determined by the competitive bid process under the

1 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
2 during annual open enrollment.

3 (b) The policy or policies shall be approved by the commissioner of insurance
4 and may contain the provisions the commissioner of insurance approves,
5 whether or not otherwise permitted by the insurance laws.

6 (c) Any carrier bidding to offer health care coverage to employees shall agree to
7 provide coverage to all members of the state group, including active
8 employees and retirees and their eligible covered dependents and
9 beneficiaries, within the county or counties specified in its bid. Except as
10 provided in subsection (20) of this section, any carrier bidding to offer health
11 care coverage to employees shall also agree to rate all employees as a single
12 entity, except for those retirees whose former employers insure their active
13 employees outside the state-sponsored health insurance program and as
14 otherwise provided in KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b.

15 (d) Any carrier bidding to offer health care coverage to employees shall agree to
16 provide enrollment, claims, and utilization data to the Commonwealth in a
17 format specified by the Personnel Cabinet with the understanding that the data
18 shall be owned by the Commonwealth; to provide data in an electronic form
19 and within a time frame specified by the Personnel Cabinet; and to be subject
20 to penalties for noncompliance with data reporting requirements as specified
21 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
22 to protect the confidentiality of each individual employee; however,
23 confidentiality assertions shall not relieve a carrier from the requirement of
24 providing stipulated data to the Commonwealth.

25 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
26 for timely analysis of data received from carriers and, to the extent possible,
27 provide in the request-for-proposal specifics relating to data requirements,

1 electronic reporting, and penalties for noncompliance. The Commonwealth
2 shall own the enrollment, claims, and utilization data provided by each carrier
3 and shall develop methods to protect the confidentiality of the individual. The
4 Personnel Cabinet shall include in the October annual report submitted
5 pursuant to the provisions of KRS 18A.226 to the Governor, the General
6 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
7 financial stability of the program, which shall include but not be limited to
8 loss ratios, methods of risk adjustment, measurements of carrier quality of
9 service, prescription coverage and cost management, and statutorily required
10 mandates. If state self-insurance was available as a carrier option, the report
11 also shall provide a detailed financial analysis of the self-insurance fund
12 including but not limited to loss ratios, reserves, and reinsurance agreements.

13 (f) If any agency participating in the state-sponsored employee health insurance
14 program for its active employees terminates participation and there is a state
15 appropriation for the employer's contribution for active employees' health
16 insurance coverage, then neither the agency nor the employees shall receive
17 the state-funded contribution after termination from the state-sponsored
18 employee health insurance program.

19 (g) Any funds in flexible spending accounts that remain after all reimbursements
20 have been processed shall be transferred to the credit of the state-sponsored
21 health insurance plan's appropriation account.

22 (h) Each entity participating in the state-sponsored health insurance program shall
23 provide an amount at least equal to the state contribution rate for the employer
24 portion of the health insurance premium. For any participating entity that used
25 the state payroll system, the employer contribution amount shall be equal to
26 but not greater than the state contribution rate.

27 (3) The premiums may be paid by the policyholder:

- 1 (a) Wholly from funds contributed by the employee, by payroll deduction or
2 otherwise;
- 3 (b) Wholly from funds contributed by any department, board, agency, public
4 postsecondary education institution, or branch of state, city, urban-county,
5 charter county, county, or consolidated local government; or
- 6 (c) Partly from each, except that any premium due for health care coverage or
7 dental coverage, if any, in excess of the premium amount contributed by any
8 department, board, agency, postsecondary education institution, or branch of
9 state, city, urban-county, charter county, county, or consolidated local
10 government for any other health care coverage shall be paid by the employee.
- 11 (4) If an employee moves his or her place of residence or employment out of the
12 service area of an insurer offering a managed health care plan, under which he or
13 she has elected coverage, into either the service area of another managed health care
14 plan or into an area of the Commonwealth not within a managed health care plan
15 service area, the employee shall be given an option, at the time of the move or
16 transfer, to change his or her coverage to another health benefit plan.
- 17 (5) No payment of premium by any department, board, agency, public postsecondary
18 educational institution, or branch of state, city, urban-county, charter county,
19 county, or consolidated local government shall constitute compensation to an
20 insured employee for the purposes of any statute fixing or limiting the
21 compensation of such an employee. Any premium or other expense incurred by any
22 department, board, agency, public postsecondary educational institution, or branch
23 of state, city, urban-county, charter county, county, or consolidated local
24 government shall be considered a proper cost of administration.
- 25 (6) The policy or policies may contain the provisions with respect to the class or classes
26 of employees covered, amounts of insurance or coverage for designated classes or
27 groups of employees, policy options, terms of eligibility, and continuation of

