

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; ~~and~~

2 ~~(10)~~<sup>(7)</sup> "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)~~<sup>(9)</sup> "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 persons *listed under paragraph (a)1. to*  
27 *5. of this subsection*~~[at high risk for infection with the human~~

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

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

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

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

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

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

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

27           (1) ~~A~~~~No~~ person shall *not* donate blood if the person;

- 1        (a) Is at high risk for infection with the human immunodeficiency virus;  
 2        (b) Has tested confirmatory positive for infection with the human  
 3                immunodeficiency virus;  
 4        (c) Has acquired immune deficiency syndrome;  
 5        (d) Has tested confirmatory positive for infection with any causative agent for  
 6                acquired immune deficiency syndrome recognized by the United States  
 7                Centers for Disease Control; or  
 8        (e) Has a blood-borne communicable disease ~~is at high risk for infection with~~  
 9                ~~the human immunodeficiency virus, or has acquired immunodeficiency~~  
 10                ~~syndrome, or has tested confirmatory positive for the human~~  
 11                ~~immunodeficiency virus or any other known causative agent of a blood borne~~  
 12                ~~communicable disease].~~

13        (2) ~~A~~~~No~~ person shall ***not*** give false information to the staff of a blood establishment  
 14                regarding any item of the person's personal history which would affect the person's  
 15                suitability as a donor.

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

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

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

23        (2) ~~[If the donation is to another particular individual, ]~~The requirements of KRS  
 24                214.454 shall be met if the recipient and the recipient's attending physician have  
 25                requested a directed~~[the]~~ donation.

26        (3) Blood collected as a directed donation may be used for someone other than, or in  
 27                addition to, the designated recipient if the donor's blood is not compatible with that

1 of the designated recipient or if any part of the donation is not needed by the  
2 designated recipient.

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

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

8 **(a) Prevent or prohibit autologous donations or directed donations or**  
9 **transfusions; or**

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

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

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

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

- 19 (a) Date the blood was collected;
- 20 (b) Name of blood establishment;
- 21 (c) Nonidentifying code representing the name of the blood donor;
- 22 (d) A blood establishment serial number for the blood;
- 23 (e) The date of laboratory testing of the blood;
- 24 (f) The name of the person and laboratory testing the blood;
- 25 (g) The laboratory test results; and

26 **(h) The mRNA status of the blood and the type of mRNA treatment or therapy**  
27 **received by the donor, upon approval of the United States Food and Drug**

1                   *Administration of a test for the presence of mRNA.*

- 2       (2) Each unit of blood received by a blood establishment, ~~for~~ health facility, health  
3       service, or health care provider within the Commonwealth from an out-of-state  
4       blood establishment shall contain a label in accordance with the provisions of  
5       subsection (1) of this section and the blood establishment, ~~for~~ health facility,  
6       health service, or health care provider shall either test the blood in accordance  
7       with the requirements for blood establishments within the Commonwealth under the  
8       provisions of KRS 214.452(2) or may accept documented evidence of the test  
9       results as are required under subsection (1) of this section for blood collected within  
10      the Commonwealth.
- 11     (3) Each laboratory testing blood for transfusion shall maintain for ten (10) years from  
12      the date of testing, and each blood establishment shall maintain for ten (10) years  
13      from the date of collection, a list containing the information set forth in subsection  
14      (1) of this section.
- 15     (4) No blood may be transfused into any patient in any health facility or health service  
16      or by any health care provider unless the unit of blood has affixed to it the label as  
17      required under this section and the blood has tested negative for:
- 18       (a) The human immunodeficiency virus or any causative agent of AIDS; and,  
19       ~~or~~
- 20       (b) Any blood-borne communicable disease as provided under KRS 214.452.
- 21     (5) When a unit of blood is transfused, a label containing the donor identification  
22      number required under this section shall be removed from the unit and affixed to  
23      the patient's medical chart or the blood donor identification number for the unit of  
24      blood shall be recorded in the patient's medical chart.
- 25     ~~(6)~~(5) Any unit of blood not containing the label required under this section shall be  
26      destroyed by the health facility, health service, or health care provider.
- 27     ~~(7)~~(6) Any unit of blood testing confirmatory positive for an agent of a blood-borne

1 communicable disease and in the possession of a health facility, health service, or  
 2 health care provider may be donated to educational or scientific research  
 3 institutions for the purpose of scientific research only and not for transfusion.

