

1 AN ACT relating to reproductive privacy.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) Every individual has a fundamental right to choose or refuse contraception or*
6 *sterilization.*

7 *(2) Every individual has a fundamental right to choose or refuse to bear a child or*
8 *obtain an abortion prior to the viability of the fetus, or to protect the life or health*
9 *of the pregnant person.*

10 *(3) The state shall not, in the regulation or provision of benefits, facilities, services,*
11 *or information, deny or interfere with an individual's fundamental rights,*
12 *including individuals under state supervision, custody, or control to choose or*
13 *refuse:*

14 *(a) Contraception or sterilization; or*

15 *(b) To bear a child or obtain an abortion.*

16 *(4) The state shall not discriminate in the protection or enforcement of these*
17 *fundamental rights on the basis of sex, disability, race, ethnicity, gender identity,*
18 *age, marital status, national origin, immigration status, religion, or sexual*
19 *orientation.*

20 *(5) Any state or local official who is charged with violating this section shall be*
21 *subject to an action in federal or state court for injunctive relief and damages,*
22 *which may be brought by any person or entity that may be aggrieved by the*
23 *official's actions.*

24 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
25 READ AS FOLLOWS:

26 *As used in Sections 2 to 7 of this Act:*

27 *(1) "Abortion" means the purposeful termination of a pregnancy;*

1 (2) "Cabinet" means the Cabinet for Health and Family Services of the
2 Commonwealth of Kentucky;

3 (3) "Medical emergency" means any condition that in the physician's reasonable
4 medical judgment, based upon facts known to the physician at the time, so
5 complicates the person's pregnancy as to necessitate the immediate performance
6 or inducement of an abortion to prevent the death of the pregnant person or to
7 avoid a serious risk of substantial and irreversible impairment of a major bodily
8 function of the pregnant person that delay in the performance or inducement of
9 the abortion would create;

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

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

16 (6) "Reasonable medical judgment" means a medical judgment that would be made
17 by a reasonably prudent physician, knowledgeable about the case and the
18 treatment possibilities with respect to the medical conditions involved;

19 (7) "Unborn child" means a member of the species homo sapiens in utero; and

20 (8) "Viability" means that state of human development when the life of the unborn
21 child may be continued by natural or life-supportive systems outside the womb of
22 the pregnant person.

23 ➔Section 3. KRS 311.780 is repealed, reenacted as a new section of KRS Chapter
24 311, and amended to read as follows:

25 No abortion shall be performed or prescribed knowingly after the unborn child may
26 reasonably be expected to have reached viability, except when necessary to preserve the
27 life or health of the pregnant person~~[woman]~~. In those instances where an abortion is

1 performed under this section, the person performing the abortion shall take all reasonable
2 steps in keeping with reasonable medical practices to preserve the life and health of the
3 child~~[-, including but not limited to KRS 311.760(2)]~~.

4 ➔Section 4. KRS 311.783 is repealed, reenacted as a new section of KRS Chapter
5 311, and amended to read as follows:

6 (1) Except in a medical emergency that prevents compliance with this section, no
7 physician shall intentionally perform or induce or intentionally attempt to perform
8 or induce an abortion on a pregnant person~~[woman]~~ unless, prior to the
9 performance or inducement of the abortion or the attempt to perform or induce the
10 abortion, the physician determines, in the physician's reasonable medical judgment,
11 the unborn child's probable gestational age. The physician shall make that
12 determination after making inquiries of the pregnant person~~[woman]~~ and
13 performing any medical examinations or tests of the pregnant person~~[woman]~~ the
14 physician considers necessary as a reasonably prudent physician, knowledgeable
15 about the case and medical conditions involved, would consider necessary to
16 determine the unborn child's probable gestational age.

17 (2) Except in a medical emergency that prevents compliance with this section, no
18 physician shall intentionally perform or induce or intentionally attempt to perform
19 or induce an abortion on a pregnant person~~[woman]~~ after the unborn child reaches
20 the probable gestational age of fifteen (15) weeks without first entering the
21 determination made in subsection (1) of this section and the associated findings of
22 the medical examination and tests in the medical record of the pregnant
23 person~~[woman]~~.

24 (3) The state Board of Medical Licensure shall suspend a physician's license to practice
25 medicine in this state for a period of not less than six (6) months if the physician
26 violates this section.

27 (4) The physician shall submit a report on a form provided by the cabinet that includes

1 at a minimum the information required by KRS 213.101 and:

2 (a) The unborn child's probable gestational age determined by the physician; and

3 (b) The results of inquiries of the pregnant person~~[woman]~~ and any medical
4 examinations or tests performed.

5 ➔Section 5. KRS 311.7710 is repealed and reenacted as a new section of KRS
6 Chapter 311 to read as follows:

7 The Cabinet for Health and Family Services shall inspect the medical records from any
8 facility that performs abortions to ensure that the physicians or other persons who
9 perform abortions at that facility are in compliance with the reporting requirements under
10 KRS 213.101. The facility shall make the medical records available for inspection to the
11 Cabinet for Health and Family Services but shall not release any personal medical
12 information in the medical records that is prohibited by law.

13 ➔Section 6. KRS 311.810 is repealed, reenacted as a new section of KRS Chapter
14 311, and amended to read as follows:

15 No person~~[woman]~~ may be denied governmental assistance or be otherwise
16 discriminated against or otherwise subjected to coercion in any way for accepting or
17 refusing to accept or submit to an abortion, which she may do or not do for any reason
18 without explanation.

19 ➔Section 7. KRS 311.820 is repealed and reenacted as a new section of KRS
20 Chapter 311 to read as follows:

21 (1) As used in this section, an abortion referral or counseling agency is any person,
22 group, or organization, whether funded publicly or privately, that provides advice or
23 help to persons in obtaining abortions.

24 (2) No abortion referral or counseling agency shall charge or accept any fee, kickback,
25 or compensation of any nature from a physician, hospital, clinic, or other medical
26 facility for referring a person thereto for an abortion.

27 ➔Section 8. KRS 311.990 is amended to read as follows:

- 1 (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- 2 (2) Any college or college professor~~thereof~~ violating the provisions of KRS 311.300
3 to 311.350 shall be civilly liable on his or her bond for a sum not less than one
4 hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each
5 violation, which may be recovered by an action in the name of the Commonwealth.
- 6 (3) Any person who presents to the county clerk for the purpose of registration any
7 license which has been fraudulently obtained, or obtains any license under KRS
8 311.380 to 311.510 by false or fraudulent statement or representation, or practices
9 podiatry under a false or assumed name or falsely impersonates another practitioner
10 or former practitioner of a like or different name, or aids and abets any person in the
11 practice of podiatry within the state without conforming to the requirements of KRS
12 311.380 to 311.510, or otherwise violates or neglects to comply with any of the
13 provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor.
14 Each case of practicing podiatry in violation of the provisions of KRS 311.380 to
15 311.510 shall be considered a separate offense.
- 16 (4) Each violation of KRS 311.560 shall constitute a Class D felony.
- 17 (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under
18 this subsection of a holder of a license or permit shall result automatically in
19 permanent revocation of the~~such~~ license or permit.
- 20 (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or
21 interfering with the board or any of its members, or of any officer, agent, inspector,
22 or investigator of the board or the Cabinet for Health and Family Services, in the
23 administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class
24 A misdemeanor.
- 25 (7) Each violation of KRS 311.375(1) shall, for the first offense, be a Class B
26 misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- 27 (8) Each violation of KRS 311.375(2) shall, for the first offense, be a violation, and~~[-]~~

1 for each subsequent offense, shall be a Class B misdemeanor.

2 (9) Each day of violation of either subsection of KRS 311.375 shall constitute a
3 separate offense.

4 ~~(10)(a) Any person who intentionally or knowingly performs an abortion contrary to~~
5 ~~the requirements of KRS 311.723(1) shall be guilty of a Class D felony.~~

6 ~~(b) Any person who intentionally, knowingly, or recklessly violates the~~
7 ~~requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.~~

8 ~~(11)(a) 1. Any physician who performs a partial birth abortion in violation of KRS~~
9 ~~311.765 shall be guilty of a Class D felony. However, a physician shall~~
10 ~~not be guilty of the criminal offense if the partial birth abortion was~~
11 ~~necessary to save the life of the mother whose life was endangered by a~~
12 ~~physical disorder, illness, or injury.~~

13 ~~2. A physician may seek a hearing before the State Board of Medical~~
14 ~~Licensure on whether the physician's conduct was necessary to save the~~
15 ~~life of the mother whose life was endangered by a physical disorder,~~
16 ~~illness, or injury. The board's findings, decided by majority vote of a~~
17 ~~quorum, shall be admissible at the trial of the physician. The board shall~~
18 ~~promulgate administrative regulations to carry out the provisions of this~~
19 ~~subparagraph.~~

20 ~~3. Upon a motion of the physician, the court shall delay the beginning of~~
21 ~~the trial for not more than thirty (30) days to permit the hearing, referred~~
22 ~~to in subparagraph 2. of this paragraph, to occur.~~

23 ~~(b) Any person other than a physician who performs a partial birth abortion shall~~
24 ~~not be prosecuted under this subsection but shall be prosecuted under~~
25 ~~provisions of law which prohibit any person other than a physician from~~
26 ~~performing any abortion.~~

27 ~~(c) No penalty shall be assessed against the woman upon whom the partial birth~~

1 ~~abortion is performed or attempted to be performed.~~

2 ~~(12) (a) Except as provided in KRS 311.732(12), any person who intentionally,~~
3 ~~knowingly, or recklessly performs an abortion upon a minor without obtaining~~
4 ~~the required consent pursuant to KRS 311.732 shall be guilty of a Class D~~
5 ~~felony.~~

6 ~~(b) Except as provided in paragraph (a) of this subsection, any person who~~
7 ~~intentionally or knowingly fails to conform to any requirement of KRS~~
8 ~~311.732 is guilty of a Class A misdemeanor.~~

9 ~~(c) Any person who negligently releases information or documents which are~~
10 ~~confidential under KRS 311.732 is guilty of a Class B misdemeanor.~~

11 ~~(13) Any person who performs an abortion upon a married woman either with~~
12 ~~knowledge or in reckless disregard of whether KRS 311.735 applies to her and who~~
13 ~~intentionally, knowingly, or recklessly fails to conform to the requirements of KRS~~
14 ~~311.735 shall be guilty of a Class D felony.~~

15 ~~(14) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.~~

16 ~~(15) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.~~

17 ~~(16) Any person who violates KRS 311.770 shall be guilty of a Class D felony.~~

18 ~~(17) Except as provided in KRS 311.787(3), any person who intentionally violates KRS~~
19 ~~311.787 shall be guilty of a Class D felony.~~

20 ~~(18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.~~

21 ~~(19) Except as provided in KRS 311.782(6), any person who intentionally violates KRS~~
22 ~~311.782 shall be guilty of a Class D felony.~~

23 ~~(20) Any person who violates KRS 311.783(1) shall be guilty of a Class B~~
24 ~~misdemeanor.~~

25 ~~(21) Any person who violates KRS 311.7705(1) is guilty of a Class D felony.~~

26 ~~(22) Any person who violates KRS 311.7706(1) is guilty of a Class D felony.~~

27 ~~(23) Except as provided in KRS 311.731(7), any person who violates KRS 311.731(2)~~

1 ~~shall be guilty of a Class D felony.~~

2 ~~(24) Any physician, physician assistant, advanced practice registered nurse, nurse, or~~
3 ~~other healthcare provider who intentionally violates KRS 311.823(2) shall be guilty~~
4 ~~of a Class D felony. As used in this subsection, "healthcare provider" has the same~~
5 ~~meaning as in KRS 311.821.~~

6 ~~(25)~~ Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

7 ~~(11)~~~~(26)~~ Any professional medical association or society, licensed physician, or
8 hospital or hospital medical staff who violates~~[shall have violated]~~ the provisions of
9 KRS 311.606 shall be guilty of a Class B misdemeanor.

10 ~~(12)~~~~(27) Any administrator, officer, or employee of a publicly owned hospital or~~
11 ~~publicly owned health care facility who performs or permits the performance of~~
12 ~~abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.~~

13 ~~(28)~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.

14 ~~(13)~~~~(29)~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a
15 Class A misdemeanor.

16 ~~(14)~~~~(30)~~ Any person who fails to test organs, skin, or other human tissue which is to be
17 transplanted, or violates the confidentiality provisions required by KRS 311.281,
18 shall be guilty of a Class A misdemeanor.

19 ~~(15)~~~~(31)~~ Any person who sells or makes a charge for any transplantable organ shall be
20 guilty of a Class D felony.

21 ~~(16)~~~~(32)~~ Any person who offers remuneration for any transplantable organ for use in
22 transplantation into himself or herself shall be fined not less than five thousand
23 dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

24 ~~(17)~~~~(33)~~ Any person brokering the sale or transfer of any transplantable organ shall be
25 guilty of a Class C felony.

26 ~~(18)~~~~(34)~~ Any person charging a fee associated with the transplantation of a
27 transplantable organ in excess of the direct and indirect costs of procuring,

1 distributing, or transplanting the transplantable organ shall be fined not less than
2 fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars
3 (\$500,000).

4 ~~(19)~~~~(35)~~ Any hospital performing transplantable organ transplants ~~that~~~~[which]~~
5 knowingly fails to report the possible sale, purchase, or brokering of a
6 transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or
7 more than fifty thousand dollars (\$50,000).

8 ~~(20)~~~~(36)~~ ~~(a) Any physician or qualified technician who violates KRS 311.727 shall~~
9 ~~be fined not more than one hundred thousand dollars (\$100,000) for a first~~
10 ~~offense and not more than two hundred fifty thousand dollars (\$250,000) for~~
11 ~~each subsequent offense.~~

12 ~~(b) In addition to the fine, the court shall report the violation of any physician, in~~
13 ~~writing, to the Kentucky Board of Medical Licensure for such action and~~
14 ~~discipline as the board deems appropriate.~~

15 ~~(37)~~ Any person who violates KRS 311.691 shall be guilty of a Class B misdemeanor
16 for the first offense, and a Class A misdemeanor for a second or subsequent offense.
17 In addition to any other penalty imposed for that violation, the board may, through
18 the Attorney General, petition a Circuit Court to enjoin the person who is violating
19 KRS 311.691 from practicing genetic counseling in violation of the requirements of
20 KRS 311.690 to 311.700.

21 ~~[(38) Any person convicted of violating KRS 311.728 shall be guilty of a Class D felony.~~

22 ~~(39) (a) A person who intentionally, knowingly, or recklessly violates KRS 311.7731~~
23 ~~to 311.7739 is guilty of a Class D felony.~~

24 ~~(b) No criminal penalty may be assessed against a pregnant patient upon whom a~~
25 ~~drug-induced abortion is attempted, induced, or performed.]~~

26 ➔ Section 9. KRS 18A.225 is amended to read as follows:

27 (1) (a) The term "employee" for purposes of this section means:

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

1 retirement plan authorized by KRS 161.567, except that a person who is
2 receiving a retirement allowance and who is age sixty-five (65) or older
3 shall not be included, with the exception of persons covered under KRS
4 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively
5 employed pursuant to subparagraph 1. of this paragraph; and

6 5. Any eligible dependents and beneficiaries of participating employees
7 and retirees who are entitled to participate in the state-sponsored health
8 insurance program;

9 (b) The term "health benefit plan" for the purposes of this section means a health
10 benefit plan as defined in KRS 304.17A-005;

11 (c) The term "insurer" for the purposes of this section means an insurer as defined
12 in KRS 304.17A-005; and

13 (d) The term "managed care plan" for the purposes of this section means a
14 managed care plan as defined in KRS 304.17A-500.

15 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
16 recommendation of the secretary of the Personnel Cabinet, shall procure, in
17 compliance with ~~the provisions of~~ KRS 45A.080, 45A.085, and 45A.090,
18 from one (1) or more insurers authorized to do business in this state, a group
19 health benefit plan that may include but not be limited to health maintenance
20 organization (HMO), preferred provider organization (PPO), point of service
21 (POS), and exclusive provider organization (EPO) benefit plans
22 encompassing all or any class or classes of employees. With the exception of
23 employers governed by ~~the provisions of~~ KRS Chapters 16, 18A, and 151B,
24 all employers of any class of employees or former employees shall enter into
25 a contract with the Personnel Cabinet prior to including that group in the state
26 health insurance group. The contracts shall include but not be limited to
27 designating the entity responsible for filing any federal forms, adoption of

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

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

18 (c) Any carrier bidding to offer health care coverage to employees shall agree to
19 provide coverage to all members of the state group, including active
20 employees and retirees and their eligible covered dependents and
21 beneficiaries, within the county or counties specified in its bid. Except as
22 provided in subsection ~~(19)~~~~(20)~~ of this section, any carrier bidding to offer
23 health care coverage to employees shall also agree to rate all employees as a
24 single entity, except for those retirees whose former employers insure their
25 active employees outside the state-sponsored health insurance program and as
26 otherwise provided in KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b.

27 (d) Any carrier bidding to offer health care coverage to employees shall agree to

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

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

25 (f) If any agency participating in the state-sponsored employee health insurance
26 program for its active employees terminates participation and there is a state
27 appropriation for the employer's contribution for active employees' health

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

- 1 transfer, to change his or her coverage to another health benefit plan.
- 2 (5) No payment of premium by any department, board, agency, public postsecondary
3 educational institution, or branch of state, city, urban-county, charter county,
4 county, or consolidated local government shall constitute compensation to an
5 insured employee for the purposes of any statute fixing or limiting the
6 compensation of such an employee. Any premium or other expense incurred by any
7 department, board, agency, public postsecondary educational institution, or branch
8 of state, city, urban-county, charter county, county, or consolidated local
9 government shall be considered a proper cost of administration.
- 10 (6) The policy or policies may contain the provisions with respect to the class or classes
11 of employees covered, amounts of insurance or coverage for designated classes or
12 groups of employees, policy options, terms of eligibility, and continuation of
13 insurance or coverage after retirement.
- 14 (7) Group rates under this section shall be made available to the disabled child of an
15 employee regardless of the child's age if the entire premium for the disabled child's
16 coverage is paid by the state employee. A child shall be considered disabled if he or
17 she has been determined to be eligible for federal Social Security disability benefits.
- 18 (8) The health care contract or contracts for employees shall be entered into for a
19 period of not less than one (1) year.
- 20 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
21 State Health Insurance Subscribers to advise the secretary or the secretary's
22 designee regarding the state-sponsored health insurance program for employees.
23 The secretary shall appoint, from a list of names submitted by appointing
24 authorities, members representing school districts from each of the seven (7)
25 Supreme Court districts, members representing state government from each of the
26 seven (7) Supreme Court districts, two (2) members representing retirees under age
27 sixty-five (65), one (1) member representing local health departments, two (2)

1 members representing the Kentucky Teachers' Retirement System, and three (3)
2 members at large. The secretary shall also appoint two (2) members from a list of
3 five (5) names submitted by the Kentucky Education Association, two (2) members
4 from a list of five (5) names submitted by the largest state employee organization of
5 nonschool state employees, two (2) members from a list of five (5) names submitted
6 by the Kentucky Association of Counties, two (2) members from a list of five (5)
7 names submitted by the Kentucky League of Cities, and two (2) members from a
8 list of names consisting of five (5) names submitted by each state employee
9 organization that has two thousand (2,000) or more members on state payroll
10 deduction. The advisory committee shall be appointed in January of each year and
11 shall meet quarterly.