- 1 insurance or coverage after retirement.
- 2 (7) Group rates under this section shall be made available to the disabled child of an
3 employee regardless of the child's age if the entire premium for the disabled child's
4 coverage is paid by the state employee. A child shall be considered disabled if he or
5 she has been determined to be eligible for federal Social Security disability benefits.
- 6 (8) The health care contract or contracts for employees shall be entered into for a
7 period of not less than one (1) year.
- 8 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
9 State Health Insurance Subscribers to advise the secretary or the secretary's
10 designee regarding the state-sponsored health insurance program for employees.
11 The secretary shall appoint, from a list of names submitted by appointing
12 authorities, members representing school districts from each of the seven (7)
13 Supreme Court districts, members representing state government from each of the
14 seven (7) Supreme Court districts, two (2) members representing retirees under age
15 sixty-five (65), one (1) member representing local health departments, two (2)
16 members representing the Kentucky Teachers' Retirement System, and three (3)
17 members at large. The secretary shall also appoint two (2) members from a list of
18 five (5) names submitted by the Kentucky Education Association, two (2) members
19 from a list of five (5) names submitted by the largest state employee organization of
20 nonschool state employees, two (2) members from a list of five (5) names submitted
21 by the Kentucky Association of Counties, two (2) members from a list of five (5)
22 names submitted by the Kentucky League of Cities, and two (2) members from a
23 list of names consisting of five (5) names submitted by each state employee
24 organization that has two thousand (2,000) or more members on state payroll
25 deduction. The advisory committee shall be appointed in January of each year and
26 shall meet quarterly.
- 27 (10) Notwithstanding any other provision of law to the contrary, the policy or policies

1 provided to employees pursuant to this section shall not provide coverage for
2 obtaining or performing an abortion, nor shall any state funds be used for the
3 purpose of obtaining or performing an abortion on behalf of employees or their
4 dependents.

5 (11) Interruption of an established treatment regime with maintenance drugs shall be
6 grounds for an insured to appeal a formulary change through the established appeal
7 procedures approved by the Department of Insurance, if the physician supervising
8 the treatment certifies that the change is not in the best interests of the patient.

9 (12) Any employee who is eligible for and elects to participate in the state health
10 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
11 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
12 state health insurance contribution toward health care coverage as a result of any
13 other employment for which there is a public employer contribution. This does not
14 preclude a retiree and an active employee spouse from using both contributions to
15 the extent needed for purchase of one (1) state sponsored health insurance policy
16 for that plan year.

17 (13) (a) The policies of health insurance coverage procured under subsection (2) of
18 this section shall include a mail-order drug option for maintenance drugs for
19 state employees. Maintenance drugs may be dispensed by mail order in
20 accordance with Kentucky law.

21 (b) A health insurer shall not discriminate against any retail pharmacy located
22 within the geographic coverage area of the health benefit plan and that meets
23 the terms and conditions for participation established by the insurer, including
24 price, dispensing fee, and copay requirements of a mail-order option. The
25 retail pharmacy shall not be required to dispense by mail.

26 (c) The mail-order option shall not permit the dispensing of a controlled
27 substance classified in Schedule II.

- 1 (14) The policy or policies provided to state employees or their dependents pursuant to
2 this section shall provide coverage for obtaining a hearing aid and acquiring hearing
3 aid-related services for insured individuals under eighteen (18) years of age, subject
4 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
5 pursuant to KRS 304.17A-132.
- 6 (15) Any policy provided to state employees or their dependents pursuant to this section
7 shall provide coverage for the diagnosis and treatment of autism spectrum disorders
8 consistent with KRS 304.17A-142.
- 9 (16) Any policy provided to state employees or their dependents pursuant to this section
10 shall provide coverage for obtaining amino acid-based elemental formula pursuant
11 to KRS 304.17A-258.
- 12 (17) If a state employee's residence and place of employment are in the same county,
13 and if the hospital located within that county does not offer surgical services,
14 intensive care services, obstetrical services, level II neonatal services, diagnostic
15 cardiac catheterization services, and magnetic resonance imaging services, the
16 employee may select a plan available in a contiguous county that does provide
17 those services, and the state contribution for the plan shall be the amount available
18 in the county where the plan selected is located.
- 19 (18) If a state employee's residence and place of employment are each located in
20 counties in which the hospitals do not offer surgical services, intensive care
21 services, obstetrical services, level II neonatal services, diagnostic cardiac
22 catheterization services, and magnetic resonance imaging services, the employee
23 may select a plan available in a county contiguous to the county of residence that
24 does provide those services, and the state contribution for the plan shall be the
25 amount available in the county where the plan selected is located.
- 26 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
27 in the best interests of the state group to allow any carrier bidding to offer health

1 care coverage under this section to submit bids that may vary county by county or
2 by larger geographic areas.