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

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

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

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

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

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

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

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

19 (1) (a) Untested blood may be transfused only in an emergency situation in which the  
 20 attending physician determines a patient is in imminent danger of death or  
 21 serious physical injury and no tested and labeled blood as set forth under KRS  
 22 214.458 is readily available to alleviate the emergency situation; provided,  
 23 however, that the attending physician shall obtain specific prior consent for  
 24 the transfusion from the patient in the emergency situation or if the patient's  
 25 condition renders the patient incapable of giving consent, seek from the next  
 26 of kin of the patient, if available, prior informed consent to transfuse any  
 27 untested blood. **As used in** ~~For purposes of~~ this section, the patient's "next of

1 kin" means, in the following order;

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

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

8 (2) Blood establishments may release untested blood, collected under standards set  
9 forth in KRS 214.452, at the request of a physician, or health facility, or health  
10 service in an emergency as provided under this section. If blood has not been tested,  
11 the test shall be performed as soon after the transfusion as possible. If the blood  
12 subsequently tests positive on any tests required under Section 2 of this Act~~for~~  
13 ~~any blood-borne communicable disease~~, the patient's attending physician shall be  
14 immediately notified. The attending physician shall, in turn, notify the patient of the  
15 test results. The patient or next of kin shall indicate notification of receipt of the test  
16 results and any offer of treatment or referral to another health care~~health care~~  
17 provider on a form provided by the health facility or health service and approved by  
18 the Cabinet for Health and Family Services.

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

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

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

25 *Each hospital licensed under this chapter shall:*

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

27 *(2) By January 1, 2026, establish a task force for bloodless medicine and surgery to*

1 *design and implement strategies to reduce the need for blood transfusions.*

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

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

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

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

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

15 (1) With respect to the administration and provision of Medicaid benefits pursuant to  
16 this chapter, the Department for Medicaid Services, any managed care organization  
17 contracted to provide Medicaid benefits pursuant to this chapter, and the state's  
18 medical assistance program shall be subject to, and comply with, the following, as  
19 applicable:

20 (a) KRS 304.17A-129;

21 (b) KRS 304.17A-145;

22 (c) KRS 304.17A-163;

23 (d) KRS 304.17A-1631;

24 (e) KRS 304.17A-167;

25 (f) KRS 304.17A-235;

26 (g) KRS 304.17A-257;

27 (h) KRS 304.17A-259;

- 1 (i) KRS 304.17A-263;  
2 (j) KRS 304.17A-264;  
3 (k) KRS 304.17A-515;  
4 (l) KRS 304.17A-580;  
5 (m) KRS 304.17A-600, 304.17A-603, and 304.17A-607;~~and~~  
6 (n) KRS 304.17A-740 to 304.17A-743; **and**  
7 **(o) Section 9 of this Act.**

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

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

11 (1) The governing board of each state postsecondary educational institution is  
12 authorized to purchase liability insurance for the protection of the individual  
13 members of the governing board, faculty, and staff of such institutions from liability  
14 for acts and omissions committed in the course and scope of the individual's  
15 employment or service. Each institution may purchase the type and amount of  
16 liability coverage deemed to best serve the interest of such institution.