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

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

21 (11)~~(12)~~ Any employee who is eligible for and elects to participate in the state health
22 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
23 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
24 state health insurance contribution toward health care coverage as a result of any
25 other employment for which there is a public employer contribution. This does not
26 preclude a retiree and an active employee spouse from using both contributions to
27 the extent needed for purchase of one (1) state sponsored health insurance policy

1 for that plan year.

2 ~~(12)~~~~(13)~~ (a) The policies of health insurance coverage procured under subsection (2)
3 of this section shall include a mail-order drug option for maintenance drugs
4 for state employees. Maintenance drugs may be dispensed by mail order in
5 accordance with Kentucky law.

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

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

13 ~~(13)~~~~(14)~~ The policy or policies provided to state employees or their dependents
14 pursuant to this section shall provide coverage for obtaining a hearing aid and
15 acquiring hearing aid-related services for insured individuals under eighteen (18)
16 years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every
17 thirty-six (36) months pursuant to KRS 304.17A-132.

18 ~~(14)~~~~(15)~~ Any policy provided to state employees or their dependents pursuant to this
19 section shall provide coverage for the diagnosis and treatment of autism spectrum
20 disorders consistent with KRS 304.17A-142.

21 ~~(15)~~~~(16)~~ Any policy provided to state employees or their dependents pursuant to this
22 section shall provide coverage for obtaining amino acid-based elemental formula
23 pursuant to KRS 304.17A-258.

24 ~~(16)~~~~(17)~~ If a state employee's residence and place of employment are in the same
25 county, and if the hospital located within that county does not offer surgical
26 services, intensive care services, obstetrical services, level II neonatal services,
27 diagnostic cardiac catheterization services, and magnetic resonance imaging

1 services, the employee may select a plan available in a contiguous county that does
2 provide those services, and the state contribution for the plan shall be the amount
3 available in the county where the plan selected is located.

4 ~~(17)~~~~(18)~~ If a state employee's residence and place of employment are each located in
5 counties in which the hospitals do not offer surgical services, intensive care
6 services, obstetrical services, level II neonatal services, diagnostic cardiac
7 catheterization services, and magnetic resonance imaging services, the employee
8 may select a plan available in a county contiguous to the county of residence that
9 does provide those services, and the state contribution for the plan shall be the
10 amount available in the county where the plan selected is located.

11 ~~(18)~~~~(19)~~ The Personnel Cabinet is encouraged to study whether it is fair and reasonable
12 and in the best interests of the state group to allow any carrier bidding to offer
13 health care coverage under this section to submit bids that may vary county by
14 county or by larger geographic areas.

15 ~~(19)~~~~(20)~~ Notwithstanding any other provision of this section, the bid for proposals for
16 health insurance coverage for calendar year 2004 shall include a bid scenario that
17 reflects the statewide rating structure provided in calendar year 2003 and a bid
18 scenario that allows for a regional rating structure that allows carriers to submit bids
19 that may vary by region for a given product offering as described in this subsection:

- 20 (a) The regional rating bid scenario shall not include a request for bid on a
21 statewide option;
- 22 (b) The Personnel Cabinet shall divide the state into geographical regions which
23 shall be the same as the partnership regions designated by the Department for
24 Medicaid Services for purposes of the Kentucky Health Care Partnership
25 Program established pursuant to 907 KAR 1:705;
- 26 (c) The request for proposal shall require a carrier's bid to include every county
27 within the region or regions for which the bid is submitted and include but not

1 be restricted to a preferred provider organization (PPO) option;

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

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

9 ~~(20)~~~~(21)~~ Any fully insured health benefit plan or self-insured plan issued or renewed
10 on or after July 12, 2006, to public employees pursuant to this section which
11 provides coverage for services rendered by a physician or osteopath duly licensed
12 under KRS Chapter 311 that are within the scope of practice of an optometrist duly
13 licensed under the provisions of KRS Chapter 320 shall provide the same payment
14 of coverage to optometrists as allowed for those services rendered by physicians or
15 osteopaths.

16 ~~(21)~~~~(22)~~ Any fully insured health benefit plan or self-insured plan issued or renewed to
17 public employees pursuant to this section shall comply with:

- 18 (a) KRS 304.12-237;
19 (b) KRS 304.17A-270 and 304.17A-525;
20 (c) KRS 304.17A-600 to 304.17A-633;
21 (d) KRS 205.593;
22 (e) KRS 304.17A-700 to 304.17A-730;
23 (f) KRS 304.14-135;
24 (g) KRS 304.17A-580 and 304.17A-641;
25 (h) KRS 304.99-123;
26 (i) KRS 304.17A-138;
27 (j) KRS 304.17A-148;

- 1 (k) KRS 304.17A-163 and 304.17A-1631;
- 2 (l) KRS 304.17A-265;
- 3 (m) KRS 304.17A-261;
- 4 (n) KRS 304.17A-262;
- 5 (o) KRS 304.17A-145;
- 6 (p) KRS 304.17A-129;
- 7 (q) KRS 304.17A-133;
- 8 (r) KRS 304.17A-264; and
- 9 (s) Administrative regulations promulgated pursuant to statutes listed in this
- 10 subsection.
- 11 ~~(22)~~~~(23)~~ (a) Any fully insured health benefit plan or self-insured plan issued or
- 12 renewed to public employees pursuant to this section shall provide a special
- 13 enrollment period to pregnant persons~~[women]~~ who are eligible for coverage
- 14 in accordance with the requirements~~[set forth]~~ in KRS 304.17-182.
- 15 (b) The Department of Employee Insurance shall, at or before the time a public
- 16 employee is initially offered the opportunity to enroll in the plan or coverage,
- 17 provide the employee a notice of the special enrollment rights under this
- 18 subsection.
- 19 ➔Section 10. KRS 39A.180 is amended to read as follows:
- 20 (1) The political subdivisions of the state and other agencies designated or appointed by
- 21 the Governor may make, amend, and rescind orders and promulgate administrative
- 22 regulations necessary for disaster and emergency response purposes, and to
- 23 supplement the carrying out of the provisions of this chapter, if not inconsistent
- 24 with any orders or administrative regulations promulgated by the Governor or by
- 25 any state agency exercising a power delegated to it by the Governor.
- 26 (2) (a) All written orders and administrative regulations promulgated by the
- 27 Governor, the director, or by any political subdivision or other agency

1 authorized by KRS Chapters 39A to 39F to make orders and promulgate
2 administrative regulations, shall have the full force of law and, if promulgated
3 as administrative regulations, shall follow the requirements for promulgating
4 administrative regulations under KRS Chapter 13A. All written orders
5 authorized by KRS Chapters 39A to 39F shall be filed with the Legislative
6 Research Commission.

7 (b) The Governor may suspend a statute by executive order when an emergency
8 is declared under this chapter if:

- 9 1. The statute is specifically enumerated by the Governor in the executive
10 order; and
11 2. The executive order specifying the suspension is approved by the
12 Attorney General in writing.

13 (c) A statute suspension authorized in paragraph (b) of this subsection shall only
14 be in effect while the emergency executive order is in effect.

15 (d) Any existing administrative regulation that conflicts with a written order
16 issued under this chapter shall be amended, withdrawn, or repealed in
17 accordance with KRS Chapter 13A to conform with the written order.

18 (e) When a written order ends, any administrative regulation promulgated under
19 the authority of this section shall:

- 20 1. Become void; and
21 2. Be withdrawn, amended, or repealed in accordance with KRS Chapter
22 13A.

23 (3) Notwithstanding subsection (2) of this section, the Governor shall not suspend any
24 laws in KRS Chapters 39A to 39F, Chapter 13A, 446.350, or 527.020~~, 311.710 to~~
25 ~~311.820, or any other statutes related to abortion~~.

26 (4) The law enforcement authorities of the state and of its counties, urban-counties,
27 charter counties, and cities shall enforce the written orders and administrative

1 regulations issued pursuant to KRS Chapters 39A to 39F.

2 ➔Section 11. KRS 156.496 is amended to read as follows:

3 (1) Family resource and youth services centers shall be designed to meet the needs of
4 children and their families by providing services to enhance a student's ability to
5 succeed in school. If resources are limited, students and families who are the most
6 economically disadvantaged shall receive priority status for receiving services.

7 (2) Family resource centers shall be located in or near each elementary school in the
8 Commonwealth in which twenty percent (20%) or more of the student body are
9 eligible for free or reduced-price school meals. Family resource centers shall
10 promote identification and coordination of existing resources and shall include but
11 not be limited to the following core components for each site:

12 (a) Full-time preschool child care for children two (2) and three (3) years of age;

13 (b) After-school child care for children ages four (4) through twelve (12), with
14 the child care being full-time during the summer and on other days when
15 school is not in session;

16 (c) Families in training, which shall consist of an integrated approach to home
17 visits, group meetings, and monitoring child development for new and
18 expectant parents;

19 (d) Family literacy services as described in KRS 158.360 or a similar program
20 designed to provide opportunities for parents and children to learn together
21 and promote lifelong learning; and

22 (e) Health services or referrals to health services, or both.

23 (3) Youth services centers shall be located in or near each school in the
24 Commonwealth, except elementary schools, in which twenty percent (20%) or more
25 of the student body are eligible for free or reduced-price school meals. Youth
26 services centers shall promote identification and coordination of existing resources
27 and shall include but not be limited to the following core components for each site:

- 1 (a) Referrals to health and social services;
- 2 (b) Career exploration and development;
- 3 (c) Summer and part-time job development for high school students;
- 4 (d) Substance abuse education and counseling; and
- 5 (e) Family crisis and mental health counseling.
- 6 (4) A grant program is hereby established to provide financial assistance to eligible
- 7 school districts to establish or maintain family resource or youth services centers.
- 8 The Cabinet for Health and Family Services shall award grants pursuant to KRS
- 9 156.4977. Funding provided to the Cabinet for Health and Family Services for the
- 10 grant program and agency administrative costs shall include an increase that is
- 11 equal to or greater than the general fund growth factor provided in agency budget
- 12 instructions.
- 13 (5) A family resource or youth services center that receives funding for one (1) year or
- 14 more shall not be considered ineligible for funding based solely on the percent of
- 15 the student body eligible for free or reduced-price school meals unless the percent
- 16 of the student body eligible for free or reduced-price school meals is below twenty
- 17 percent (20%) for five (5) consecutive years.
- 18 ~~(6) A school district shall not operate a family resource center or a youth services~~
- 19 ~~center that provides abortion counseling or makes referrals to a health care facility~~
- 20 ~~for the purpose of seeking an abortion.~~
- 21 ~~(7)~~ A school district may accept monetary donations for the operation and maintenance
- 22 of family resource and youth services centers. Any donations given to the school
- 23 district for the operation and maintenance of family resource and youth services
- 24 centers shall be used only for the operation and maintenance of family resource and
- 25 youth services centers, and for no other purpose.

26 ➔Section 12. KRS 205.010 is amended to read as follows:

27 As used in this chapter, unless the context requires otherwise:

- 1 (1) "Cabinet" means the Cabinet for Health and Family Services;
- 2 (2) "Secretary" means the secretary for health and family services or his or her
3 authorized representative;
- 4 (3) "Public assistance" means money grants, assistance in kind, or services to or for the
5 benefit of needy aged, needy blind, needy permanently and totally disabled persons,
6 needy children, or persons with whom a needy child lives or a family containing a
7 combination of these categories~~], except that the term shall not be construed to~~
8 ~~permit the granting of financial aid where the purpose of such aid is to obtain an~~
9 ~~abortion. For purposes of this section and KRS 205.560, "abortion" means an act,~~
10 ~~procedure, device, or prescription administered or prescribed for a pregnant woman~~
11 ~~by any person, including the pregnant woman herself, producing premature~~
12 ~~expulsion of the fetus. Abortion does not include an induced premature birth~~
13 ~~intended to produce a live viable child];~~
- 14 (4) "Needy child" means a child who has been deprived of parental support by reasons
15 prescribed by regulations within the scope of Title IV of the Social Security Act, its
16 amendments, and federal regulations and who does not have otherwise provided for
17 him or her a subsistence compatible with decency and health;
- 18 (5) "Parent," in addition to biological or adoptive parent, shall include stepparent;
- 19 (6) "Needy aged" means a person who has attained the age of sixty-five (65) and who
20 is unable to provide for himself or herself and who does not have otherwise
21 provided for him or her a subsistence compatible with decency and health;
- 22 (7) "Needy blind" means a person who has no vision or whose vision is so defective as
23 to prevent the performance of ordinary activities for which eyesight is essential and
24 who is unable to provide for himself or herself and who does not have otherwise
25 provided for him or her a subsistence compatible with decency and health;
- 26 (8) "Person with whom a needy child lives" means the individual prescribed by
27 regulation, with whom a needy~~[such]~~ child is living in a place of residence

1 maintained by ~~the~~^[such] individual by himself, herself, or together with one (1) or
2 more other persons;

3 (9) "Needy permanently and totally disabled" means a person eighteen (18) years of
4 age or older and who has a permanent physical or mental impairment, disease, or
5 loss that substantially precludes the person~~[him]~~ from engaging in useful
6 occupations within the person's~~[his]~~ competence and who is unable to provide for
7 himself or herself and who does not have otherwise provided for him or her a
8 subsistence compatible with decency and health;

9 (10) "Private institution" means any establishment or place other than a public institution
10 operated or maintained by any individual, association, corporation, or other
11 organization which provides a group living arrangement for four (4) or more
12 individuals, who are cared for and maintained in residence for compensation or
13 otherwise;

14 (11) "Public institution" means any establishment or place which is the responsibility of
15 and administered by the state or any political subdivision thereof providing a group
16 living arrangement in which one (1) or more individuals are cared for and
17 maintained in residence;

18 (12) "Public medical institution" means any public institution the primary purpose of
19 which is to furnish hospital care and medical treatment;

20 (13) "Person determined to be potentially responsible" means any person who:

21 (a) Is not aged, blind, disabled, incapacitated, or needed in the home:

22 1. Because of the illness or incapacity of a member of the family; or

23 2. Because of children in the home under the age of six (6); or

24 (b) Volunteers for ~~that~~^[such] determination; and

25 ~~(14) [Nothing in this section shall be deemed to deprive a woman of all appropriate~~
26 ~~medical care necessary to prevent her physical death;~~

27 ~~(15)~~ "Adult day-care center" means any adult care facility which provides part-time care,

1 day or night, but less than twenty-four (24) hours, to at least four (4) adults not
2 related to the operator of the adult care facility by blood, marriage, or adoption.

3 ➔Section 13. KRS 205.510 is amended to read as follows:

4 As used in this chapter as it pertains to medical assistance unless the context clearly
5 requires a different meaning:

6 (1) "Behavioral health professional" means a person authorized to provide mental
7 health or substance use disorder services under the laws of the Commonwealth;

8 (2) "Chiropractor" means a person authorized to practice chiropractic under the laws of
9 the Commonwealth;

10 (3) "Council" means the Advisory Council for Medical Assistance;

11 (4) "Dentist" means a person authorized to practice dentistry under the laws of the
12 Commonwealth;

13 (5) "Health professional" means a physician, physician assistant, nurse, doctor of
14 chiropractic, behavioral health professional, optometrist, dentist, or allied health
15 professional who is licensed in Kentucky;

16 (6) "Medical care"~~[as used in this chapter]~~ means essential medical, surgical,
17 chiropractic, dental, optometric, podiatric, telehealth, and nursing services, in the
18 home, office, clinic, or other suitable places, which are provided or prescribed by
19 physicians, optometrists, podiatrists, or dentists licensed to render those~~[such]~~
20 services, including drugs and medical supplies, appliances, laboratory, diagnostic
21 and therapeutic services, nursing-home and convalescent care, hospital care as
22 defined in KRS 205.560(1)(a), and~~[such]~~ other essential medical services and
23 supplies as may be prescribed by those~~[such]~~ persons~~[- but not including abortions,~~
24 ~~or induced miscarriages or premature births, unless in the opinion of a physician~~
25 ~~such procedures are necessary for the preservation of the life of the woman seeking~~
26 ~~such treatment or except in induced premature birth intended to produce a live~~
27 ~~viable child and such procedure is necessary for the health of the mother or her~~

- 1 ~~unborn child~~. However, this section does not authorize optometrists to perform any
2 services other than those authorized by KRS Chapter 320;
- 3 (7) "Nurse" means a person authorized to practice professional nursing under the laws
4 of the Commonwealth;
- 5 (8) "Nursing home" means a facility which provides routine medical care in which
6 physicians regularly visit patients, which provide nursing services and procedures
7 employed in caring for the sick which require training, judgment, technical
8 knowledge, and skills beyond that which the untrained person possesses, and which
9 maintains complete records on patient care, and which is licensed pursuant to~~the~~
10 ~~provisions of~~ KRS 216B.015;
- 11 (9) "Optometrist" means a person authorized to practice optometry under the laws of
12 the Commonwealth;
- 13 (10) "Other persons eligible for medical assistance" may include the categorically needy
14 excluded from monetary payment status by state requirements and classifications of
15 medically needy individuals as permitted by federal laws and regulations and as
16 prescribed by administrative regulation of the secretary for health and family
17 services or his or her designee;
- 18 (11) "Pharmacist" means a person authorized to practice pharmacy under the laws of the
19 Commonwealth;
- 20 (12) "Physician" means a person authorized to practice medicine or osteopathy under the
21 laws of the Commonwealth;
- 22 (13) "Podiatrist" means a person authorized to practice podiatry under the laws of the
23 Commonwealth;
- 24 (14) "Primary-care center" means a facility which provides comprehensive medical care
25 with emphasis on the prevention of disease and the maintenance of the patients'
26 health as opposed to the treatment of disease;
- 27 (15) "Public assistance recipient" means a person who has been certified by the

1 Department for Community Based Services of the Cabinet for Health and Family
2 Services as being eligible for, and a recipient of, public assistance under~~the~~
3 ~~provisions of~~ this chapter;

4 (16) "Telehealth" means the same as in KRS 211.332;

5 (17) "Telehealth consultation" means a medical or health consultation, for purposes of
6 patient diagnosis or treatment, that meets the definition of telehealth in this section;

7 (18) "Third party" means an individual, institution, corporation, company, insurance
8 company, personal representative, administrator, executor, trustee, or public or
9 private agency, including, but not limited to, a reparation obligor and the assigned
10 claims bureau under the Motor Vehicle Reparations Act, Subtitle 39 of KRS
11 Chapter 304, who is or may be liable to pay all or part of the medical cost of injury,
12 disease, or disability of an applicant or recipient of medical assistance provided
13 under Title XIX of the Social Security Act, 42 U.S.C. sec. 1396 et seq.; and

14 (19) "Vendor payment" means a payment for medical care which is paid by the Cabinet
15 for Health and Family Services directly to the authorized person or institution
16 which rendered medical care to an eligible recipient.