3 (20) Notwithstanding any other provision of this section, the bid for proposals for health
4 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
5 the statewide rating structure provided in calendar year 2003 and a bid scenario that
6 allows for a regional rating structure that allows carriers to submit bids that may
7 vary by region for a given product offering as described in this subsection:

8 (a) The regional rating bid scenario shall not include a request for bid on a
9 statewide option;

10 (b) The Personnel Cabinet shall divide the state into geographical regions which
11 shall be the same as the partnership regions designated by the Department for
12 Medicaid Services for purposes of the Kentucky Health Care Partnership
13 Program established pursuant to 907 KAR 1:705;

14 (c) The request for proposal shall require a carrier's bid to include every county
15 within the region or regions for which the bid is submitted and include but not
16 be restricted to a preferred provider organization (PPO) option;

17 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
18 carrier all of the counties included in its bid within the region. If the Personnel
19 Cabinet deems the bids submitted in accordance with this subsection to be in
20 the best interests of state employees in a region, the cabinet may award the
21 contract for that region to no more than two (2) carriers; and

22 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
23 other requirements or criteria in the request for proposal.

24 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or
25 after July 12, 2006, to public employees pursuant to this section which provides
26 coverage for services rendered by a physician or osteopath duly licensed under KRS
27 Chapter 311 that are within the scope of practice of an optometrist duly licensed

1 under the provisions of KRS Chapter 320 shall provide the same payment of
2 coverage to optometrists as allowed for those services rendered by physicians or
3 osteopaths.

4 (22) Any fully insured health benefit plan or self-insured plan issued or renewed to
5 public employees pursuant to this section shall comply with:

- 6 (a) KRS 304.12-237;
7 (b) KRS 304.17A-270 and 304.17A-525;
8 (c) KRS 304.17A-600 to 304.17A-633;
9 (d) KRS 205.593;
10 (e) KRS 304.17A-700 to 304.17A-730;
11 (f) KRS 304.14-135;
12 (g) KRS 304.17A-580 and 304.17A-641;
13 (h) KRS 304.99-123;
14 (i) KRS 304.17A-138;
15 (j) KRS 304.17A-148;
16 (k) KRS 304.17A-163 and 304.17A-1631;
17 (l) KRS 304.17A-265;
18 (m) KRS 304.17A-261;
19 (n) KRS 304.17A-262;
20 (o) KRS 304.17A-145;
21 (p) KRS 304.17A-129;
22 (q) KRS 304.17A-133;
23 (r) KRS 304.17A-264;~~and~~
24 (s) **Section 9 of this Act; and**
25 **(t)** Administrative regulations promulgated pursuant to statutes listed in this
26 subsection.

27 (23) (a) Any fully insured health benefit plan or self-insured plan issued or renewed to

1 public employees pursuant to this section shall provide a special enrollment
2 period to pregnant women who are eligible for coverage in accordance with
3 the requirements set forth in KRS 304.17-182.

4 (b) The Department of Employee Insurance shall, at or before the time a public
5 employee is initially offered the opportunity to enroll in the plan or coverage,
6 provide the employee a notice of the special enrollment rights under this
7 subsection.

8 ➔Section 13. Sections 9, 11, and 12 of this Act apply to health benefit plans
9 issued or renewed on or after January 1, 2026.

10 ➔Section 14. If the Department for Medicaid Services or the Cabinet for Health
11 and Family Services determines that a state plan amendment, waiver, or any other form
12 of authorization or approval from any federal agency is necessary prior to implementation
13 of Section 10 of this Act for any reason, including the loss of federal funds, the
14 department or cabinet shall, within 90 days after the effective date of this section, request
15 any necessary state plan amendment, waiver, authorization, or approval, and may only
16 delay full implementation of those provisions for which a state plan amendment, waiver,
17 authorization, or approval was deemed necessary until the state plan amendment, waiver,
18 authorization, or approval is granted or approved.

19 ➔Section 15. The Department for Medicaid Services or the Cabinet for Health
20 and Family Services shall, in accordance with KRS 205.525, provide a copy of any state
21 plan amendment, waiver application, or other request for authorization or approval
22 submitted pursuant to Section 14 of this Act to the Legislative Research Commission for
23 referral to the Interim Joint Committees on Health Services and Appropriations and
24 Revenue and shall provide an update on the status of any application or request submitted
25 pursuant to Section 6 of this Act at the request of the Legislative Research Commission
26 or any committee thereof.

27 ➔Section 16. Sections 9 to 13 of this Act take effect January 1, 2026.

1 ➔Section 17. All health facilities, health services, and health care providers, as
2 defined in Section 1 of this Act, shall have appropriate infrastructure in place to store and
3 label blood in accordance with Section 5 of this Act within 90 days of the effective date
4 of this Act.