17 (2) All retirement annuity allowances accrued or accruing to any employee of a state  
18 postsecondary educational institution through a retirement program sponsored by  
19 the state postsecondary educational institution are hereby exempt from any state,  
20 county, or municipal tax, and shall not be subject to execution, attachment,  
21 garnishment, or any other process whatsoever, nor shall any assignment thereof be  
22 enforceable in any court. Except retirement benefits accrued or accruing to any  
23 employee of a state postsecondary educational institution through a retirement  
24 program sponsored by the state postsecondary educational institution on or after  
25 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent  
26 provided in KRS 141.010 and 141.0215.

27 (3) Except as provided in KRS Chapter 44, the purchase of liability insurance for

1 members of governing boards, faculty and staff of institutions of higher education  
2 in this state shall not be construed to be a waiver of sovereign immunity or any  
3 other immunity or privilege.

4 (4) The governing board of each state postsecondary education institution is authorized  
5 to provide a self-insured employer group health plan to its employees, which plan  
6 shall:

7 (a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and

8 (b) Except as provided in subsection (5) of this section, be exempt from  
9 conformity with Subtitle 17A of KRS Chapter 304.

10 (5) A self-insured employer group health plan provided by the governing board of a  
11 state postsecondary education institution to its employees shall comply with:

12 (a) KRS 304.17A-129;

13 (b) KRS 304.17A-133;

14 (c) KRS 304.17A-145;

15 (d) KRS 304.17A-163 and 304.17A-1631;

16 (e) KRS 304.17A-261;

17 (f) KRS 304.17A-262;

18 (g) KRS 304.17A-264;~~[and]~~

19 (h) KRS 304.17A-265; **and**

20 **(i) Section 9 of this Act.**

21 (6) (a) A self-insured employer group health plan provided by the governing board of  
22 a state postsecondary education institution to its employees shall provide a  
23 special enrollment period to pregnant women who are eligible for coverage in  
24 accordance with the requirements set forth in KRS 304.17-182.

25 (b) The governing board of a state postsecondary education institution shall, at or  
26 before the time an employee is initially offered the opportunity to enroll in the  
27 plan or coverage, provide the employee a notice of the special enrollment

1 rights under this subsection.

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

- 3 (1) (a) The term "employee" for purposes of this section means:
- 4 1. Any person, including an elected public official, who is regularly  
5 employed by any department, office, board, agency, or branch of state  
6 government; or by a public postsecondary educational institution; or by  
7 any city, urban-county, charter county, county, or consolidated local  
8 government, whose legislative body has opted to participate in the state-  
9 sponsored health insurance program pursuant to KRS 79.080; and who  
10 is either a contributing member to any one (1) of the retirement systems  
11 administered by the state, including but not limited to the Kentucky  
12 Retirement Systems, County Employees Retirement System, Kentucky  
13 Teachers' Retirement System, the Legislators' Retirement Plan, or the  
14 Judicial Retirement Plan; or is receiving a contractual contribution from  
15 the state toward a retirement plan; or, in the case of a public  
16 postsecondary education institution, is an individual participating in an  
17 optional retirement plan authorized by KRS 161.567; or is eligible to  
18 participate in a retirement plan established by an employer who ceases  
19 participating in the Kentucky Employees Retirement System pursuant to  
20 KRS 61.522 whose employees participated in the health insurance plans  
21 administered by the Personnel Cabinet prior to the employer's effective  
22 cessation date in the Kentucky Employees Retirement System;
  - 23 2. Any certified or classified employee of a local board of education or a  
24 public charter school as defined in KRS 160.1590;
  - 25 3. Any elected member of a local board of education;
  - 26 4. Any person who is a present or future recipient of a retirement  
27 allowance from the Kentucky Retirement Systems, County Employees