17 ➔Section 14. KRS 205.560 is amended to read as follows:

18 (1) The scope of medical care for which the Cabinet for Health and Family Services
19 undertakes to pay shall be designated and limited by regulations promulgated by the
20 cabinet~~,]~~ pursuant to~~the provisions in~~ this section. Within the limitations of any
21 appropriation therefor, the provision of complete upper and lower dentures to
22 recipients of Medical Assistance Program benefits who have their teeth removed by
23 a dentist resulting in the total absence of teeth shall be a mandatory class in the
24 scope of medical care. Payment to a dentist of any Medical Assistance Program
25 benefits for complete upper and lower dentures shall only be provided on the
26 condition of a preauthorized agreement between an authorized representative of the
27 Medical Assistance Program and the dentist prior to the removal of the teeth. The

1 selection of another class or other classes of medical care shall be recommended by
2 the council to the secretary for health and family services after taking into
3 consideration, among other things, the amount of federal and state funds available,
4 the most essential needs of recipients, and the meeting of those needs~~[such need]~~ on
5 a basis insuring the greatest amount of medical care as defined in KRS 205.510
6 consonant with the funds available, including but not limited to the following
7 categories~~[-, except where the aid is for the purpose of obtaining an abortion]~~:

- 8 (a) Hospital care, including drugs, and medical supplies and services during any
9 period of actual hospitalization;
- 10 (b) Nursing-home care, including medical supplies and services, and drugs during
11 confinement therein on prescription of a physician, dentist, or podiatrist;
- 12 (c) Drugs, nursing care, medical supplies, and services during the time when a
13 recipient is not in a hospital but is under treatment and on the prescription of a
14 physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall
15 include products for the treatment of inborn errors of metabolism or genetic,
16 gastrointestinal, and food allergic conditions, consisting of therapeutic food,
17 formulas, supplements, amino acid-based elemental formula, or low-protein
18 modified food products that are medically indicated for therapeutic treatment
19 and are administered under the direction of a physician, and include but are
20 not limited to the following conditions:

- 21 1. Phenylketonuria;
- 22 2. Hyperphenylalaninemia;
- 23 3. Tyrosinemia (types I, II, and III);
- 24 4. Maple syrup urine disease;
- 25 5. A-ketoacid dehydrogenase deficiency;
- 26 6. Isovaleryl-CoA dehydrogenase deficiency;
- 27 7. 3-methylcrotonyl-CoA carboxylase deficiency;

- 1 8. 3-methylglutaconyl-CoA hydratase deficiency;
- 2 9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase
- 3 deficiency);
- 4 10. B-ketothiolase deficiency;
- 5 11. Homocystinuria;
- 6 12. Glutaric aciduria (types I and II);
- 7 13. Lysinuric protein intolerance;
- 8 14. Non-ketotic hyperglycinemia;
- 9 15. Propionic acidemia;
- 10 16. Gyrate atrophy;
- 11 17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
- 12 18. Carbamoyl phosphate synthetase deficiency;
- 13 19. Ornithine carbamoyl transferase deficiency;
- 14 20. Citrullinemia;
- 15 21. Arginosuccinic aciduria;
- 16 22. Methylmalonic acidemia;
- 17 23. Argininemia;
- 18 24. Food protein allergies;
- 19 25. Food protein-induced enterocolitis syndrome;
- 20 26. Eosinophilic disorders; and
- 21 27. Short bowel syndrome;
- 22 (d) Physician, podiatric, and dental services;
- 23 (e) Optometric services for all age groups shall be limited to prescription
- 24 services, services to frames and lenses, and diagnostic services provided by an
- 25 optometrist, to the extent the optometrist is licensed to perform the services
- 26 and to the extent the services are covered in the ophthalmologist portion of the
- 27 physician's program. Eyeglasses shall be provided only to children under age

1 twenty-one (21);

2 (f) Drugs on the prescription of a physician used to prevent the rejection of
3 transplanted organs if the patient is indigent; and

4 (g) Nonprofit neighborhood health organizations or clinics where some or all of
5 the medical services are provided by licensed registered nurses or by
6 advanced medical students presently enrolled in a medical school accredited
7 by the Association of American Medical Colleges and where the students or
8 licensed registered nurses are under the direct supervision of a licensed
9 physician who rotates his or her services in this supervisory capacity between
10 two (2) or more of the nonprofit neighborhood health organizations or clinics
11 specified in this paragraph.

12 (2) Payments for hospital care, nursing-home care, and drugs or other medical,
13 ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount
14 of the payment to the cost of providing the services or supplies. It shall be one (1)
15 of the functions of the council to make recommendations to the Cabinet for Health
16 and Family Services with respect to the bases for payment. In determining the rates
17 of reimbursement for long-term-care facilities participating in the Medical
18 Assistance Program, the Cabinet for Health and Family Services shall, to the extent
19 permitted by federal law, not allow the following items to be considered as a cost to
20 the facility for purposes of reimbursement:

21 (a) Motor vehicles that are not owned by the facility, including motor vehicles
22 that are registered or owned by the facility but used primarily by the owner or
23 the owner's family members~~[- thereof]~~;

24 (b) The cost of motor vehicles, including vans or trucks, used for facility business
25 shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted
26 annually for inflation according to the increase in the consumer price index-u
27 for the most recent twelve (12) month period, as determined by the United

1 States Department of Labor. Medically equipped motor vehicles, vans, or
2 trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation.
3 Costs exceeding this limit shall not be reimbursable and shall be borne by the
4 facility. Costs for additional motor vehicles, not to exceed a total of three (3)
5 per facility, may be approved by the Cabinet for Health and Family Services if
6 the facility demonstrates that each additional vehicle is necessary for the
7 operation of the facility as required by regulations of the cabinet;

8 (c) Salaries paid to immediate family members of the owner or administrator, or
9 both, of a facility, to the extent that services are not actually performed and
10 are not a necessary function as required by regulation of the cabinet for the
11 operation of the facility. The facility shall keep a record of all work actually
12 performed by family members;

13 (d) The cost of contracts, loans, or other payments made by the facility to owners,
14 administrators, or both, unless the payments are for services which would
15 otherwise be necessary to the operation of the facility and the services are
16 required by regulations of the Cabinet for Health and Family Services. Any
17 other payments shall be deemed part of the owner's compensation in
18 accordance with maximum limits established by regulations of the Cabinet for
19 Health and Family Services. Interest paid to the facility for loans made to a
20 third party may be used to offset allowable interest claimed by the facility;

21 (e) Private club memberships for owners or administrators, travel expenses for
22 trips outside the state for owners or administrators, and other indirect
23 payments made to the owner, unless the payments are deemed part of the
24 owner's compensation in accordance with maximum limits established by
25 regulations of the Cabinet for Health and Family Services; and

26 (f) Payments made to related organizations supplying the facility with goods or
27 services shall be limited to the actual cost of the goods or services to the

1 related organization, unless it can be demonstrated that no relationship
2 between the facility and the supplier exists. A relationship shall be considered
3 to exist when an individual, including brothers, sisters, father, mother, aunts,
4 uncles, and in-laws, possesses a total of five percent (5%) or more of
5 ownership equity in the facility and the supplying business. An exception to
6 the relationship shall exist if fifty-one percent (51%) or more of the supplier's
7 business activity of the type carried on with the facility is transacted with
8 persons and organizations other than the facility and its related organizations.

9 (3) No vendor payment shall be made unless the class and type of medical care
10 rendered and the cost basis for the medical care~~[therefor]~~ has first been designated
11 by regulation.

12 ~~(4) [The rules and regulations of the Cabinet for Health and Family Services shall~~
13 ~~require that a written statement, including the required opinion of a physician, shall~~
14 ~~accompany any claim for reimbursement for induced premature births. This~~
15 ~~statement shall indicate the procedures used in providing the medical services.~~

16 ~~(5)~~ The range of medical care benefit standards provided and the quality and quantity
17 standards and the methods for determining cost formulae for vendor payments
18 within each category of public assistance and other recipients shall be uniform for
19 the entire state, and shall be designated by regulation promulgated within the
20 limitations established by the Social Security Act and federal regulations. It shall
21 not be necessary that the amount of payments for units of services be uniform for
22 the entire state but amounts may vary from county to county and from city to city,
23 as well as among hospitals, based on the prevailing cost of medical care in each
24 locale and other local economic and geographic conditions, except that insofar as
25 allowed by applicable federal law and regulation, the maximum amounts
26 reimbursable for similar services rendered by physicians within the same specialty
27 of medical practice shall not vary according to the physician's place of residence or

1 place of practice, as long as the place of practice is within the boundaries of the
2 state.

3 ~~[(6) Nothing in this section shall be deemed to deprive a woman of all appropriate
4 medical care necessary to prevent her physical death.]~~

5 ~~(5)~~⁽⁷⁾ To the extent permitted by federal law, no medical assistance recipient shall
6 be recertified as qualifying for a level of long-term care below the recipient's
7 current level, unless the recertification includes a physical examination conducted
8 by a physician licensed pursuant to KRS Chapter 311 or by an advanced practice
9 registered nurse licensed pursuant to KRS Chapter 314 and acting under the
10 physician's supervision.

11 ~~(6)~~⁽⁸⁾ (a) If payments made to community mental health centers, established
12 pursuant to KRS Chapter 210, for services provided to the intellectually
13 disabled exceed the actual cost of providing the service, the balance of the
14 payments shall be used solely for the provision of other services to the
15 intellectually disabled through community mental health centers.

16 (b) Except as provided in KRS 210.370(4) and (5)(c), if a community mental
17 health center, established pursuant to KRS Chapter 210, provides services to a
18 recipient of Medical Assistance Program benefits outside of the community
19 mental health center's regional service area, as established in KRS 210.370,
20 the community mental health center shall not be reimbursed for ~~those~~^{such}
21 services in accordance with the department's fee schedule for community
22 mental health centers but shall instead be reimbursed in accordance with the
23 department's fee schedule for behavioral health service organizations.

24 (c) As used in this subsection, "community mental health center" means a
25 regional community services program as defined in KRS 210.005.

26 ~~(7)~~⁽⁹⁾ No long-term-care facility, as defined in KRS 216.510, providing inpatient
27 care to recipients of medical assistance under Title XIX of the Social Security Act

1 on July 15, 1986, shall deny admission of a person to a bed certified for
2 reimbursement under the provisions of the Medical Assistance Program solely on
3 the basis of the person's paying status as a Medicaid recipient. No person shall be
4 removed or discharged from any facility solely because they became eligible for
5 participation in the Medical Assistance Program, unless the facility can demonstrate
6 the resident or the resident's responsible party was fully notified in writing that the
7 resident was being admitted to a bed not certified for Medicaid reimbursement. No
8 facility may decertify a bed occupied by a Medicaid recipient or may decertify a
9 bed that is occupied by a resident who has made application for medical assistance.

10 ~~(8)~~~~(10)~~ Family-practice physicians practicing in geographic areas with no more than
11 one (1) primary-care physician per five thousand (5,000) population, as reported by
12 the United States Department of Health and Human Services, shall be reimbursed
13 one hundred twenty-five percent (125%) of the standard reimbursement rate for
14 physician services.

15 ~~(9)~~~~(11)~~ The Cabinet for Health and Family Services shall make payments under the
16 Medical Assistance Program for services which are within the lawful scope of
17 practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the
18 Medical Assistance Program pays for the same services provided by a physician.

19 ~~(10)~~~~(12)~~ (a) The Medical Assistance Program shall use the appropriate form and
20 guidelines for enrolling those providers applying for participation in the
21 Medical Assistance Program, including those licensed and regulated under
22 KRS Chapters 311, 312, 314, 315, and 320, any facility required to be
23 licensed pursuant to KRS Chapter 216B, and any other health care practitioner
24 or facility as determined by the Department for Medicaid Services through an
25 administrative regulation promulgated under KRS Chapter 13A. A Medicaid
26 managed care organization shall use the forms and guidelines established
27 under KRS 304.17A-545(5) to credential a provider. For any provider who

1 contracts with and is credentialed by a Medicaid managed care organization
2 prior to enrollment, the cabinet shall complete the enrollment process and
3 deny, or approve and issue a Provider Identification Number (PID) within
4 fifteen (15) business days from the time all necessary completed enrollment
5 forms have been submitted and all outstanding accounts receivable have been
6 satisfied.

7 (b) Within forty-five (45) days of receiving a correct and complete provider
8 application, the Department for Medicaid Services shall complete the
9 enrollment process by either denying or approving and issuing a Provider
10 Identification Number (PID) for a behavioral health provider who provides
11 substance use disorder services, unless the department notifies the provider
12 that additional time is needed to render a decision for resolution of an issue or
13 dispute.

14 (c) Within forty-five (45) days of receipt of a correct and complete application for
15 credentialing by a behavioral health provider providing substance use disorder
16 services, a Medicaid managed care organization shall complete its contracting
17 and credentialing process, unless the Medicaid managed care organization
18 notifies the provider that additional time is needed to render a decision. If
19 additional time is needed, the Medicaid managed care organization shall not
20 take any longer than ninety (90) days from receipt of the credentialing
21 application to deny or approve and contract with the provider.

22 (d) A Medicaid managed care organization shall adjudicate any clean claims
23 submitted for a substance use disorder service from an enrolled and
24 credentialed behavioral health provider who provides substance use disorder
25 services in accordance with KRS 304.17A-700 to 304.17A-730.

26 (e) The Department of Insurance may impose a civil penalty of one hundred
27 dollars (\$100) per violation when a Medicaid managed care organization fails

1 to comply with this section. Each day that a Medicaid managed care
2 organization fails to pay a claim may count as a separate violation.

3 ~~(11)~~~~(13)~~ Dentists licensed under KRS Chapter 313 shall be excluded from the
4 requirements of subsection ~~(10)~~~~(12)~~ of this section. The Department for Medicaid
5 Services shall develop a specific form and establish guidelines for assessing the
6 credentials of dentists applying for participation in the Medical Assistance Program.

7 ➔Section 15. KRS 211.027 is amended to read as follows:

8 The Cabinet for Health and Family Services shall promulgate administrative~~reasonable~~
9 ~~rules and~~ regulations to effectuate the purposes of KRS 213.101 and 213.106~~and KRS~~
10 ~~311.710 to 311.810~~, which shall be submitted to the Legislative Research Commission
11 in a manner prescribed in KRS Chapter 13A; and the Legislative Research Commission
12 shall refer the~~said rules and~~ regulations to the Interim Joint Committee on Health
13 Services for the purpose of approval or disapproval.

14 ➔Section 16. KRS 211.603 is amended to read as follows:

15 (1) There is created a trust fund to be known as the rape crisis center trust fund. The
16 fund shall be administered by the Cabinet for Health and Family Services.

17 (2) The trust fund shall be funded with moneys collected through the designation of a
18 taxpayer's refund as provided by KRS 141.447 and any contributions, gifts,
19 donations, or appropriations designated for the trust fund. Moneys in the fund shall
20 be used to support the services listed in KRS 211.600(3).~~No moneys in the fund~~
21 ~~shall be used to support abortion services or abortion education.~~

22 (3) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the
23 fiscal year shall not lapse but shall be carried forward into the succeeding fiscal
24 year to be used for the purposes set forth in subsection (2) of this section.

25 (4) Any interest earned upon moneys in the rape crisis center trust fund shall become a
26 part of the fund and shall not lapse.

27 (5) Moneys deposited in the fund are appropriated for the purposes set forth in this

1 section and shall not be appropriated or transferred by the General Assembly for
2 any other purposes.

3 ➔Section 17. KRS 212.275 is amended to read as follows:

4 (1) The governing board for each local, district, and independent health department
5 shall have a written policy concerning the distribution of nonscheduled legend
6 drugs at the health department by an advanced practice registered nurse or a
7 registered nurse. In a health department, an advanced practice registered nurse or a
8 registered nurse may distribute nonscheduled legend drugs from a list that has been
9 prepared by the commissioner of the Department for Public Health. Nothing in this
10 section shall be construed to limit advanced practice registered nurses from
11 dispensing nonscheduled drug samples under KRS 314.011. Each prescription drug
12 distributed or dispensed at the health department shall be recorded in the patient
13 record. The director of each health department shall be responsible for keeping
14 track of the inventory of stock medications and accounting for the medications
15 dispensed or distributed.

16 (2) Only a health department board having within its membership a pharmacist holding
17 a valid license issued pursuant to KRS 315.030 shall be authorized to permit
18 advanced practice registered nurses or registered nurses to dispense nonscheduled
19 legend drugs according to the written policy of the board. If a health department is
20 unable to recruit a licensed pharmacist to serve on the board, the board shall
21 document consultation with a pharmacist licensed pursuant to KRS 315.030 in the
22 public health practice of the health department.

23 ~~[(3) No health department shall dispense any medication or device prescribed for the~~
24 ~~purpose of causing an abortion as defined in KRS 311.720(1).]~~

25 ➔Section 18. KRS 213.011 is amended to read as follows:

26 As used in this chapter, unless the context requires otherwise:

27 (1) "Abortion" means the purposeful termination~~[interruption]~~ of a pregnancy~~[-with~~

- 1 ~~the intention other than to produce a live born infant or to remove a dead fetus and~~
2 ~~which does not result in a live birth~~. "Abortion" excludes management of
3 prolonged retention of product of conception following fetal death;
- 4 (2) "Cabinet" means the Cabinet for Health and Family Services;
- 5 (3) "Dead body" means a human body or parts of the human body from the condition
6 of which it reasonably may be concluded that death recently occurred;
- 7 (4) "Fetal death" means death prior to the complete expulsion or extraction from its
8 mother of a product of human conception, irrespective of the duration of pregnancy;
9 the death is indicated by the fact that after ~~the~~^[such] expulsion or extraction the
10 fetus does not breathe or show any other evidence of life such as beating of the
11 heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.
12 This definition shall exclude abortion;
- 13 (5) "File" means the presentation of a vital record provided for in this chapter for
14 registration by the Vital Statistics Branch;
- 15 (6) "Final disposition" means the burial, interment, cremation, removal from the
16 Commonwealth, or other authorized disposition of a dead body or fetus;
- 17 (7) "Institution" means any establishment, public or private, which provides inpatient
18 medical, surgical, or diagnostic care or treatment or nursing, custodial, or
19 domiciliary care, or to which persons are committed by law;
- 20 (8) "Live birth" means the complete expulsion or extraction from its mother of a
21 product of human conception, irrespective of the duration of pregnancy which, after
22 the expulsion or extraction, breathes, or shows any other evidence of life such as
23 beating of the heart, pulsation of the umbilical cord, or definite movement of
24 voluntary muscles, whether or not the umbilical cord has been cut or the placenta is
25 attached;
- 26 (9) "Provisional death certificate" means an interim certificate identifying the deceased
27 and authorizing a funeral director, or person acting in that capacity~~[as such]~~, to take

- 1 custody of the body and, except for cremation, to make final disposition;
- 2 (10) "Registration" means the acceptance by the Vital Statistics Branch and the
3 incorporation of vital records provided for in this chapter into its official records;
- 4 (11) "System of vital statistics" means the registration, collection, preservation,
5 amendment, and certification of vital records and the collection of other reports
6 required by this chapter;
- 7 (12) "Secretary" means the secretary for health and family services;
- 8 (13) "Sudden infant death syndrome" means the death of an ostensibly healthy child who
9 is two (2) weeks of age or older but less than three (3) years of age, which occurs
10 suddenly and unexpectedly, with no known or apparent cause, and which remains
11 unexplained after the performance of an autopsy;
- 12 (14) "Vital records" means certificates or reports of birth, death, stillbirth, marriage,
13 dissolution of marriage, or annulment, and related data~~related thereto~~;
- 14 (15) "Vital statistics" means the data derived from certificates and reports of birth, death,
15 stillbirth, abortion, marriage, dissolution of marriage, and related reports;
- 16 (16) "Certificate" means the certificate of birth, death, stillbirth, marriage, dissolution of
17 marriage, or annulment as required by this chapter;
- 18 (17) "Office" means the Office for Children with Special Health Care Needs;
- 19 (18) "Hard of hearing infant" means a child at birth with a significant hearing loss which
20 prevents the acquisition of speech and language through normal channels; and
- 21 (19) "Hearing risk certificate" means the certificate that includes questions which
22 identify newborn babies with a higher risk than normal for hearing loss.
- 23 ➔Section 19. KRS 213.101 is amended to read as follows:
- 24 (1) Each abortion as defined in KRS 213.011 which occurs in the Commonwealth,
25 regardless of the length of gestation, shall be reported to the Vital Statistics Branch
26 by the person in charge of the institution within fifteen (15)~~three (3)~~ days after the
27 end of the month in which the abortion occurred. If the abortion was performed

1 outside an institution, the attending physician shall prepare and file the report
2 within fifteen (15)~~three (3)~~ days after the end of the month in which the abortion
3 occurred.