- 1 Retirement System, Kentucky Teachers' Retirement System, the  
2 Legislators' Retirement Plan, the Judicial Retirement Plan, or the  
3 Kentucky Community and Technical College System's optional  
4 retirement plan authorized by KRS 161.567, except that a person who is  
5 receiving a retirement allowance and who is age sixty-five (65) or older  
6 shall not be included, with the exception of persons covered under KRS  
7 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively  
8 employed pursuant to subparagraph 1. of this paragraph; and
- 9 5. Any eligible dependents and beneficiaries of participating employees  
10 and retirees who are entitled to participate in the state-sponsored health  
11 insurance program;
- 12 (b) The term "health benefit plan" for the purposes of this section means a health  
13 benefit plan as defined in KRS 304.17A-005;
- 14 (c) The term "insurer" for the purposes of this section means an insurer as defined  
15 in KRS 304.17A-005; and
- 16 (d) The term "managed care plan" for the purposes of this section means a  
17 managed care plan as defined in KRS 304.17A-500.
- 18 (2) (a) The secretary of the Finance and Administration Cabinet, upon the  
19 recommendation of the secretary of the Personnel Cabinet, shall procure, in  
20 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,  
21 from one (1) or more insurers authorized to do business in this state, a group  
22 health benefit plan that may include but not be limited to health maintenance  
23 organization (HMO), preferred provider organization (PPO), point of service  
24 (POS), and exclusive provider organization (EPO) benefit plans  
25 encompassing all or any class or classes of employees. With the exception of  
26 employers governed by the provisions of KRS Chapters 16, 18A, and 151B,  
27 all employers of any class of employees or former employees shall enter into

1 a contract with the Personnel Cabinet prior to including that group in the state  
2 health insurance group. The contracts shall include but not be limited to  
3 designating the entity responsible for filing any federal forms, adoption of  
4 policies required for proper plan administration, acceptance of the contractual  
5 provisions with health insurance carriers or third-party administrators, and  
6 adoption of the payment and reimbursement methods necessary for efficient  
7 administration of the health insurance program. Health insurance coverage  
8 provided to state employees under this section shall, at a minimum, contain  
9 the same benefits as provided under Kentucky Kare Standard as of January 1,  
10 1994, and shall include a mail-order drug option as provided in subsection  
11 (13) of this section. All employees and other persons for whom the health care  
12 coverage is provided or made available shall annually be given an option to  
13 elect health care coverage through a self-funded plan offered by the  
14 Commonwealth or, if a self-funded plan is not available, from a list of  
15 coverage options determined by the competitive bid process under the  
16 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available  
17 during annual open enrollment.

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

21 (c) Any carrier bidding to offer health care coverage to employees shall agree to  
22 provide coverage to all members of the state group, including active  
23 employees and retirees and their eligible covered dependents and  
24 beneficiaries, within the county or counties specified in its bid. Except as  
25 provided in subsection (20) of this section, any carrier bidding to offer health  
26 care coverage to employees shall also agree to rate all employees as a single  
27 entity, except for those retirees whose former employers insure their active

1 employees outside the state-sponsored health insurance program and as  
2 otherwise provided in KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b.

3 (d) Any carrier bidding to offer health care coverage to employees shall agree to  
4 provide enrollment, claims, and utilization data to the Commonwealth in a  
5 format specified by the Personnel Cabinet with the understanding that the data  
6 shall be owned by the Commonwealth; to provide data in an electronic form  
7 and within a time frame specified by the Personnel Cabinet; and to be subject  
8 to penalties for noncompliance with data reporting requirements as specified  
9 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions  
10 to protect the confidentiality of each individual employee; however,  
11 confidentiality assertions shall not relieve a carrier from the requirement of  
12 providing stipulated data to the Commonwealth.

13 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities  
14 for timely analysis of data received from carriers and, to the extent possible,  
15 provide in the request-for-proposal specifics relating to data requirements,  
16 electronic reporting, and penalties for noncompliance. The Commonwealth  
17 shall own the enrollment, claims, and utilization data provided by each carrier  
18 and shall develop methods to protect the confidentiality of the individual. The  
19 Personnel Cabinet shall include in the October annual report submitted  
20 pursuant to the provisions of KRS 18A.226 to the Governor, the General  
21 Assembly, and the Chief Justice of the Supreme Court, an analysis of the  
22 financial stability of the program, which shall include but not be limited to  
23 loss ratios, methods of risk adjustment, measurements of carrier quality of  
24 service, prescription coverage and cost management, and statutorily required  
25 mandates. If state self-insurance was available as a carrier option, the report  
26 also shall provide a detailed financial analysis of the self-insurance fund  
27 including but not limited to loss ratios, reserves, and reinsurance agreements.