4 (2) The report shall include the patient's:

5 (a) Age;

6 (b) County of residence;

7 (c) Number of previous pregnancies, if known;

8 (d) Number of living children, if known; and

9 (e) The type of abortion procedure performed~~all the information the physician~~

10 ~~is required to certify in writing or determine under KRS 311.731, 311.732,~~
11 ~~311.7704, 311.7705, 311.7706, 311.7707, 311.7735, 311.7736, 311.774,~~
12 ~~311.782, and 311.783, and at a minimum:~~

13 ~~(a) The full name and address of the physician who performed the abortion or~~
14 ~~provided the abortion inducing drug as defined in KRS 311.7731;~~

15 ~~(b) The address at which the abortion was performed or the address at which the~~
16 ~~abortion inducing drug was provided by a qualified physician, or the method~~
17 ~~of obtaining the abortion inducing drug if not provided by a qualified~~
18 ~~physician, including mail order, Internet order, or by a telehealth provider in~~
19 ~~which case identifying information for the pharmacy, Web site address, or the~~
20 ~~telemedicine provider shall be included;~~

21 ~~(c) The names, serial numbers, National Drug Codes, lot numbers, and expiration~~
22 ~~dates of the specific abortion inducing drugs that were provided to the~~
23 ~~pregnant patient and the dates each were provided;~~

24 ~~(d) The full name and address of the referring physician, agency, or service, if~~
25 ~~any;~~

26 ~~(e) The pregnant patient's city or town, county, state, country of residence, and~~
27 ~~zip code;~~

- 1 ~~(f) The pregnant patient's age, race, and ethnicity;~~
- 2 ~~(g) The age or approximate age of the father, if known;~~
- 3 ~~(h) The total number and dates of each previous pregnancy, live birth, and~~
- 4 ~~abortion of the pregnant patient;~~
- 5 ~~(i) The probable gestational and post-fertilization ages of the unborn child, the~~
- 6 ~~methods used to confirm the gestational and post-fertilization ages, and the~~
- 7 ~~date determined;~~
- 8 ~~(j) A list of any pre-existing medical conditions of the pregnant patient that may~~
- 9 ~~complicate her pregnancy, if any, including hemorrhage, infection, uterine~~
- 10 ~~perforation, cervical laceration, retained products, or any other condition;~~
- 11 ~~(k) Whether the fetus was delivered alive and the length of time the fetus~~
- 12 ~~survived;~~
- 13 ~~(l) Whether the fetus was viable and, if viable, the medical reason for~~
- 14 ~~termination;~~
- 15 ~~(m) Whether a pathological examination of the fetus was performed;~~
- 16 ~~(n) Whether the pregnant patient returned for a follow up examination, the date~~
- 17 ~~and results of any such follow up examination, and what reasonable efforts~~
- 18 ~~were made by the qualified physician to encourage the patient to reschedule a~~
- 19 ~~follow up examination if the appointment was missed;~~
- 20 ~~(o) Whether the woman suffered any complications or adverse events as defined~~
- 21 ~~in KRS 311.7731 and what specific complications or adverse events occurred,~~
- 22 ~~and any follow up treatment provided as required by KRS 311.774;~~
- 23 ~~(p) Whether the pregnant patient was Rh negative and, if so, was provided with~~
- 24 ~~an Rh negative information fact sheet and treated with the prevailing medical~~
- 25 ~~standard of care to prevent harmful fetal or child outcomes or Rh~~
- 26 ~~incompatibility in future pregnancies;~~
- 27 ~~(q) The amount billed to cover the treatment for specific complications or adverse~~

1 ~~events, including whether the treatment was billed to Medicaid, private~~
2 ~~insurance, private pay, or other method. This should include ICD-10 codes~~
3 ~~reported and charges for any physician, hospital, emergency room,~~
4 ~~prescription or other drugs, laboratory tests, and any other costs for treatment~~
5 ~~rendered;~~

6 ~~(r) The reason for the abortion, if known, including abuse, coercion, harassment,~~
7 ~~or trafficking; and~~

8 ~~(s) Whether the pregnant patient was tested for sexually transmitted diseases~~
9 ~~when providing the informed consent required in KRS 311.725 and 311.7735~~
10 ~~twenty four (24) hours before the abortion procedure or tested at the time of~~
11 ~~the abortion procedure, and if the pregnant patient tested positive, was treated~~
12 ~~or referred for treatment and follow up care].~~

13 (3) The report shall not contain:

14 (a) The name of the pregnant patient;

15 (b) Common identifiers such as a Social Security number and motor vehicle
16 operator's license number; and

17 (c) Any other information or identifiers that would make it possible to ascertain
18 the patient's identity.

19 (4) ~~If a person other than the physician described in this subsection makes or~~
20 ~~maintains a record required by KRS 311.732, 311.7704, 311.7705, 311.7706, or~~
21 ~~311.7707 on the physician's behalf or at the physician's direction, that person shall~~
22 ~~comply with the reporting requirement described in this subsection as if the person~~
23 ~~were the physician.~~

24 (5) ~~Each prescription issued for an abortion inducing drug as defined in KRS 311.7731~~
25 ~~for which the primary indication is the induction of abortion as defined in KRS~~
26 ~~213.011 shall be reported to the Vital Statistics Branch within three (3) days after~~
27 ~~the end of the month in which the prescription was issued as required by KRS~~

1 311.774, but the report shall not include information which will identify the woman
2 involved or anyone who may be picking up the prescription on behalf of the
3 woman.

4 ~~(6)~~—The name of the person completing the report and the reporting institution shall not
5 be subject to disclosure under KRS 61.870 to 61.884.

6 ~~(5)~~~~(7)~~ By September 30 of each year, the Vital Statistics Branch shall issue a public
7 report that provides statistics on all data collected, including the type of abortion
8 procedure used, for the previous calendar year compiled from all of the reports
9 covering that calendar year submitted to the cabinet in accordance with this section
10 for each of the items listed in this section.~~[Each annual report shall also provide~~
11 ~~statistics for all previous calendar years in which this section was in effect, adjusted~~
12 ~~to reflect any additional information from late or corrected reports.]~~ The Vital
13 Statistics Branch shall ensure that none of the information included in the report
14 could reasonably lead to the identification of any pregnant person~~[woman]~~ upon
15 whom an abortion was performed or attempted. Each annual report shall be made
16 available on the cabinet's website~~[Web site]~~.

17 ~~[(8) (a) Any person or institution who fails to submit a report by the end of thirty (30)~~
18 ~~days following the due date set in this section shall be subject to a late fee of~~
19 ~~five hundred dollars (\$500) for each additional thirty (30) day period or~~
20 ~~portion of a thirty (30) day period the report is overdue.~~

21 ~~(b) Any person or institution who fails to submit a report, or who has submitted~~
22 ~~only an incomplete report, more than one (1) year following the due date set~~
23 ~~in this section, may in a civil action brought by the Vital Statistics Branch be~~
24 ~~directed by a court of competent jurisdiction to submit a complete report~~
25 ~~within a time period stated by court order or be subject to contempt of court.~~

26 ~~(c) Failure by any physician to comply with the requirements of this section,~~
27 ~~other than filing a late report, or to submit a complete report in accordance~~

1 ~~with a court order shall subject the physician to KRS 311.595.~~

2 ~~(9) Intentional falsification of any report required under this section is a Class A~~
3 ~~misdemeanor.]~~

4 ~~(6)~~~~[(10)]~~ The Vital Statistics Branch shall promulgate administrative regulations in
5 accordance with KRS Chapter 13A to assist in compliance with this section.

6 ~~[(11) (a) The Office of the Inspector General, Cabinet for Health and Family Services,~~
7 ~~shall annually audit the required reporting of abortion-related information to~~
8 ~~the Vital Statistics Branch in this section and KRS 213.172, and in so doing,~~
9 ~~shall function as a health oversight agency of the Commonwealth for this~~
10 ~~specific purpose.~~

11 ~~(b) The Office of the Inspector General shall ensure that none of the information~~
12 ~~included in the audit report could reasonably lead to the identification of any~~
13 ~~pregnant woman upon whom an abortion was performed or attempted.~~

14 ~~(c) If any personally identifiable information is viewed or recorded by the Office~~
15 ~~of the Inspector General in conducting an audit authorized by this subsection,~~
16 ~~the information held by the Inspector General shall not be subject to the~~
17 ~~Kentucky Open Records Act, shall be confidential, and shall only be released~~
18 ~~upon court order.~~

19 ~~(d) The Inspector General shall submit a written report to the General Assembly~~
20 ~~and the Attorney General by October 1 of each year. The reports shall include~~
21 ~~findings from:~~

22 ~~1. The audit required in this subsection, including any identified reporting~~
23 ~~deficiencies; and~~

24 ~~2. All abortion facility inspections, including any violations of KRS~~
25 ~~216B.0431 and 216B.0435.]~~

26 ➔Section 20. KRS 214.185 is amended to read as follows:

27 (1) Any physician, upon consultation by a minor as a patient, with the consent of

1 ~~the~~^[such] minor may make a diagnostic examination for venereal disease,
2 pregnancy, or substance use disorder and may advise, prescribe for, and treat
3 ~~the~~^[such] minor regarding venereal disease, substance use disorder, contraception,
4 pregnancy, or childbirth, all without the consent of or notification to the parent,
5 parents, or guardian of ~~the~~^[such] minor patient, or to any other person having
6 custody of ~~the~~^[such] minor patient. Treatment under this section does not include~~f~~
7 ~~inducing of an abortion or~~ performance of a sterilization operation. In any such
8 case, the physician shall incur no civil or criminal liability by reason of having
9 made ~~a~~^[such] diagnostic examination or rendered~~[such]~~ treatment, but~~[such]~~
10 immunity shall not apply to any negligent acts or omissions.

11 (2) Any physician may provide outpatient mental health counseling to any child age
12 sixteen (16) or older upon request of ~~the~~^[such] child without the consent of a
13 parent, parents, or guardian of ~~the~~^[such] child.

14 (3) Any qualified mental health professional, as defined by KRS 202A.011, may
15 provide outpatient mental health counseling to any child who is age sixteen (16) or
16 older and is an unaccompanied youth, as defined by 42 U.S.C. sec. 11434a(6), upon
17 request of ~~the~~^[such] child without the consent of a parent, parents, or guardian of
18 ~~the~~^[such] child.

19 (4) Notwithstanding any other provision of the law, and without limiting cases in which
20 consent may be otherwise obtained or is not required, any emancipated minor or
21 any minor who has contracted a lawful marriage or borne a child may give consent
22 to the furnishing of hospital, medical, dental, or surgical care to his or her child or
23 himself or herself, and~~[such]~~ consent shall not be subject to disaffirmance because
24 of minority. The consent of the parent or parents of ~~the~~^[such] married or
25 emancipated minor shall not be necessary in order to authorize ~~[such]~~ care. For the
26 purpose of this section only, a subsequent judgment of annulment of marriage or
27 judgment of divorce shall not deprive the minor of his or her adult status once

1 obtained. The provider of care may look only to the minor or spouse for payment
2 for services under this section unless other persons specifically agree to assume the
3 cost.

4 (5) Medical, dental, and other health services may be rendered to minors of any age
5 without the consent of a parent or legal guardian when, in the professional's
6 judgment, the risk to the minor's life or health is of such a nature that treatment
7 should be given without delay and the requirement of consent would result in delay
8 or denial of treatment.

9 (6) The consent of a minor who represents that he or she may give effective consent for
10 the purpose of receiving medical, dental, or other health services but who may not
11 in fact do so, shall be deemed effective without the consent of the minor's parent or
12 legal guardian, if the person rendering the service relied in good faith upon the
13 representations of the minor.

14 (7) The consent of a minor who represents that he or she may give effective consent for
15 the purpose of receiving outpatient mental health counseling from a qualified
16 mental health professional, but who may not in fact do so, shall be deemed effective
17 without the consent of the minor's parent or legal guardian if the person rendering
18 the service relied in good faith upon the representations of the minor after a
19 reasonable attempt to obtain parental consent or to verify the minor's age and status
20 as an unaccompanied youth.

21 (8) The professional may inform the parent or legal guardian of the minor patient of
22 any treatment given or needed where, in the judgment of the professional,
23 informing the parent or guardian would benefit the health of the minor patient.

24 (9) Except as otherwise provided in this section, parents, the Cabinet for Health and
25 Family Services, or any other custodian or guardian of a minor shall not be
26 financially responsible for services rendered under this section unless they are
27 essential for the preservation of the health of the minor.

1 ➔Section 21. KRS 216B.400 is amended to read as follows:

- 2 (1) Where a person has been determined to be in need of emergency care by any person
3 with admitting authority, the person shall not be denied admission by reason only of
4 his or her inability to pay for services to be rendered by the hospital.
- 5 (2) A hospital that offers emergency services shall provide that a physician, a sexual
6 assault nurse examiner, who shall be a registered nurse licensed in the
7 Commonwealth and credentialed by the Kentucky Board of Nursing as provided
8 under KRS 314.142, or another qualified medical professional, as defined by
9 administrative regulation promulgated by the Justice and Public Safety Cabinet in
10 consultation with the Sexual Assault Response Team Advisory Committee as
11 defined in KRS 403.707, is available on call twenty-four (24) hours each day for the
12 examinations of persons seeking treatment as victims of sexual offenses as defined
13 by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120,
14 510.130, 510.140, 530.020, 530.064(1)(a), and 531.310.
- 15 (3) (a) A hospital that offers emergency services shall provide mandatory training for
16 all emergency medical services staff on sexual assault emergency response
17 requirements, protocols, and resources.
- 18 (b) The training curriculum shall be developed in collaboration with the members
19 of the Sexual Assault Response Team Advisory Committee appointed
20 pursuant to KRS 403.707 and shall include but not be limited to the following:
- 21 1. Instruction on the provisions of:
- 22 a. KRS 49.270 to 49.490 relating to crime victims' compensation
23 coverage and reimbursement and any related administrative
24 regulations promulgated by the Public Protection Cabinet;
- 25 b. KRS 214.185 relating to the diagnosis and treatment of disease,
26 addictions, or other conditions of a minor;
- 27 c. KRS 216B.015 relating to the definition of a sexual assault

- 1 examination facility;
- 2 d. KRS 216B.140 relating to medical and diagnostic services for
- 3 minor victims of sexual violence;
- 4 e. This section relating to hospital duties to victims of sexual
- 5 violence and victims' rights and related administrative regulations
- 6 promulgated by the Cabinet for Health and Family Services;
- 7 f. KRS 216B.401 relating to SANE-ready hospitals that have a
- 8 sexual assault nurse examiner available on call twenty-four (24)
- 9 hours a day;
- 10 g. Administrative regulations promulgated by the Justice and Public
- 11 Safety Cabinet relating to protocols for sexual assault forensic
- 12 exams and storage of sexual assault forensic exam kits; and
- 13 h. Administrative regulations promulgated by the Kentucky Board of
- 14 Nursing relating to sexual assault nurse examiner credentialing
- 15 and standards;
- 16 2. An overview of:
- 17 a. The Kentucky Medical Protocol for Child Sexual Assault/Abuse
- 18 Evaluation;
- 19 b. Resources related to sexual assault available from the Kentucky
- 20 Hospital Association; and
- 21 c. The Kentucky State Police sexual assault forensic examination
- 22 (SAFE) kit tracking portal; and
- 23 3. Instruction on:
- 24 a. Forensic evidence collection provided by a credentialed sexual
- 25 assault nurse examiner and a board-certified child abuse
- 26 pediatrician or designee; and
- 27 b. Services provided by a rape crisis center and a children's advocacy

1 center.

2 (4) An examination provided in accordance with this section of a victim of a sexual
3 offense may be performed in a sexual assault examination facility as defined in
4 KRS 216B.015. An examination under this section shall apply only to an
5 examination of a victim.

6 (5) The physician, sexual assault nurse examiner, or other qualified medical
7 professional, acting under a statewide medical forensic protocol which shall be
8 developed by the Justice and Public Safety Cabinet in consultation with the Sexual
9 Assault Response Team Advisory Committee as defined in KRS 403.707, and
10 promulgated by the secretary of justice and public safety pursuant to KRS Chapter
11 13A shall, upon the request of any peace officer or prosecuting attorney, and with
12 the consent of the victim, or upon the request of the victim, examine the victim for
13 the purposes of providing basic medical care relating to the incident and gathering
14 samples that may be used as physical evidence. This examination shall include but
15 not be limited to:

16 (a) Basic treatment and sample gathering services; and

17 (b) Laboratory tests, as appropriate.

18 (6) Each victim shall be informed of available services for treatment of sexually
19 transmitted infections, pregnancy, and other medical and psychiatric problems[
20 ~~Pregnancy counseling shall not include abortion counseling or referral information~~].

21 (7) Each victim shall be informed of available crisis intervention or other mental health
22 services provided by regional rape crisis centers providing services to victims of
23 sexual assault.

24 (8) Notwithstanding any other provision of law, a minor may consent to examination
25 under this section. This consent is not subject to disaffirmance because of minority,
26 and consent of the parents or guardians of the minor is not required for the
27 examination.

- 1 (9) (a) The examinations provided in accordance with this section and other services
2 provided to a victim pursuant to subsection (10) of this section shall be paid
3 for by the Crime Victims Compensation Board at a rate to be determined by
4 the administrative regulation promulgated by the board after consultation with
5 the Sexual Assault Response Team Advisory Committee as defined in KRS
6 403.707. Payment for services rendered pursuant to subsection (10) of this
7 section shall be made at a rate not to exceed the Medicaid reimbursement rate
8 for the same or similar services.
- 9 (b) Upon receipt of a completed claim form supplied by the board and an
10 itemized billing for a forensic sexual assault examination or related services
11 that are within the scope of practice of the respective provider and were
12 performed no more than twelve (12) months prior to submission of the form,
13 the board shall reimburse the hospital or sexual assault examination facility,
14 pharmacist, health department, physician, sexual assault nurse examiner, or
15 other qualified medical professional as provided in administrative regulations
16 promulgated by the board pursuant to KRS Chapter 13A. Reimbursement
17 shall be made to an out-of-state nurse who is credentialed in the other state to
18 provide sexual assault examinations, an out-of-state hospital, or an out-of-
19 state physician if the sexual assault occurred in Kentucky.
- 20 (c) Independent investigation by the Crime Victims Compensation Board shall
21 not be required for payment of claims under this section; however, the board
22 may require additional documentation or proof that the forensic medical
23 examination was performed.
- 24 (10) When an examination of a victim of a sexual offense is provided in accordance with
25 this section, no charge shall be made to the victim by the hospital, the sexual assault
26 examination facility, the physician, the pharmacist, the health department, the
27 sexual assault nurse examiner, other qualified medical professional, the victim's

1 insurance carrier, or the Commonwealth for:

- 2 (a) Sexual assault examinations, whether or not the exam is completed;
- 3 (b) Prophylactic medical treatment;
- 4 (c) Strangulation assessments; or
- 5 (d) Other medical tests or services, including triage and ambulance expenses,
- 6 related to the incident, exam, or treatment which occur on the same date as the
- 7 original exam.

8 (11) (a) Each victim shall have the right to determine whether a report or other
9 notification shall be made to law enforcement, except where reporting of
10 abuse and neglect of a child or a vulnerable adult is required under, ~~as set~~
11 ~~forth in~~ KRS 209.030 and 620.030. No victim shall be denied an
12 examination, or billed in violation of subsection (10) of this section, because
13 the victim chooses not to file a police report, cooperate with law enforcement,
14 or otherwise participate in the criminal justice system.

15 (b) If the victim chooses to report to law enforcement, the hospital shall notify
16 law enforcement within twenty-four (24) hours.

17 (c) 1. All samples collected during an exam where the victim has chosen not
18 to immediately report to law enforcement shall be stored, released, and
19 destroyed, if appropriate, in accordance with an administrative
20 regulation promulgated by the Justice and Public Safety Cabinet in
21 consultation with the Sexual Assault Response Team Advisory
22 Committee as defined in KRS 403.707.

23 2. Facilities collecting samples pursuant to this section may provide the
24 required secure storage, sample destruction, and related activities, or
25 may enter into agreements with other agencies qualified to do so,
26 pursuant to administrative regulation.

27 3. All samples collected pursuant to this section shall be stored for at least

1 one (1) year from the date of collection in accordance with the
2 administrative regulation promulgated pursuant to this subsection.

3 4. Notwithstanding KRS 524.140, samples collected during exams where
4 the victim chose not to report immediately or file a report within one (1)
5 year after collection may be destroyed as set forth in accordance with
6 the administrative regulation promulgated pursuant to this subsection.
7 The victim shall be informed of this process at the time of the
8 examination. No hospital, sexual assault examination facility, or
9 designated storage facility shall be liable for destruction of samples after
10 the required storage period has expired.

11 ➔Section 22. KRS 304.32-310 is amended to read as follows:

12 (1) A converted policy issued pursuant to the conversion privilege provided in KRS
13 304.32-300 providing hospital or surgical expense insurance shall provide on an
14 expense incurred basis, the following minimum benefits:

15 (a) Hospital room and board benefits of twenty-five dollars (\$25) per day, for a
16 minimum duration of seventy (70) days for any one (1) period of hospital
17 confinement as defined in the converted policy.

18 (b) Miscellaneous hospital expense benefits for any one (1) period of hospital
19 confinement in a minimum amount up to twenty (20) times the hospital room
20 and board daily benefit provided under the converted policy.

21 (c) Surgical operation expense benefits according to a relative value schedule, or
22 a minimum of two hundred fifty dollars (\$250).

23 (d) The option to continue any existing benefits on account of pregnancy,
24 childbirth, or miscarriage.

25 (2) The relative values in the surgical schedule shall be consistent with the schedule of
26 operations generally offered by the insurer under group or individual health
27 insurance policies. In the event that the insurer and the employer agree upon one

1 (1) or more additional plans of benefits to be available for converted policies, the
2 applicant for the converted policy may, at his or her option, elect such a plan in lieu
3 of a converted policy providing the benefits of paragraphs (a), (b), and (c) of
4 subsection (1) of this section. In no event shall the benefits be less than the
5 minimums set forth in subsection (1) of this section.

6 (3) In no event need the insurer provide under the converted policy:

7 (a) ~~Benefits on account of abortion or complications thereof,~~

8 ~~(b)}~~ The benefits of paragraphs (a) and (b) of subsection (1) of this section, unless
9 the group policy from which conversion is made provided hospital expense
10 insurance benefits; ~~or~~

11 ~~(b)(c)}~~ The benefits of paragraph (c) of subsection (1) of this section, unless the
12 group policy provided surgical expense insurance benefits. Furthermore, the
13 converted policy may contain any exclusion, reduction, or limitation
14 contained in the group policy and any exclusion, reduction, or limitation
15 customarily used in individual policies issued by the insurer. With respect to
16 any person who was covered by the group policy, the period specified in the
17 time limit on certain defenses of the incontestable provision of the converted
18 policy shall commence with the date the insurance on such person or member
19 became effective under the group policy.

20 (4) The converted policy may provide that any hospital, surgical, or medical expense
21 benefits otherwise payable thereunder with respect to any person covered
22 thereunder may be reduced by the amount of any ~~such~~ benefits payable under the
23 group policy for the same loss with respect to the ~~such~~ person after termination of
24 such person's coverage thereunder. The insurer shall not be entitled to use
25 deterioration of health as the basis for refusing to renew a converted policy. The
26 converted policy may provide for termination of coverage thereunder on any person
27 when he is or could be covered by Medicare (Title XVIII of the United States

1 Social Security Act as added by the Social Security Amendments of 1965 or as later
2 amended or superseded).

3 (5) A converted policy may include a provision whereby the insurer may request
4 information in advance of any premium due date of ~~the~~^[such] policy of any person
5 covered thereunder as to whether:

6 (a) He or she is covered for similar benefits by another hospital, surgical, or
7 medical expense insurance policy or hospital or medical service subscriber
8 contract or medical practice or other prepayment plan or by any other plan or
9 program; or

10 (b) Similar benefits are provided for, or available to, ~~the~~^[such] person pursuant to,
11 or in accordance with the requirements of, any statute.

12 If any~~[-such]~~ person is so covered or~~[-such]~~ statutory benefits are provided or
13 available, and ~~the~~^[such] person fails to furnish the insurer the details of ~~the~~^[such]
14 coverage within thirty-one (31) days after the date of ~~the~~^[such] request, the benefits
15 payable under the converted policy may be based on the hospital or surgical or
16 medical expenses actually incurred after excluding expenses to the extent of the
17 amount of benefits provided or available therefor from any of the sources referred
18 to in paragraphs (a) and (b) of this subsection. A converted policy may contain any
19 provisions permitted under this section~~[herein]~~ and may also include any other
20 provisions not expressly prohibited by law; and any provision required to be
21 permitted under this section~~[herein]~~ may be made a part of any converted~~[such]~~
22 policy by means of an endorsement or rider.

23 ➔Section 23. KRS 311.1911 is amended to read as follows:

24 As used in KRS 311.1911 to 311.1959:

25 (1) "Adult" means an individual who is at least eighteen (18) years of age;

26 (2) "Agent" means an individual:

27 (a) Authorized to make health care~~[health-care]~~ decisions on the principal's

- 1 behalf by a power of attorney for health care; or
- 2 (b) Expressly authorized to make an anatomical gift on the principal's behalf by
- 3 any other record signed by the principal;
- 4 (3) "Anatomical gift" means a donation of all or part of a human body to take effect
- 5 after the donor's death for the purpose of transplantation, therapy, research, or
- 6 education;
- 7 (4) "Decedent" means a deceased individual whose body or part is or may be the source
- 8 of an anatomical gift. The term includes a stillborn infant and, subject to restrictions
- 9 imposed by law other than KRS 311.1911 to 311.1959, a fetus; however, the term
- 10 "fetus" does not include a blastocyst or embryo, ~~or fetus that was the subject of~~
- 11 ~~an induced abortion~~;
- 12 (5) "Disinterested witness" means a witness other than the spouse, child, parent,
- 13 sibling, grandchild, grandparent, or guardian of the individual who makes, amends,
- 14 revokes, or refuses to make an anatomical gift, or another adult who exhibited
- 15 special care and concern for the individual. The term does not include a person to
- 16 which an anatomical gift could pass under KRS 311.1929;
- 17 (6) "Document of gift" means a donor card or other record used to make an anatomical
- 18 gift. The term includes a statement or symbol on a driver's license, identification
- 19 card, or donor registry;
- 20 (7) "Donor" means an individual whose body or part is the subject of an anatomical
- 21 gift;
- 22 (8) "Donor registry" means a database that contains records of anatomical gifts and
- 23 amendments to or revocations of anatomical gifts;
- 24 (9) "Driver's license" means a license or permit issued by the Transportation Cabinet to
- 25 operate a vehicle, whether or not conditions are attached to the license or permit;
- 26 (10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or
- 27 state law to engage in the recovery, screening, testing, processing, storage, or

- 1 distribution of human eyes or portions of human eyes;
- 2 (11) "Guardian" means a person appointed by a court to make decisions regarding the
3 support, care, education, health, or welfare of an individual. The term does not
4 include a guardian ad litem;
- 5 (12) "Hospital" means a facility licensed as a hospital under the law of any state or a
6 facility operated as a hospital by the United States, a state, or a subdivision of a
7 state;
- 8 (13) "Identification card" means an identification card issued by the Transportation
9 Cabinet;
- 10 (14) "Know" means to have actual knowledge;
- 11 (15) "Minor" means an individual who is under eighteen (18) years of age;
- 12 (16) "Organ procurement organization" means a person designated by the Secretary of
13 the United States Department of Health and Human Services as an organ
14 procurement organization;
- 15 (17) "Parent" means a parent whose parental rights have not been terminated;
- 16 (18) "Part" means an organ, an eye, or tissue of a human being. The term does not
17 include the whole body;
- 18 (19) "Person" means an individual, corporation, business trust, estate, trust, partnership,
19 limited liability company, association, joint venture, public corporation,
20 government or governmental subdivision, agency, or instrumentality, or any other
21 legal or commercial entity;
- 22 (20) "Physician" means an individual authorized to practice medicine or osteopathy
23 under the law of any state;
- 24 (21) "Procurement organization" means an eye bank, organ procurement organization, or
25 tissue bank;
- 26 (22) "Prospective donor" means an individual who is dead or near death and has been
27 determined by a procurement organization to have a part that could be medically

- 1 suitable for transplantation, therapy, research, or education. The term does not
2 include an individual who has made a refusal;
- 3 (23) "Reasonably available" means able to be contacted by a procurement organization
4 without undue effort and willing and able to act in a timely manner consistent with
5 existing medical criteria necessary for the making of an anatomical gift;
- 6 (24) "Recipient" means an individual into whose body a decedent's part has been or is
7 intended to be transplanted;
- 8 (25) "Record" means information that is inscribed on a tangible medium or that is stored
9 in an electronic or other medium and is retrievable in perceivable form;
- 10 (26) "Refusal" means a record created under KRS 311.1921 that expressly states an
11 intent to bar other persons from making an anatomical gift of an individual's body
12 or part;
- 13 (27) "Sign" means, with the present intent to authenticate or adopt a record:
- 14 (a) To execute or adopt a tangible symbol; or
- 15 (b) To attach to or logically associate with the record an electronic symbol,
16 sound, or process;
- 17 (28) "State" means a state of the United States, the District of Columbia, Puerto Rico,
18 the United States Virgin Islands, or any territory or insular possession subject to the
19 jurisdiction of the United States;
- 20 (29) "Technician" means an individual determined to be qualified to remove or process
21 parts by an appropriate organization that is licensed, accredited, or regulated under
22 federal or state law. The term includes an ocular enucleator;
- 23 (30) "Tissue" means a portion of the human body other than an organ or an eye. The
24 term does not include:
- 25 (a) Blood unless the blood is donated for the purpose of research or education; or
- 26 (b) An ovum or sperm for the purpose of creating an embryo to be used in
27 therapy, research, or education;

1 (31) "Tissue bank" means a person that is licensed, accredited, or regulated under federal
2 or state law to engage in the recovery, screening, testing, processing, storage, or
3 distribution of tissue; and

4 (32) "Transplant hospital" means a hospital that furnishes organ transplants and other
5 medical and surgical specialty services required for the care of transplant patients.

6 ➔Section 24. KRS 311.595 is amended to read as follows:

7 If the power has not been transferred by statute to some other board, commission, or
8 agency of this state, the board may deny an application or reregistration for a license;
9 place a licensee on probation for a period not to exceed five (5) years; suspend a license
10 for a period not to exceed five (5) years; limit or restrict a license for an indefinite period;
11 or revoke any license heretofore or hereafter issued by the board, upon proof that the
12 licensee has:

13 (1) Knowingly made or presented, or caused to be made or presented, any false,
14 fraudulent, or forged statement, writing, certificate, diploma, or other thing, in
15 connection with an application for a license or permit;

16 (2) Practiced~~[,]~~ or aided or abetted in the practice of fraud, forgery, deception,
17 collusion, or conspiracy in connection with an examination for a license;

18 ~~(3) Committed, procured, or aided in the procurement of an unlawful abortion,~~
19 ~~including a partial birth abortion or an abortion in violation of KRS 311.731;~~

20 ~~(4)~~ Entered a guilty or nolo contendere plea, or been convicted, by any court within or
21 without the Commonwealth of Kentucky of a crime as defined in KRS 335B.010, if
22 in accordance with KRS Chapter 335B;

23 ~~(4)~~~~(5)~~ Been convicted of a misdemeanor offense under KRS Chapter 510 involving
24 a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or
25 been found by the board to have had sexual contact as defined in KRS 510.010(7)
26 with a patient while the patient was under the care of the physician;

27 ~~(5)~~~~(6)~~ Become addicted to a controlled substance;

- 1 ~~(6)~~~~(7)~~ Become a chronic or persistent alcoholic;
- 2 ~~(7)~~~~(8)~~ Been unable or is unable to practice medicine according to acceptable and
3 prevailing standards of care by reason of mental or physical illness or other
4 condition including but not limited to physical deterioration that adversely affects
5 cognitive, motor, or perceptive skills, or by reason of an extended absence from the
6 active practice of medicine;
- 7 ~~(8)~~~~(9)~~ Engaged in dishonorable, unethical, or unprofessional conduct of a character
8 likely to deceive, defraud, or harm the public or any member thereof;
- 9 ~~(9)~~~~(10)~~ Knowingly made, or caused to be made, or aided or abetted in the making of,
10 a false statement in any document executed in connection with the practice of his or
11 her profession;
- 12 ~~(10)~~~~(11)~~ Employed, as a practitioner of medicine or osteopathy in the practice of his or
13 her profession in this state, any person not duly licensed or otherwise aided,
14 assisted, or abetted the unlawful practice of medicine or osteopathy or any other
15 healing art;
- 16 ~~(11)~~~~(12)~~ Violated or attempted to violate, directly or indirectly, or assisted in or abetted
17 the violation of, or conspired to violate any provision or term of any medical
18 practice act, including but not limited to the code of conduct promulgated by the
19 board under KRS 311.601 or any other valid regulation of the board;
- 20 ~~(12)~~~~(13)~~ Violated any agreed order, letter of agreement, final order, or emergency
21 order issued by the board;
- 22 ~~(13)~~~~(14)~~ Engaged in or attempted to engage in the practice of medicine or osteopathy
23 under a false or assumed name, or impersonated another practitioner of a like,
24 similar, or different name;
- 25 ~~(14)~~~~(15)~~ Obtained a fee or other thing of value on the fraudulent representation that a
26 manifestly incurable condition could be cured;
- 27 ~~(15)~~~~(16)~~ Willfully violated a confidential communication;

1 ~~(16)~~~~(17)~~ Had his or her license to practice medicine or osteopathy in any other state,
2 territory, or foreign nation revoked, suspended, restricted, or limited or has been
3 subjected to other disciplinary action by the licensing authority of that
4 state~~thereof~~. This subsection shall not require relitigation of the disciplinary
5 action;

6 ~~(17)~~~~(18)~~ Failed or refused, without legal justification, to practice medicine in a rural
7 area of this state in violation of a valid medical scholarship loan contract with the
8 trustees of the rural Kentucky medical scholarship fund;

9 ~~(18)~~~~(19)~~ Given or received, directly or indirectly, from any person, firm, or
10 corporation, any fee, commission, rebate, or other form of compensation for
11 sending, referring, or otherwise inducing a person to communicate with a person
12 licensed under KRS 311.530 to 311.620 in his or her professional capacity or for
13 any professional services not actually and personally rendered; provided, however,
14 that nothing contained in this subsection shall prohibit persons holding valid and
15 current licenses under KRS 311.530 to 311.620 from practicing medicine in
16 partnership or association or in a professional service corporation authorized by
17 KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing,
18 dividing, or apportioning the fees and moneys received by them or by the
19 partnership, corporation, or association in accordance with the partnership
20 agreement or the policies of the board of directors of the corporation or association.
21 Nothing contained in this subsection shall abrogate the right of two (2) or more
22 persons holding valid and current licenses under KRS 311.530 to 311.620 to receive
23 adequate compensation for concurrently rendering professional care to a single
24 patient and divide a fee, if the patient has full knowledge of this division and if the
25 division is made in proportion to the services performed and responsibility assumed
26 by each;

27 ~~(19)~~~~(20)~~ Been removed, suspended, expelled, or disciplined by any professional

1 medical association or society when the action was based upon what the association
2 or society found to be unprofessional conduct, professional incompetence,
3 malpractice, or a violation of any provision of KRS Chapter 311. This subsection
4 shall not require relitigation of the disciplinary action;

5 ~~(20)~~~~(24)~~ Been disciplined by a licensed hospital or medical staff of the hospital,
6 including removal, suspension, limitation of hospital privileges, failing to renew
7 privileges for cause, resignation of privileges under pressure or investigation, or
8 other disciplinary action if the action was based upon what the hospital or medical
9 staff found to be unprofessional conduct, professional incompetence, malpractice,
10 or a violation of any provisions of KRS Chapter 311. This subsection shall not
11 require relitigation of the disciplinary action;

12 ~~(21)~~~~(22)~~ Failed to comply with the requirements of KRS 213.101~~[- 311.782, or~~
13 ~~311.783]~~ or failed to submit to the Vital Statistics Branch in accordance with a
14 court order a complete report as described in KRS 213.101; or

15 ~~[(23) Failed to comply with any of the requirements regarding making or maintaining~~
16 ~~medical records or documents described in KRS 311.7704 or 311.7707;~~

17 ~~(24) Failed to comply with the requirements of KRS 311.7705 or 311.7706;]~~

18 ~~(22)~~~~(25)~~ Been convicted of female genital mutilation under KRS 508.125, which shall
19 result in mandatory revocation of a license~~;~~

20 ~~(26) As provided in KRS 311.824(2), been convicted of a violation of KRS 311.823(2);~~
21 ~~or~~

22 ~~(27) Failed to comply with the requirements of KRS 311.732].~~

23 ➔Section 25. KRS 311.850 is amended to read as follows:

24 (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the license
25 of a physician assistant, or may fine, reprimand or place a physician assistant on
26 probation for no more than five (5) years upon proof that a physician assistant has:

27 (a) Knowingly made or presented or caused to be made or presented any false,

- 1 fraudulent, or forged statement, writing, certificate, diploma, or other
2 document relating to an application for licensure;
- 3 (b) Practiced, aided, or abetted in the practice of fraud, forgery, deception,
4 collusion, or conspiracy relating to an examination for licensure;
- 5 (c) Been convicted of a crime as defined in KRS 335B.010, if in accordance with
6 KRS Chapter 335B;
- 7 (d) Been convicted of a misdemeanor offense under KRS Chapter 510 involving
8 a patient or a felony offense under KRS Chapter 510, KRS 530.064, or
9 531.310, or has been found by the board to have had sexual contact, as
10 defined in KRS 510.010, with a patient while the patient was under the care of
11 the physician assistant or the physician assistant's supervising physician;
- 12 (e) Become addicted to a controlled substance, as defined in KRS
13 311.550~~(25)~~~~[(26)]~~;
- 14 (f) Become a chronic or persistent alcoholic, as defined in KRS
15 311.550~~(24)~~~~[(25)]~~;
- 16 (g) Been unable or is unable to practice medicine according to acceptable and
17 prevailing standards of care by reason of mental or physical illness or other
18 condition including but not limited to physical deterioration that adversely
19 affects cognitive, motor, or perceptive skills, or by reason of an extended
20 absence from the active practice of medicine;
- 21 (h) Knowingly made or caused to be made or aided or abetted in the making of a
22 false statement in any document executed in connection with the practice of
23 medicine or osteopathy;
- 24 (i) Performed any act or service as a physician assistant without a designated
25 supervising physician;
- 26 (j) Exceeded the scope of medical services described by the supervising
27 physician in the applications required under KRS 311.854;

- 1 (k) Exceeded the scope of practice for which the physician assistant was
2 credentialed by the governing board of a hospital or licensed health care
3 facility under KRS 311.856 and 311.858;
- 4 (l) Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or
5 any healing art, including the unlawful practice of physician assistants;
- 6 (m) Willfully violated a confidential communication;
- 7 (n) Performed the services of a physician assistant in an unprofessional,
8 incompetent, or grossly or chronically negligent manner;
- 9 (o) Been removed, suspended, expelled, or placed on probation by any health care
10 facility or professional society for unprofessional conduct, incompetence,
11 negligence, or violation of any provision of this section or KRS 311.858 or
12 311.862;
- 13 (p) Violated any applicable provision of administrative regulations relating to
14 physician assistant practice;
- 15 (q) Violated any term of probation or other discipline imposed by the board;
- 16 (r) Failed to complete the required number of hours of approved continuing
17 education; **or**
- 18 (s) Engaged in dishonorable, unethical, or unprofessional conduct of character
19 likely to deceive, defraud, or harm the public or any member thereof, as
20 described in KRS 311.597~~[-, or~~
- 21 ~~(t) As provided in KRS 311.824(2), been convicted of a violation of KRS~~
22 ~~311.823(2)].~~
- 23 (2) All disciplinary proceedings against a physician assistant shall be conducted in
24 accordance with~~[- the provisions of]~~ KRS 311.591, 311.592, 311.593, 311.599, and
25 KRS Chapter 13B and related administrative regulations promulgated under KRS
26 Chapter 311.
- 27 ➔Section 26. KRS 314.091 is amended to read as follows:

- 1 (1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend
2 any license or credential to practice nursing issued by the board or applied for in
3 accordance with this chapter or the privilege to practice as a nurse recognized by
4 the board in accordance with this chapter, or to otherwise discipline a licensee,
5 credential holder, privilege holder, or applicant, or to deny admission to the
6 licensure examination, or to require evidence of evaluation and therapy upon proof
7 that the person:
- 8 (a) Is guilty of fraud or deceit in procuring or attempting to procure a license,
9 credential, or privilege to practice nursing;
- 10 (b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol,
11 fraud, deceit, falsification of records, a breach of trust, physical harm or
12 endangerment to others, or dishonesty, under the laws of any state or of the
13 United States, if in accordance with KRS Chapter 335B. The record of
14 conviction or a copy thereof, certified by the clerk of the court or by the judge
15 who presided over the conviction, shall be conclusive evidence;
- 16 (c) Has been convicted of a misdemeanor offense under KRS Chapter 510
17 involving a patient, or a felony offense under KRS Chapter 510,
18 530.064(1)(a), or 531.310, or has been found by the board to have had sexual
19 contact as defined in KRS 510.010(7) with a patient while the patient was
20 under the care of the nurse;
- 21 (d) Has negligently or willfully acted in a manner inconsistent with the practice of
22 nursing;
- 23 (e) Is unfit or incompetent to practice nursing by reason of negligence or other
24 causes, including but not limited to, being unable to practice nursing with
25 reasonable skill or safety;
- 26 (f) Abuses controlled substances, prescription medications, illegal substances, or
27 alcohol;

- 1 (g) Has misused or misappropriated any drugs placed in the custody of the nurse
2 for administration, or for use of others;
- 3 (h) Has falsified or in a negligent manner made incorrect entries or failed to make
4 essential entries on essential records;
- 5 (i) Has a license, privilege, or credential to practice as a nurse denied, limited,
6 suspended, probated, revoked, or otherwise disciplined in another jurisdiction
7 on grounds sufficient to cause a license or privilege to be denied, limited,
8 suspended, probated, revoked, or otherwise disciplined in this
9 Commonwealth, including action by another jurisdiction for failure to repay a
10 student loan;
- 11 (j) Has violated any of the provisions of this chapter;
- 12 (k) Has violated any lawful order or directive previously entered by the board;
- 13 (l) Has violated any administrative regulation promulgated by the board;
- 14 (m) Has been listed on either the adult caregiver misconduct registry or the nurse
15 aide abuse registry with a substantiated finding of abuse, neglect, or
16 misappropriation of property, or has a substantiated finding or judicial finding
17 of the abuse or neglect of a child;
- 18 (n) Has violated the confidentiality of information or knowledge concerning any
19 patient, except as authorized or required by law;
- 20 (o) Used or possessed a Schedule I controlled substance;
- 21 (p) Has used or been impaired as a consequence of the use of alcohol or drugs
22 while practicing as a nurse;
- 23 (q) Has violated KRS 304.39-215; or
- 24 (r) Has engaged in conduct that is subject to the penalties under KRS 304.99-
25 060(4) or (5); ~~or~~
- 26 ~~(s) As provided in KRS 311.824(2), has been convicted of a violation of KRS~~
27 ~~311.823(2)].~~

- 1 (2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended
2 or revoked license, privilege, or credential may be reinstated at the discretion of the
3 board, and in accordance with regulations promulgated by the board.
- 4 (3) The executive director may issue subpoenas to compel the attendance of witnesses
5 and the production of documents in the conduct of an investigation. The subpoenas
6 may be enforced by the Circuit Court as for contempt. Any order or subpoena of the
7 court requiring the attendance and testimony of witnesses and the production of
8 documentary evidence may be enforced and shall be valid anywhere in this state.
- 9 (4) Upon~~[At all hearings on]~~ request of the board the Attorney General of this state or
10 one (1) of the assistant attorneys general designated by the Attorney General shall
11 appear and represent the board at a hearing held under this section.
- 12 (5) A final order of the board shall be by majority vote of the board~~[thereof]~~.
- 13 (6) Any person adversely affected by any final order of the board may obtain a review
14 of the order~~[thereof]~~ by filing a written petition for review with the Circuit Court of
15 the county in which the board's offices are located in accordance with KRS Chapter
16 13B.
- 17 (7) If the board substantiates that sexual contact occurred between a nurse and a patient
18 while the patient was under the care of or in a professional relationship with the
19 nurse, the nurse's license, privilege, or credential may be revoked or suspended with
20 mandatory treatment of the nurse as prescribed by the board. The board may require
21 the nurse to pay a specified amount for mental health services for the patient which
22 are needed as a result of the sexual contact.
- 23 (8) The board may, by administrative regulation, provide for the recovery of the costs
24 of an administrative hearing.
- 25 ➔Section 27. KRS 314.408 is amended to read as follows:
- 26 (1) It shall be unlawful for any person to provide certified professional midwifery
27 services as defined in KRS 314.400 unless that person is a licensed certified

- 1 professional midwife currently issued a license by the board in accordance with
2 KRS 314.400 to 314.414 or is an appropriate licensed health care provider
3 providing services that are within his or her scope of practice.
- 4 (2) It shall be unlawful for any person to hold herself or himself out as a licensed
5 certified professional midwife or other skilled birth attendant authorized to provide
6 prenatal care or manually assist in the delivery of an infant, or to provide the
7 services defined in KRS 314.400(2) in Kentucky unless he or she has been issued a
8 license by the board in accordance with KRS 314.400 to 314.414.
- 9 (3) It shall be unlawful for any person to operate or to offer to operate or to represent or
10 advertise the operation of a school or program of certified professional midwifery
11 unless the school or program has been approved by the board to do so.
- 12 (4) It shall be unlawful for any licensed certified professional midwife or employer of a
13 licensed certified professional midwife having knowledge of facts to refrain from
14 reporting to the board a licensed certified professional midwife who violates any
15 provision set forth in administrative regulation for licensed certified professional
16 midwives.
- 17 (5) It shall be unlawful for any person to provide certified professional midwifery
18 services who is listed on the nurse aide abuse registry with a substantiated finding
19 of abuse, neglect, or misappropriation of property.
- 20 (6) Nothing in KRS 314.400 to 314.414 shall prohibit a traditional birth attendant
21 providing midwifery services without a license if the traditional birth attendant has
22 cultural or religious traditions that have historically included the attendance of
23 traditional birth attendants at birth, and the birth attendant serves only women and
24 families in that distinct cultural or religious group.
- 25 (7) Nothing in KRS 314.400 to 314.414 shall prohibit an appropriate licensed health
26 care provider or other person from providing emergency care, including care of a
27 precipitous delivery.

(8) ~~— In accordance with KRS 311.723, a licensed certified professional midwife issued a license by the board in accordance with KRS 314.400 to 314.414 shall not perform an abortion.~~

(9) Nothing in KRS 314.400 to 314.414 shall prohibit a person from providing self - care, or uncompensated care to a friend or family member, as long as the person does not hold himself or herself out to be a midwife or provider of certified professional midwifery services as defined under KRS 314.400.

(10) Nothing in KRS 314.400 to 314.414 shall prohibit an employee or other individual who is assisting, and under the direct supervision of, a licensed certified professional midwife from performing activities or functions that are delegated by the licensed certified professional midwife and are within the licensed certified professional midwife's scope of practice as authorized by the board.

(11) Nothing in KRS 314.400 to 314.414 shall prohibit an individual from performing activities or functions that are delegated by the licensed certified professional midwife if that individual is a student of midwifery in a training program operating as authorized by the board, and is under the direct supervision of a qualified preceptor as authorized by the board.

➔ Section 28. KRS 315.121 is amended to read as follows:

(1) The board may refuse to issue or renew a license, permit, or certificate to, or may suspend, temporarily suspend, revoke, fine, place on probation, reprimand, reasonably restrict, or take any combination of these actions against any licensee, permit holder, or certificate holder for the following reasons:

(a) Unprofessional or unethical conduct;

(b) Mental or physical incapacity that prevents the licensee, permit holder, or certificate holder from engaging or assisting in the practice of pharmacy or the wholesale distribution or manufacturing of drugs with reasonable skill, competence, and safety to the public;

- 1 (c) Being convicted of, or entering an ~~["Alford"]~~ plea or plea of nolo contendere
2 to, irrespective of an order granting probation or suspending imposition of any
3 sentence imposed following the conviction or entry of such plea, one (1) or
4 more or the following, if in accordance with KRS Chapter 335B:
- 5 1. A crime as defined in KRS 335B.010; or
 - 6 2. A violation of the pharmacy or drug laws, rules, or administrative
7 regulations of this state, any other state, or the federal government;
- 8 (d) Knowing or having reason to know that a pharmacist, pharmacist intern, or
9 pharmacy technician is incapable of engaging or assisting in the practice of
10 pharmacy with reasonable skill, competence, and safety to the public and
11 failing to report any relevant information to the board;
- 12 (e) Knowingly making or causing to be made any false, fraudulent, or forged
13 statement or misrepresentation of a material fact in securing issuance or
14 renewal of a license, permit, or certificate;
- 15 (f) Engaging in fraud in connection with the practice of pharmacy or the
16 wholesale distribution or manufacturing of drugs;
- 17 (g) Engaging in or aiding and abetting an individual to engage or assist in the
18 practice of pharmacy without a license or falsely using the title of
19 "pharmacist," "pharmacist intern," "pharmacy technician," or other term
20 which might imply that the individual is a pharmacist, pharmacist intern, or
21 pharmacy technician;
- 22 (h) Being found by the board to be in violation of any provision of this chapter,
23 KRS Chapter 217, KRS Chapter 218A, or the administrative regulations
24 promulgated pursuant to these chapters;
- 25 (i) Violation of any order issued by the board to comply with any applicable law
26 or administrative regulation;
- 27 (j) Knowing or having reason to know that a pharmacist, pharmacist intern, or

1 pharmacy technician has engaged in or aided and abetted the unlawful
2 distribution of legend medications, and failing to report any relevant
3 information to the board; or

4 (k) Failure to notify the board within fourteen (14) days of a change in one's
5 home address; ~~or~~

6 ~~(l) As provided in KRS 311.824(2), being convicted of a violation of KRS~~
7 ~~311.823(2)].~~

8 (2) Unprofessional or unethical conduct includes but is not limited to the following acts
9 of a pharmacist, pharmacist intern, or pharmacy technician:

10 (a) Publication or circulation of false, misleading, or deceptive statements
11 concerning the practice of pharmacy;

12 (b) Divulging or revealing to unauthorized persons patient information or the
13 nature of professional services rendered without the patient's express consent
14 or without order or direction of a court. In addition to members, inspectors, or
15 agents of the board, the following are considered authorized persons:

16 1. The patient, patient's agent, or another pharmacist acting on behalf of
17 the patient;

18 2. Certified or licensed health-care personnel who are responsible for care
19 of the patient;

20 3. Designated agents of the Cabinet for Health and Family Services for the
21 purposes of enforcing the provisions of KRS Chapter 218A;

22 4. Any federal, state, or municipal officer whose duty is to enforce the laws
23 of this state or the United States relating to drugs and who is engaged in
24 a specific investigation involving a designated person; or

25 5. An agency of government charged with the responsibility of providing
26 medical care for the patient, upon written request by an authorized
27 representative of the agency requesting such information;

- 1 (c) Selling, transferring, or otherwise disposing of accessories, chemicals, drugs,
2 or devices found in illegal traffic when the pharmacist, pharmacy intern, or
3 pharmacy technician knows or should have known of their intended use in
4 illegal activities;
- 5 (d) Engaging in conduct likely to deceive, defraud, or harm the public,
6 demonstrating a willful or careless disregard for the health, welfare, or safety
7 of a patient, or engaging in conduct which substantially departs from accepted
8 standards of pharmacy practice ordinarily exercised by a pharmacist or
9 pharmacy intern, with or without established proof of actual injury;
- 10 (e) Engaging in grossly negligent professional conduct, with or without
11 established proof of actual injury;
- 12 (f) Except as provided in KRS 315.500, selling, transferring, dispensing,
13 ingesting, or administering a drug for which a prescription drug order is
14 required, without having first received a prescription drug order for the drug;
- 15 (g) Willfully or knowingly failing to maintain complete and accurate records of
16 all drugs received, dispensed, or disposed of in compliance with federal and
17 state laws, rules, or administrative regulations;
- 18 (h) Obtaining any remuneration by fraud, misrepresentation, or deception;
- 19 (i) Accessing or attempting to access confidential patient information for persons
20 other than those with whom a pharmacist has a current pharmacist-patient
21 relationship and where ~~that~~^{such} information is necessary to the pharmacist
22 to provide pharmacy care;
- 23 (j) Failing to exercise appropriate professional judgment in determining whether
24 a prescription drug order is lawful;
- 25 (k) Violating KRS 304.39-215; or
- 26 (l) Engaging in conduct that is subject to the penalties under KRS 304.99-060(4)
27 or (5).

- 1 (3) Any licensee, permit holder, or certificate holder entering an ~~Alford~~ plea,
2 pleading nolo contendere, or who is found guilty of a violation prescribed in
3 subsection (1)(c) of this section shall within thirty (30) days notify the board of that
4 plea or conviction. Failure to do so shall be grounds for suspension or revocation of
5 the license, certificate, or permit.
- 6 (4) Any person whose license, permit, or certificate has been revoked in accordance
7 with the provisions of this section, may petition the board for reinstatement. The
8 petition shall be made in writing and in a form prescribed by the board. The board
9 shall investigate all reinstatement petitions, and the board may reinstate a license,
10 permit, or certificate upon showing that the former holder has been rehabilitated
11 and is again able to engage in the practice of pharmacy with reasonable skill,
12 competency, and safety to the public. Reinstatement may be on the terms and
13 conditions that the board, based on competent evidence, reasonably believes
14 necessary to protect the health and welfare of the citizens of the Commonwealth.
- 15 (5) Upon exercising the power of revocation provided for in subsection (1) of this
16 section, the board may reasonably prohibit any petition for reinstatement for a
17 period up to and including five (5) years.
- 18 (6) Any licensee, permit holder, or certificate holder who is disciplined under this
19 section for a minor violation may request in writing that the board expunge the
20 minor violation from the licensee's, permit holder's, or certificate holder's
21 permanent record.
- 22 (a) The request for expungement may be filed no sooner than three (3) years after
23 the date on which the licensee, permit holder, or certificate holder has
24 completed disciplinary sanctions imposed and if the licensee, permit holder,
25 or certificate holder has not been disciplined for any subsequent violation of
26 the same nature within this period of time.
- 27 (b) No person may have his or her record expunged under this section more than

1 once.

2 The board shall promulgate administrative regulations under KRS Chapter 13A to
3 establish violations which are minor violations under this subsection. A violation
4 shall be deemed a minor violation if it does not demonstrate a serious inability to
5 practice the profession; assist in the practice of pharmacy; provide home medical
6 equipment and services; adversely affect the public health, safety, or welfare; or
7 result in economic or physical harm to a person; or create a significant threat of
8 *economic or physical*~~[such]~~ harm.

9 ➔Section 29. KRS 315.990 is amended to read as follows:

10 (1) Except for the provisions of KRS 315.320, any person violating any provision of
11 KRS Chapter 315 shall be fined for each offense not less than one hundred dollars
12 (\$100) nor more than one thousand dollars (\$1,000) or imprisoned in the county jail
13 for not more than six (6) months, or both. Each week that any provision of KRS
14 315.020, 315.030, or 315.035 is violated shall also constitute a separate offense.

15 (2) Any person convicted of willfully resisting, preventing, impeding, obstructing,
16 threatening, or interfering with the officers, agents, or inspectors of the board in the
17 administration of the provisions of this chapter shall be guilty of a Class A
18 misdemeanor.