- 1 (f) If any agency participating in the state-sponsored employee health insurance  
2 program for its active employees terminates participation and there is a state  
3 appropriation for the employer's contribution for active employees' health  
4 insurance coverage, then neither the agency nor the employees shall receive  
5 the state-funded contribution after termination from the state-sponsored  
6 employee health insurance program.
- 7 (g) Any funds in flexible spending accounts that remain after all reimbursements  
8 have been processed shall be transferred to the credit of the state-sponsored  
9 health insurance plan's appropriation account.
- 10 (h) Each entity participating in the state-sponsored health insurance program shall  
11 provide an amount at least equal to the state contribution rate for the employer  
12 portion of the health insurance premium. For any participating entity that used  
13 the state payroll system, the employer contribution amount shall be equal to  
14 but not greater than the state contribution rate.
- 15 (3) The premiums may be paid by the policyholder:
- 16 (a) Wholly from funds contributed by the employee, by payroll deduction or  
17 otherwise;
- 18 (b) Wholly from funds contributed by any department, board, agency, public  
19 postsecondary education institution, or branch of state, city, urban-county,  
20 charter county, county, or consolidated local government; or
- 21 (c) Partly from each, except that any premium due for health care coverage or  
22 dental coverage, if any, in excess of the premium amount contributed by any  
23 department, board, agency, postsecondary education institution, or branch of  
24 state, city, urban-county, charter county, county, or consolidated local  
25 government for any other health care coverage shall be paid by the employee.
- 26 (4) If an employee moves his or her place of residence or employment out of the  
27 service area of an insurer offering a managed health care plan, under which he or

1 she has elected coverage, into either the service area of another managed health care  
2 plan or into an area of the Commonwealth not within a managed health care plan  
3 service area, the employee shall be given an option, at the time of the move or  
4 transfer, to change his or her coverage to another health benefit plan.

5 (5) No payment of premium by any department, board, agency, public postsecondary  
6 educational institution, or branch of state, city, urban-county, charter county,  
7 county, or consolidated local government shall constitute compensation to an  
8 insured employee for the purposes of any statute fixing or limiting the  
9 compensation of such an employee. Any premium or other expense incurred by any  
10 department, board, agency, public postsecondary educational institution, or branch  
11 of state, city, urban-county, charter county, county, or consolidated local  
12 government shall be considered a proper cost of administration.

13 (6) The policy or policies may contain the provisions with respect to the class or classes  
14 of employees covered, amounts of insurance or coverage for designated classes or  
15 groups of employees, policy options, terms of eligibility, and continuation of  
16 insurance or coverage after retirement.

17 (7) Group rates under this section shall be made available to the disabled child of an  
18 employee regardless of the child's age if the entire premium for the disabled child's  
19 coverage is paid by the state employee. A child shall be considered disabled if he or  
20 she has been determined to be eligible for federal Social Security disability benefits.

21 (8) The health care contract or contracts for employees shall be entered into for a  
22 period of not less than one (1) year.