19 (3) The board may levy an administrative fine not to exceed five thousand dollars
20 (\$5,000) for each offense, for any violation of KRS 315.121. All *levied*~~[such]~~ fines
21 shall be deposited to the credit of the licensing board to be used by the board in
22 carrying out the provisions of this chapter.

23 (4) The board may refuse to issue or renew a permit, or may suspend, temporarily
24 suspend, revoke, fine, or reasonably restrict any permit holder for any violation of
25 KRS 315.0351. Any administrative fine levied by the board shall not exceed five
26 thousand dollars (\$5,000) for any violation of KRS 315.0351. All *levied*~~[such]~~ fines
27 shall be deposited to the credit of the licensing board to be used by the Board of

1 Pharmacy in carrying out the provisions of this chapter.

2 (5) For a violation of KRS 315.320, the Board of Pharmacy may, in addition to any
3 other civil or criminal penalty, levy an administrative fine not exceeding one
4 hundred thousand dollars (\$100,000). All such fines shall be deposited to the credit
5 of the Board of Pharmacy in carrying out the provisions of this chapter.

6 ~~[(6) (a) Any person who intentionally, knowingly, or recklessly violates KRS
7 216B.200 to 216B.210 is guilty of a Class D felony.~~

8 ~~(b) Any person who violates KRS 216B.200 to 216B.210 shall be fined not more
9 than one million dollars (\$1,000,000).~~

10 ~~(c) Notwithstanding KRS 440.200, the Attorney General may demand from the
11 Governor of any other state the surrender of any person found in the other
12 state who is charged in Kentucky with the crime of violating KRS 216B.200
13 to 216B.210. The provisions for extradition under this subsection shall apply
14 to any such demand even if the person whose surrender is demanded was not
15 in Kentucky at the time of the commission of the crime. Neither the demand,
16 the oath, nor any proceedings for extradition pursuant to this section need
17 state or show that the person whose surrender is demanded has fled from
18 justice, or at the time of the commission of the crime was in Kentucky or the
19 other state.]~~

20 ➔Section 30. KRS 367.97501 is amended to read as follows:

21 As used in KRS 367.97501 to 367.97537, unless the context requires otherwise:

22 (1) "Authorizing agent" means the person legally entitled to order the cremation of the
23 human remains;[.]

24 (2) "Casket" means a rigid container which is designed for the encasement of human
25 remains constructed of wood, metal, or other material;[.]

26 (3) "Closed container" means a sealed container or urn in which cremated remains are
27 placed and enclosed in a manner that prevents leakage or spillage of cremated

- 1 remains or the entrance of foreign material;[.]
- 2 (4) "Cremated remains" means the fragments remaining after the cremation process has
3 been completed;[.]
- 4 (5) "Cremation" means the heating process that reduces human remains to bone
5 fragments through combustion and evaporation;[.]
- 6 (6) "Cremation authorization form" means a form promulgated by administrative
7 regulation of the Attorney General that expresses consent to the decedent's
8 cremation. The form shall include information concerning the parties' rights and
9 responsibilities;[.]
- 10 (7) "Cremation chamber" means an enclosed space designed and manufactured for the
11 purpose of cremating human remains;[.]
- 12 (8) "Cremation container" means a container in which human remains may be
13 delivered to a crematory for cremation that is:
- 14 (a) Rigid enough to support the weight of the corpse, closed, and leakproof;
- 15 (b) Composed of a combustible material or other material approved by the
16 crematory authority; and
- 17 (c) A proper and dignified covering for the human remains;[.]
- 18 (9) "Crematory authority" means the legal entity which is licensed by the Attorney
19 General to operate a crematory and conduct cremations. Crematory authority does
20 not include state university health science centers;[.]
- 21 (10) "Crematory":
- 22 (a) Means a fixed building or structure that contains one (1) or more cremation
23 chambers for the reduction of bodies of deceased persons to cremated
24 remains; and ~~"Crematory"~~
- 25 (b) Includes crematorium.
- 26 (11) "Crematory operator" means the person in charge of a licensed crematory
27 authority;[.]

- 1 (12) "Declaration" has the same meaning as in KRS 367.93101;~~[-]~~
- 2 (13) "Holding facility" means an area designated for the retention of human remains
3 prior to cremation;~~[-]~~
- 4 (14) "Human remains" means the body of a deceased person or part of a body or limb
5 that has been removed from a living person, in any state of decomposition, prior to
6 cremation;~~[-]~~
- 7 (15) "Pathological waste":
8 (a) Means human tissues, organs, and blood or body fluids, in liquid or
9 semiliquid form that are removed from a person for medical purposes; and~~[-]~~
10 ~~"Pathological waste"~~
- 11 (b) Does not include amputations;~~[-]~~ ~~or fetal remains as defined in KRS 213.098.~~
- 12 (16) "Processed remains" means the end result of pulverization, by which the residual
13 from the cremation process is reduced and cleaned leaving only fragments reduced
14 to unidentified dimensions;~~[-]~~
- 15 (17) "Retort operator" means a person operating a cremation chamber;~~[-]~~
- 16 (18) "Scattering area or garden" means an area which may be designated by a cemetery
17 and located on a dedicated cemetery property where cremated remains which have
18 been removed from their container can be mixed with or placed on top of the soil or
19 ground cover; and~~[-]~~
- 20 (19) "Temporary container" means a receptacle for cremated remains, usually made of
21 plastic, cardboard, ceramics, plastic film, wood, or metal, designed to prevent the
22 leakage of processed remains or the entrance of foreign materials which will hold
23 the cremated remains until an urn or other permanent container is acquired.

24 ➔Section 31. KRS 387.660 is amended to read as follows:

25 A guardian of a disabled person shall have the following powers and duties, except as
26 modified by order of the court:

- 27 (1) (a) To establish the ward's place of abode within the state, except that, if at any

1 time a guardian places a ward in a licensed residential facility for
2 developmentally disabled persons, the guardian shall, within thirty (30) days
3 of ~~the~~_[such] placement, file with the court notice of the placement, stating
4 with specificity:

5 1. The reasons for ~~the~~_[such] placement;~~[-, and]~~

6 2. An interdisciplinary evaluation report detailing the social,
7 psychological, medical or other considerations on which ~~the~~_[such]
8 placement is predicated;~~[-]~~

9 3. A description of the treatment or habilitation programs which will
10 benefit the ward as a result of ~~the~~_[such] placement;~~[-]~~ and

11 4. A determination that such placement will provide appropriate treatment
12 in the least restrictive available treatment and residential program.

13 (b) For purposes of this subsection, the interdisciplinary evaluation report may be
14 one performed within two (2) months prior to the placement for purposes of
15 determining whether ~~the~~_[such] placement is necessary and appropriate, or
16 may be an evaluation and assessment provided by the residential facility
17 immediately after placement.

18 (c) Notice to the court shall not be required where the ward is transferred from
19 one licensed residential facility to another;

20 (2) To make provision for the ward's care, comfort, and maintenance and arrange for~~[-]~~
21 ~~such~~_[such] educational, social, vocational, and rehabilitation services as are appropriate
22 and as will assist the ward in the development of maximum self-reliance and
23 independence;

24 (3) To give any necessary consent or approval to enable the ward to receive medical or
25 other professional care, counsel, treatment or service, except that a guardian may
26 not consent on behalf of a ward to~~[-an abortion,]~~ sterilization, psychosurgery,
27 removal of a bodily organ, or amputation of a limb unless the procedure is first

- 1 approved by order of the court or is necessary, in an emergency situation, to
2 preserve the life or prevent serious impairment of the physical health of the ward;
- 3 (4) To act with respect to the ward in a manner which limits the deprivation of civil
4 rights and restricts the ward's ~~his~~ personal freedom only to the extent necessary to
5 provide needed care and services to the ward ~~him~~; and
- 6 (5) To expend sums from the financial resources of the ward reasonable and necessary
7 to carry out the powers and duties assigned to him by the court.

8 If a separate limited conservator or conservator has been appointed for the ward, the
9 expenditure of funds by the limited guardian shall be consistent with the duties assigned
10 to and procedures and policies established by the ~~such~~ limited conservator or
11 conservator. Conflicts arising between a limited guardian and a limited conservator or
12 conservator regarding the expenditure of funds which are unable to be otherwise resolved
13 shall be submitted to the court for resolution.

14 ➔Section 32. KRS 413.140 is amended to read as follows:

- 15 (1) The following actions shall be commenced within one (1) year after the cause of
16 action accrued:
- 17 (a) An action for an injury to the person of the plaintiff, or of her husband, his
18 wife, child, ward, apprentice, or servant;
- 19 (b) An action for injuries to persons, cattle, or other livestock by railroads or
20 other corporations, with the exception of hospitals licensed pursuant to KRS
21 Chapter 216;
- 22 (c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal
23 conversation, or breach of promise of marriage;
- 24 (d) An action for libel or slander;
- 25 (e) An action against a physician, surgeon, dentist, or hospital licensed pursuant
26 to KRS Chapter 216, for negligence or malpractice;
- 27 (f) A civil action, arising out of any act or omission in rendering, or failing to

- 1 render, professional services for others, whether brought in tort or contract,
2 against a real estate appraiser holding a certificate or license issued under
3 KRS Chapter 324A or a real estate broker or sales associate holding a license
4 issued under KRS Chapter 324;
- 5 (g) An action for the escape of a prisoner, arrested or imprisoned on civil process;
6 (h) An action for the recovery of usury paid for the loan or forbearance of money
7 or other thing, against the loaner or forbearer or assignee of either;
8 (i) An action for the recovery of stolen property~~[-]~~ by the owner of the
9 property~~[-thereof]~~ against any person having the property~~[-same]~~ in his or her
10 possession;
11 (j) An action for the recovery of damages or the value of stolen property, against
12 the thief or any accessory;
13 (k) An action arising out of a detention facility disciplinary proceeding, whether
14 based upon state or federal law; and
15 (l) An action for damages arising out of a deficiency, defect, omission, error, or
16 miscalculation in any survey or plat, whether brought in tort or contract,
17 against a licensed professional land surveyor holding a license under KRS
18 Chapter 322~~[-]~~;
- 19 ~~(m) An action for violating KRS 311.782; and~~
20 ~~(n) An action for violating KRS 311.731.~~
- 21 (2) In respect to the action referred to in ~~[paragraph (e) of]~~ subsection (1)(e) of this
22 section, the cause of action shall be deemed to accrue at the time the injury is first
23 discovered or in the exercise of reasonable care should have been discovered;
24 provided that such action shall be commenced within five (5) years from the date on
25 which the alleged negligent act or omission is said to have occurred.
- 26 (3) In respect to the action referred to in ~~[paragraph (f) or (l) of]~~ subsection (1)(f) or (l)
27 of this section, the cause of action shall be deemed to accrue within one (1) year

1 from the date of the occurrence or from the date when the cause of action was, or
2 reasonably should have been, discovered by the party injured.

3 (4) In respect to the action referred to in ~~{paragraph (h) of }~~subsection (1)(h) of this
4 section, the cause of action shall be deemed to accrue at the time of payment. This
5 limitation shall apply to all payments made on all demands, whether evidenced by
6 writing or existing only in parol.

7 (5) In respect to the action referred to in ~~{paragraph (i) of }~~subsection (1)(i) of this
8 section, the cause of action shall be deemed to accrue at the time the property is
9 found by its owner.

10 (6) In respect to the action referred to in ~~{paragraph (j) of }~~subsection (1)(j) of this
11 section, the cause of action shall be deemed to accrue at the time of discovery of the
12 liability.

13 (7) In respect to the action referred to in ~~{paragraph (k) of }~~subsection (1)(k) of this
14 section, the cause of action shall be deemed to accrue on the date an appeal of the
15 disciplinary proceeding is decided by the institutional warden.

16 ~~{(8) In respect to the action referred to in subsection (1)(m) and (n) of this section, the~~
17 ~~cause of action shall be deemed to accrue after the performance or inducement or~~
18 ~~attempt to perform or induce the abortion.}~~

19 ➔Section 33. KRS 507A.010 is amended to read as follows:

20 (1) As used in this chapter:

- 21 (a) "Abortion" has the same meaning as in Section 2 of this Act~~[KRS 311.720]~~;
- 22 (b) "Health care provider" has the same meaning as in KRS 304.17A-005; and
- 23 (c) "Unborn child" means a member of the species homo sapiens in utero from
24 conception onward, without regard to age, health, or condition of dependency.

25 (2) In a prosecution for the death of an unborn child, nothing in this chapter shall apply
26 to acts performed by or at the direction of a health care provider that cause the death
27 of an unborn child if those acts were committed:

- 1 (a) During any abortion for which the consent of the pregnant person~~[woman]~~
2 has been obtained or for which the consent is implied by law in a medical
3 emergency; or
- 4 (b) As part of or incident to diagnostic testing or therapeutic medical or fertility
5 treatment, provided that the acts were performed with that degree of care and
6 skill which an ordinarily careful, skilled, and prudent health care provider or a
7 person acting under the provider's direction would exercise under the same or
8 similar circumstances.

9 (3) Nothing in this chapter shall apply to any acts of a pregnant person~~[woman]~~ that
10 caused the death of the pregnant person's~~[her]~~ unborn child.

11 ➔Section 34. KRS 605.110 is amended to read as follows:

- 12 (1) (a) Any child committed to or in the custody of the cabinet or the Department of
13 Juvenile Justice who is not placed in a location where smoking cessation
14 services are provided may participate in smoking cessation services offered by
15 local health departments or their contracted agents at no cost.
- 16 (b) Unless provided otherwise, when any child committed to or in the custody of
17 the Department of Juvenile Justice or the cabinet requires medical or surgical
18 care or treatment, the Department of Juvenile Justice or the cabinet may
19 provide the same or arrange for the furnishing of the care or
20 treatment~~[thereof]~~ by other public or private agencies, and may give consent
21 to the medical or surgical treatment. For this purpose, the services and
22 facilities of local health officers and departments shall be made available, at a
23 cost not to exceed the Medicaid reimbursement rate, to the Department of
24 Juvenile Justice or the cabinet, and as far as practicable, any publicly owned
25 hospital shall provide hospitalization without charge for any~~[such]~~ child
26 under this subsection who is a resident of the political subdivision by which
27 the hospital is owned or operated. This section does not authorize nor shall

1 permission be granted for abortion or sterilization, except as provided in
2 Section 31 or 35 of this Act.

3 (2) Any child placed in a foster home by an agency duly authorized in KRS Chapter
4 620 to place a child in a foster home shall receive a complete medical, visual, and
5 dental examination by a professional authorized by the Kentucky Revised Statutes
6 to conduct such examinations. Arrangements for a child placed in a foster home to
7 receive ~~the~~^{such} examinations shall be made within two (2) weeks of ~~the~~
8 ~~child's~~^{his} placement in a foster home and not less than every twelve (12) months
9 thereafter.

10 (3) Children maintained in any of the facilities and programs operated or contracted by
11 the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a
12 common school education.

13 (a) The Kentucky Educational Collaborative for State Agency Children shall be
14 established to serve children in facilities and programs operated or contracted
15 by the Department of Juvenile Justice or the Cabinet for Health and Family
16 Services, residential, day treatment, clinical, and group home programs. All
17 policies and procedures necessary to educate state agency children shall be
18 approved by the Kentucky Board of Education. All duties, responsibilities,
19 rights, and privileges specifically imposed on or granted to the local education
20 administration units shall be imposed on or granted to the Department of
21 Juvenile Justice or the Cabinet for Health and Family Services and contracted
22 agencies with regard to educating agency children. Classrooms for the
23 Kentucky Educational Collaborative for State Agency Children shall be
24 within or near the facilities and programs operated or contracted by the
25 Department of Juvenile Justice or the cabinet. The Kentucky Department of
26 Education, the Department of Juvenile Justice, and the Cabinet for Health and
27 Family Services, Department for Community Based Services, shall develop a

1 biennial plan regarding the educational needs and provisions of educational
2 programs, with emphasis on the coordination of all treatment services and
3 funds available to provide for the education of state agency children. The
4 biennial plan shall include strategies to assure that teacher preparation
5 programs include content related to working with state agency children and
6 that adequate professional development opportunities for better meeting the
7 needs of these students are available for teachers and schools.

8 (b) Teachers and other staff shall be hired on contract through a local school
9 district, or if a local school district is not willing to participate, teachers may
10 be hired by the Kentucky Educational Collaborative for State Agency
11 Children, or a contract may be entered into with a private provider of
12 educational services. All certified educational staff hired by the Kentucky
13 Educational Collaborative for State Agency Children shall be members of the
14 Kentucky Teachers' Retirement System.

15 (c) Beginning July 1, 1993, the Kentucky Education Collaborative for State
16 Agency Children shall be financed through:

- 17 1. The amount generated by state agency children under the Support
18 Education Excellence in Kentucky program as provided in KRS 157.360
19 for the guaranteed base and adjustments for the number of at-risk
20 students, exceptional students, and transportation costs;
- 21 2. A per-pupil distribution of professional development funds with the
22 collaborative serving as a consortium for state agency children;
- 23 3. A per-pupil distribution of technology funds in accordance with the state
24 education technology plan pursuant to KRS 156.670 and the formula for
25 the distribution of funds to local school districts;
- 26 4. A per-pupil distribution of textbook funds pursuant to KRS 157.100 and
27 157.190;

- 1 5. The funding for school services for state agency children authorized by
2 KRS 158.135; and
- 3 6. Other grants and entitlements, including federal funds, identified in the
4 implementation plan developed pursuant to paragraph (f) of this
5 subsection for the education of Kentucky's children.
- 6 (d) The commissioner of Juvenile Justice and the secretary of the Cabinet for
7 Health and Family Services shall promulgate administrative regulations~~[,]~~
8 pursuant to KRS Chapter 13A, with the assistance of the Kentucky
9 Department of Education and upon recommendation of the Kentucky Board
10 of Education, regarding the governance, curriculum, and other topics
11 necessary to educate state agency children. The regulations shall:
- 12 1. Provide for the development and implementation of interagency
13 agreements that:
- 14 a. Define the financial responsibility of each state and local agency
15 for providing services to state agency children;
- 16 b. Establish procedures for resolving interagency disputes among
17 agencies that are parties to the agreements; and
- 18 2. Provide procedures for the implementation of the Kentucky statutes
19 regarding school-based decision making, student outcomes,
20 accountability, assessment, rewards and sanctions, technology, staff
21 development, salaries, and the development of coordinated individual
22 treatment, education, and transition plans to ensure compliance with
23 present education and treatment laws and regulations specific to the
24 needs of children in the programs of the Cabinet for Health and Family
25 Services.
- 26 (e) When the placement of a state agency child is changed so that the state agency
27 child must transfer from one school or educational facility to a different

1 school or educational facility, the school or educational facility that the state
2 agency child is leaving shall, within two (2) days of the state agency child
3 leaving, prepare an educational passport for the child, which shall be
4 delivered to the cabinet or the Department of Juvenile Justice. The cabinet or
5 the Department of Juvenile Justice shall, within two (2) days of enrolling a
6 state agency child in a new school or educational facility, present the
7 educational passport to the receiving school or educational facility.

8 (f) The commissioner of Juvenile Justice and the secretary of the Cabinet for
9 Health and Family Services and the commissioner of the state Department of
10 Education shall initiate development of a plan for implementation of the
11 Kentucky Educational Collaborative for State Agency Children.