23 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of  
24 State Health Insurance Subscribers to advise the secretary or the secretary's  
25 designee regarding the state-sponsored health insurance program for employees.  
26 The secretary shall appoint, from a list of names submitted by appointing  
27 authorities, members representing school districts from each of the seven (7)

1 Supreme Court districts, members representing state government from each of the  
2 seven (7) Supreme Court districts, two (2) members representing retirees under age  
3 sixty-five (65), one (1) member representing local health departments, two (2)  
4 members representing the Kentucky Teachers' Retirement System, and three (3)  
5 members at large. The secretary shall also appoint two (2) members from a list of  
6 five (5) names submitted by the Kentucky Education Association, two (2) members  
7 from a list of five (5) names submitted by the largest state employee organization of  
8 nonschool state employees, two (2) members from a list of five (5) names submitted  
9 by the Kentucky Association of Counties, two (2) members from a list of five (5)  
10 names submitted by the Kentucky League of Cities, and two (2) members from a  
11 list of names consisting of five (5) names submitted by each state employee  
12 organization that has two thousand (2,000) or more members on state payroll  
13 deduction. The advisory committee shall be appointed in January of each year and  
14 shall meet quarterly.

15 (10) Notwithstanding any other provision of law to the contrary, the policy or policies  
16 provided to employees pursuant to this section shall not provide coverage for  
17 obtaining or performing an abortion, nor shall any state funds be used for the  
18 purpose of obtaining or performing an abortion on behalf of employees or their  
19 dependents.

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

24 (12) Any employee who is eligible for and elects to participate in the state health  
25 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any  
26 one (1) of the state-sponsored retirement systems shall not be eligible to receive the  
27 state health insurance contribution toward health care coverage as a result of any

1 other employment for which there is a public employer contribution. This does not  
2 preclude a retiree and an active employee spouse from using both contributions to  
3 the extent needed for purchase of one (1) state sponsored health insurance policy  
4 for that plan year.

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

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

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

16 (14) The policy or policies provided to state employees or their dependents pursuant to  
17 this section shall provide coverage for obtaining a hearing aid and acquiring hearing  
18 aid-related services for insured individuals under eighteen (18) years of age, subject  
19 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months  
20 pursuant to KRS 304.17A-132.

21 (15) Any policy provided to state employees or their dependents pursuant to this section  
22 shall provide coverage for the diagnosis and treatment of autism spectrum disorders  
23 consistent with KRS 304.17A-142.

24 (16) Any policy provided to state employees or their dependents pursuant to this section  
25 shall provide coverage for obtaining amino acid-based elemental formula pursuant  
26 to KRS 304.17A-258.

27 (17) If a state employee's residence and place of employment are in the same county,

1 and if the hospital located within that county does not offer surgical services,  
2 intensive care services, obstetrical services, level II neonatal services, diagnostic  
3 cardiac catheterization services, and magnetic resonance imaging services, the  
4 employee may select a plan available in a contiguous county that does provide  
5 those services, and the state contribution for the plan shall be the amount available  
6 in the county where the plan selected is located.

7 (18) If a state employee's residence and place of employment are each located in  
8 counties in which the hospitals do not offer surgical services, intensive care  
9 services, obstetrical services, level II neonatal services, diagnostic cardiac  
10 catheterization services, and magnetic resonance imaging services, the employee  
11 may select a plan available in a county contiguous to the county of residence that  
12 does provide those services, and the state contribution for the plan shall be the  
13 amount available in the county where the plan selected is located.

14 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and  
15 in the best interests of the state group to allow any carrier bidding to offer health  
16 care coverage under this section to submit bids that may vary county by county or  
17 by larger geographic areas.

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

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

25 (b) The Personnel Cabinet shall divide the state into geographical regions which  
26 shall be the same as the partnership regions designated by the Department for  
27 Medicaid Services for purposes of the Kentucky Health Care Partnership

- 1 Program established pursuant to 907 KAR 1:705;
- 2 (c) The request for proposal shall require a carrier's bid to include every county  
3 within the region or regions for which the bid is submitted and include but not  
4 be restricted to a preferred provider organization (PPO) option;
- 5 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the  
6 carrier all of the counties included in its bid within the region. If the Personnel  
7 Cabinet deems the bids submitted in accordance with this subsection to be in  
8 the best interests of state employees in a region, the cabinet may award the  
9 contract for that region to no more than two (2) carriers; and
- 10 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including  
11 other requirements or criteria in the request for proposal.
- 12 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or  
13 after July 12, 2006, to public employees pursuant to this section which provides  
14 coverage for services rendered by a physician or osteopath duly licensed under KRS  
15 Chapter 311 that are within the scope of practice of an optometrist duly licensed  
16 under the provisions of KRS Chapter 320 shall provide the same payment of  
17 coverage to optometrists as allowed for those services rendered by physicians or  
18 osteopaths.
- 19 (22) Any fully insured health benefit plan or self-insured plan issued or renewed to  
20 public employees pursuant to this section shall comply with:
- 21 (a) KRS 304.12-237;
- 22 (b) KRS 304.17A-270 and 304.17A-525;
- 23 (c) KRS 304.17A-600 to 304.17A-633;
- 24 (d) KRS 205.593;
- 25 (e) KRS 304.17A-700 to 304.17A-730;
- 26 (f) KRS 304.14-135;
- 27 (g) KRS 304.17A-580 and 304.17A-641;

- 1 (h) KRS 304.99-123;
- 2 (i) KRS 304.17A-138;
- 3 (j) KRS 304.17A-148;
- 4 (k) KRS 304.17A-163 and 304.17A-1631;
- 5 (l) KRS 304.17A-265;
- 6 (m) KRS 304.17A-261;
- 7 (n) KRS 304.17A-262;
- 8 (o) KRS 304.17A-145;
- 9 (p) KRS 304.17A-129;
- 10 (q) KRS 304.17A-133;
- 11 (r) KRS 304.17A-264;~~and~~
- 12 (s) **Section 9 of this Act; and**
- 13 **(t)** Administrative regulations promulgated pursuant to statutes listed in this
- 14 subsection.
- 15 (23) (a) Any fully insured health benefit plan or self-insured plan issued or renewed to
- 16 public employees pursuant to this section shall provide a special enrollment
- 17 period to pregnant women who are eligible for coverage in accordance with
- 18 the requirements set forth in KRS 304.17-182.
- 19 (b) The Department of Employee Insurance shall, at or before the time a public
- 20 employee is initially offered the opportunity to enroll in the plan or coverage,
- 21 provide the employee a notice of the special enrollment rights under this
- 22 subsection.
- 23 ➔Section 13. Sections 9, 11, and 12 of this Act apply to health benefit plans
- 24 issued or renewed on or after January 1, 2026.
- 25 ➔Section 14. If the Department for Medicaid Services or the Cabinet for Health
- 26 and Family Services determines that a state plan amendment, waiver, or any other form
- 27 of authorization or approval from any federal agency is necessary prior to implementation

1 of Section 10 of this Act for any reason, including the loss of federal funds, the  
2 department or cabinet shall, within 90 days after the effective date of this section, request  
3 any necessary state plan amendment, waiver, authorization, or approval, and may only  
4 delay full implementation of those provisions for which a state plan amendment, waiver,  
5 authorization, or approval was deemed necessary until the state plan amendment, waiver,  
6 authorization, or approval is granted or approved.

7       ➔Section 15. The Department for Medicaid Services or the Cabinet for Health  
8 and Family Services shall, in accordance with KRS 205.525, provide a copy of any state  
9 plan amendment, waiver application, or other request for authorization or approval  
10 submitted pursuant to Section 14 of this Act to the Legislative Research Commission for  
11 referral to the Interim Joint Committees on Health Services and Appropriations and  
12 Revenue and shall provide an update on the status of any application or request submitted  
13 pursuant to Section 14 of this Act at the request of the Legislative Research Commission  
14 or any committee thereof.

15       ➔Section 16. All health facilities, health services, and health care providers, as  
16 defined in Section 1 of this Act, shall have appropriate infrastructure in place to store and  
17 label blood in accordance with Section 5 of this Act within 90 days of the effective date  
18 of this section.

19       ➔Section 17. Sections 9 to 13 of this Act take effect January 1, 2026.