12 ➔Section 35. KRS 610.310 is amended to read as follows:

13 (1) When the mental or physical health of any child before the juvenile court requires
14 it, the court may order the child to be placed in a public or private hospital or
15 institution for examination, evaluation, treatment, or care by a health officer,
16 comprehensive care center, children's clinic, or any reputable physician or
17 psychologist who will conduct the examination. The cabinet and the Department of
18 Juvenile Justice may furnish services under agreements with the individual juvenile
19 courts. For this purpose, any county judge/executive or chief executive officer of an
20 urban-county government or charter county government may enter into a contract
21 on behalf of his or her county with the cabinet or the Department of Juvenile Justice
22 for the furnishing~~[furnishings]~~ of these services.

23 (2) The court may order or consent to necessary medical treatment, including surgical
24 procedures and abortion, except for~~[the purpose of abortion]~~ electroshock therapy
25 or psychosurgery as provided in KRS Chapter 645, or sterilization, after a hearing
26 conducted to determine the necessity of such treatment or procedure and the wishes
27 of the child. In making the order, the court may take into consideration the religious

1 beliefs and practices of the child and his or her parents or guardian. Reasonable
2 notice, taking into account any emergency circumstances, shall be provided to the
3 parents, guardian or person exercising custodial control or supervision of the child
4 to enable them to attend the hearing.

5 ➔Section 36. KRS 311.550 is amended to read as follows:

6 As used in KRS 311.530 to 311.620 and 311.990(4) to (6):

7 (1) "Board" means the State Board of Medical Licensure;

8 (2) "President" means the president of the State Board of Medical Licensure;

9 (3) "Secretary" means the secretary of the State Board of Medical Licensure;

10 (4) "Executive director" means the executive director of the State Board of Medical
11 Licensure or any assistant executive directors appointed by the board;

12 (5) "General counsel" means the general counsel of the State Board of Medical
13 Licensure or any assistant general counsel appointed by the board;

14 (6) "Regular license" means a license to practice medicine or osteopathy at any place in
15 this state;

16 (7) "Limited license" means a license to practice medicine or osteopathy in a specific
17 institution or locale to the extent indicated in the license;

18 (8) "Temporary permit" means a permit issued to a person who has applied for a
19 regular license, and who appears from verifiable information in the application to
20 the executive director to be qualified and eligible for the license~~[therefor]~~;

21 (9) "Emergency permit" means a permit issued to a physician currently licensed in
22 another state, authorizing the physician to practice in this state for the duration of a
23 specific medical emergency, not to exceed thirty (30) days;

24 (10) Except as provided in subsection (11) of this section, the "practice of medicine or
25 osteopathy" means the diagnosis, treatment, or correction of any and all human
26 conditions, ailments, diseases, injuries, or infirmities by any and all means,
27 methods, devices, or instrumentalities;

- 1 (11) The "practice of medicine or osteopathy" does not include the practice of Christian
2 Science, the domestic administration of family remedies, the rendering of first aid
3 or medical assistance in an emergency in the absence of a person licensed to
4 practice medicine or osteopathy under the provisions of this chapter, the use of
5 automatic external defibrillators in accordance with the provisions of KRS 311.665
6 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of
7 dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS
8 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015,
9 the practice as a nurse as defined in KRS 314.011, the practice of physical therapy
10 as defined in KRS 327.010, the practice of genetic counseling as defined in KRS
11 311.690, the performance of duties for which they have been trained by paramedics
12 licensed under KRS Chapter 311A, emergency medical responders, advanced
13 emergency medical technicians, or emergency medical technicians certified under
14 Chapter 311A, the practice of pharmacy by persons licensed and registered under
15 KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines,
16 trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or
17 mechanisms that are intended, advertised, or represented as being for the treatment,
18 correction, cure, or relief of any human ailment, disease, injury, infirmity, or
19 condition, in regular mercantile establishments, or the practice of midwifery, or the
20 provision of certified professional midwifery services by a licensed certified
21 professional midwife as defined in KRS 314.400;
- 22 (12) "Physician" means a doctor of medicine or a doctor of osteopathy;
- 23 (13) "Grievance" means any allegation in whatever form alleging misconduct by a
24 physician;
- 25 (14) "Charge" means a specific allegation alleging a violation of a specified provision of
26 this chapter;
- 27 (15) "Complaint" means a formal administrative pleading that sets forth charges against

1 a physician and commences a formal disciplinary proceeding;

2 (16) ~~[As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those~~
3 ~~crimes which have dishonesty as a fundamental and necessary element, including~~
4 ~~but not limited to crimes involving theft, embezzlement, false swearing, perjury,~~
5 ~~fraud, or misrepresentation;~~

6 ~~(17)~~ "Telehealth" means the use of interactive audio, video, or other electronic media to
7 deliver health care. It includes the use of electronic media for diagnosis,
8 consultation, treatment, transfer of medical data, and medical education;

9 ~~(17)~~~~(18)~~ "Order" means a direction of the board or its panels made or entered in
10 writing that determines some point or directs some step in the proceeding and is not
11 included in the final order;

12 ~~(18)~~~~(19)~~ "Agreed order" means a written document that includes but is not limited to
13 stipulations of fact or stipulated conclusions of law that finally resolves a grievance,
14 a complaint, or a show cause order issued informally without expectation of further
15 formal proceedings in accordance with KRS 311.591(6);

16 ~~(19)~~~~(20)~~ "Final order" means an order issued by the hearing panel that imposes one (1)
17 or more disciplinary sanctions authorized by this chapter;

18 ~~(20)~~~~(21)~~ "Letter of agreement" means a written document that informally resolves a
19 grievance, a complaint, or a show cause order and is confidential in accordance
20 with KRS 311.619;

21 ~~(21)~~~~(22)~~ "Letter of concern" means an advisory letter to notify a physician that~~[-]~~
22 although there is insufficient evidence to support disciplinary action, the board
23 believes the physician should modify or eliminate certain practices and that the
24 continuation of those practices may result in action against the physician's license;

25 ~~(22)~~~~(23)~~ "Motion to revoke probation" means a pleading filed by the board alleging
26 that the licensee has violated a term or condition of probation and that fixes a date
27 and time for a revocation hearing;

1 ~~(23)~~~~(24)~~ "Revocation hearing" means a hearing conducted in accordance with KRS
2 Chapter 13B to determine whether the licensee has violated a term or condition of
3 probation;

4 ~~(24)~~~~(25)~~ "Chronic or persistent alcoholic" means an individual who is suffering from a
5 medically diagnosable disease characterized by chronic, habitual, or periodic
6 consumption of alcoholic beverages resulting in the interference with the
7 individual's social or economic functions in the community or the loss of powers of
8 self-control regarding the use of alcoholic beverages;

9 ~~(25)~~~~(26)~~ "Addicted to a controlled substance" means an individual who is suffering
10 from a medically diagnosable disease characterized by chronic, habitual, or periodic
11 use of any narcotic drug or controlled substance resulting in the interference with
12 the individual's social or economic functions in the community or the loss of
13 powers of self-control regarding the use of any narcotic drug or controlled
14 substance;

15 ~~(26)~~~~(27)~~ "Provisional permit" means a temporary permit issued to a licensee engaged
16 in the active practice of medicine within this Commonwealth who has admitted to
17 violating any provision of KRS 311.595 that permits the licensee to continue the
18 practice of medicine until the board issues a final order on the registration or
19 reregistration of the licensee;

20 ~~(27)~~~~(28)~~ "Fellowship training license" means a license to practice medicine or
21 osteopathy in a fellowship training program as specified by the license; and

22 ~~(28)~~~~(29)~~ "Special faculty license" means a license to practice medicine that is limited
23 to the extent that this practice is incidental to a necessary part of the practitioner's
24 academic appointment at an accredited medical school program or osteopathic
25 school program and any affiliated institution for which the medical school or
26 osteopathic school has assumed direct responsibility.

27 ➔Section 37. KRS 311.597 is amended to read as follows:

1 As used in KRS 311.595(8)(9), "dishonorable, unethical, or unprofessional conduct of a
2 character likely to deceive, defraud, or harm the public or any member thereof" shall
3 include but not be limited to the following acts by a licensee:

4 (1) Prescribes or dispenses any medication:

5 (a) With the intent or knowledge that a medication will be used or is likely to be
6 used other than medicinally or for an accepted therapeutic purpose;

7 (b) With the intent to evade any law with respect to sale, use, or disposition of the
8 medication;

9 (c) For the licensee's personal use or for the use of the licensee's~~his~~ immediate
10 family when the licensee knows or has reason to know that an abuse of a
11 controlled substance is occurring~~ing~~ or may result from such a practice;

12 (d) In such amounts that the licensee knows or has reason to know, under the
13 attendant circumstances, that ~~the~~~~said~~ amounts so prescribed or dispensed are
14 excessive under accepted and prevailing medical practice standards; or

15 (e) In response to any communication transmitted or received by computer or
16 other electronic means, when the licensee fails to take the following actions to
17 establish and maintain a proper physician-patient relationship:

18 1. Verification that the person requesting medication is in fact who the
19 patient claims to be;

20 2. Establishment of a documented diagnosis through the use of accepted
21 medical practices; and

22 3. Maintenance of a current medical record.

23 For the purposes of this paragraph, an electronic, online~~on-line~~, or
24 telephonic evaluation by questionnaire is inadequate for the initial evaluation
25 of the patient or for any follow-up evaluation.

26 (2) Issues, publishes, or makes oral or written representations in which grossly
27 improbable or extravagant statements are made which have a tendency to deceive or

1 defraud the public, or a member thereof, including but not limited to:

2 (a) Any representation in which the licensee claims that he or she can cure or
3 treat diseases, ailments, or infirmities by any method, procedure, treatment, or
4 medicine which the licensee knows or has reason to know has little or no
5 therapeutic value;

6 (b) Represents, ~~or~~ professes, or holds himself or herself out as being able and
7 willing to treat diseases, ailments, or infirmities under a system or school of
8 practice:

9 1. Other than that for which the licensee ~~he~~ holds a certificate or license
10 granted by the board; ~~or~~

11 2. Other than that for which the licensee ~~he~~ holds a degree or diploma
12 from a school otherwise recognized as accredited by the board; ~~or~~

13 3. Under a school or system which the licensee ~~he~~ professes to be self-
14 taught.

15 For purposes of this subsection, actual injury to a patient need not be established.

16 (3) A serious act, or a pattern of acts committed during the course of the licensee's ~~his~~
17 medical practice, which ~~is~~ under the attendant circumstances ~~is~~ would be deemed to
18 be gross incompetence, gross ignorance, gross negligence, or malpractice.

19 (4) Conduct which is calculated or has the effect of bringing the medical profession
20 into disrepute, including but not limited to any departure from ~~it~~ or failure to
21 conform to the standards of acceptable and prevailing medical practice within the
22 Commonwealth of Kentucky, and any departure from ~~it~~ or failure to conform to the
23 principles of medical ethics of the American Medical Association or the code of
24 ethics of the American Osteopathic Association. For the purposes of this
25 subsection, actual injury to a patient need not be established.

26 (5) Failure by a licensee to report a known or observed violation of KRS Chapter 311
27 by another licensee as described in KRS 311.606.

1 (6) Violation by a licensee of KRS 304.39-215 or 311.373.

2 (7) Conduct by a licensee that is subject to the penalties under KRS 304.99-060(4) or
3 (5).

4 ➔Section 38. KRS 311.599 is amended to read as follows:

5 (1) When a hearing or inquiry panel has probable cause to believe a physician is
6 suffering from a physical or mental condition that might impede the
7 physician's~~[his]~~ ability to practice competently, the panel may order the physician
8 to undergo a physical or mental examination by persons designated by the panel.

9 (2) Failure of a physician to submit to the ordered~~[such an]~~ examination when directed,
10 unless the failure was due to circumstances beyond his or her control, shall:

11 (a) Constitute an admission that the concerned physician has developed such a
12 physical or mental disability, or other conditions, that continued practice is
13 dangerous to patients or to the public;~~[said failure shall]~~

14 (b) Constitute a default; and

15 (c) Provide grounds for entry of a final order~~[may be entered]~~ without the taking
16 of testimony or presentation of evidence.

17 (3) A physician whose license has been suspended, limited, restricted, or revoked under
18 this section and KRS 311.595~~(7)~~~~(8)~~ shall at reasonable intervals be afforded an
19 opportunity to demonstrate that he or she can resume the competent practice of
20 medicine with reasonable skill and safety to patients.

21 ➔Section 39. KRS 311.604 is amended to read as follows:

22 (1) When a hearing or inquiry panel receives information that a physician has not been
23 engaged in the active practice of medicine for at least two (2) years, the panel may
24 order the physician to successfully complete a board-approved clinical competency
25 examination or a board-approved clinical skills assessment program at the expense
26 of the physician. The panel shall review the results of the examination or
27 assessment and determine whether the physician may resume the practice of

1 medicine without undue risk or danger to patients or the public.

2 (2) Failure of a physician to successfully complete the clinical competency examination
3 or the clinical skills assessment when directed shall constitute an admission that the
4 physician is unable to practice medicine according to accepted and prevailing
5 standards, unless the failure was due to circumstances beyond the control of the
6 physician. The failure shall constitute a default and a final order may be entered
7 without additional testimony or without presentation of additional evidence.

8 (3) A physician whose license has been suspended, limited, restricted, or revoked under
9 this section or KRS 311.595~~(7)~~~~(8)~~ shall be afforded an opportunity at reasonable
10 intervals to demonstrate that he or she has the competency and skill to resume the
11 practice of medicine.

12 ➔Section 40. KRS 311.606 is amended to read as follows:

13 (1) In order to assist the board in the enforcement of KRS 311.595~~(19)~~~~(20)~~ and
14 ~~(20)~~~~(21)~~, any professional medical association or society operating in the
15 Commonwealth of Kentucky, or any hospital or medical staff of ~~a~~~~said~~ hospital
16 located in the Commonwealth of Kentucky, shall report all actions taken against a
17 licensed physician as described in KRS 311.595~~(19)~~~~(20)~~ and ~~(20)~~~~(21)~~ to the
18 board within thirty (30) days of the final adjudication of ~~the~~~~said~~ action together
19 with all pertinent documents to include but not limited to transcripts, pleadings and
20 certified copy of the final order.

21 (2) In order to assist the board in the enforcement~~of the provisions~~ of KRS Chapter
22 311, any licensed physician who observes another licensed physician violating~~a~~
23 ~~provision of~~ KRS Chapter 311 shall submit a written report to the board, or to the
24 board and the concerned medical association or society, or to the board and the
25 concerned hospital or medical staff of the hospital within ten (10) days of
26 observing~~such~~ a violation or obtaining other direct knowledge off~~such~~ a
27 violation.~~;~~ The report shall contain the name of the licensed physician believed to

1 be in violation~~[of a provision]~~ of KRS Chapter 311, a detailed account of the
2 concerned actions, a list of all other witnesses to said actions, and the name of the
3 physician submitting the report.

4 (3) All clerks of the Circuit and District Courts in the Commonwealth of Kentucky
5 shall report to the secretary of the board all criminal convictions of licensees that
6 may occur in their respective courts. The report shall contain the name of the
7 licensee, the sentence imposed against the licensee, and whether the sentence
8 imposed upon the licensee has been appealed.

9 ➔Section 41. KRS 311.607 is amended to read as follows:

10 (1) Except for disciplinary actions taken pursuant to KRS 311.595~~(7)~~~~(8)~~ and~~[KRS]~~
11 311.599, a licensee who has had his or her license revoked may, after two (2) years
12 from the effective date of the revocation order, petition the board for a license to
13 again practice in the Commonwealth of Kentucky.

14 (2) The board shall not be required to issue a new license as described in subsection (1)
15 of this section. No new license shall be issued to ~~a~~~~such~~ former licensee unless the
16 applicant satisfies the board that he or she is presently of good moral character and
17 qualified both physically and mentally to resume the practice of medicine without
18 undue risk or danger to his or her patients or the public.

19 (3) In the event that the board should issue a new license under the circumstances as
20 described in this section, the new license shall be under probation for a period of
21 not less than two (2) years nor more than five (5) years, and any subsequent
22 violation during the probation period shall result in automatic revocation of license.

23 ➔Section 42. KRS 311.572 is amended to read as follows:

24 (1) The board may issue an order directing an applicant for a license or the holder of a
25 license to show cause why the applicant should be granted a license or the licensee
26 should not be disciplined, respectively, when:

27 (a) An applicant admits or is otherwise found to have committed an act which

1 constitutes a violation~~[of the provisions]~~ of this chapter; or

2 (b) A licensee admits or is otherwise found to have committed an act in violation~~[~~
3 ~~of the provisions]~~ of this chapter in any document relating to the registration
4 or reregistration of a license.

5 (2) The order shall be signed by an officer of the board and shall state those violations
6 which the board believes to have been committed. The matter shall be assigned to a
7 hearing panel and shall proceed in accordance with KRS 311.591. The burden of
8 proof shall lie with the charged physician.

9 (3) The board may issue a provisional permit to practice medicine as provided in KRS
10 311.550~~(26)~~~~[(27)]~~ and the board shall not approve any application for licensure or
11 application for reregistration of an inactive license or provisional permit until a final
12 order on the matter has been issued.

13 ➔Section 43. KRS 311.591 is amended to read as follows:

14 (1) The president of the board shall divide the membership of the board, excluding
15 himself or herself, into two (2) panels of seven (7) members, each panel to include
16 at least one (1) consumer member. Each panel shall have the power to act as an
17 inquiry or a hearing panel. The president shall not be a permanent member of either
18 panel, but shall have the power to render the deciding vote whenever a tie vote is
19 rendered by either panel and shall have the power to serve as a member of either
20 panel when necessary to achieve a quorum by majority.

21 (2) Grievances may be submitted by an individual (including board members),
22 organization, or entity. Each grievance shall be investigated as necessary and the
23 executive director shall assign each grievance to an inquiry panel. All inquiry
24 panels and the executive director shall have the power to issue investigatory
25 subpoenas for the appearance of any person or production of any record, document,
26 or other item within the jurisdiction of the Commonwealth. The panel or executive
27 director may seek enforcement of investigatory subpoenas and search warrants in

- 1 the courts of the Commonwealth as may be necessary.
- 2 (3) Upon completion of its inquiry, the inquiry panel shall make a finding that:
- 3 (a) There is no evidence of a violation of any medical practice act and no further
- 4 action is necessary;
- 5 (b) There is insufficient evidence of a violation to warrant the issuance of a
- 6 complaint, but that there is evidence of a practice or activity that requires
- 7 modification, and the panel may issue a letter of concern under KRS
- 8 311.550(21)~~[(22)]~~. The letter of concern shall be a public document and may
- 9 be used in future disciplinary actions against the physician;
- 10 (c) The grievance discloses an instance of misconduct which does not warrant the
- 11 issuance of a complaint; in these instances, the panel may admonish the
- 12 physician for his or her misconduct; or
- 13 (d) The grievance discloses one (1) or more violations of the provisions of this
- 14 chapter which warrant the issuance of a complaint; in these instances, the
- 15 panel shall cause a complaint to be prepared, signed by the presiding officer,
- 16 which shall contain sufficient information to apprise the named physician of
- 17 the general nature of the charges.
- 18 (4) The inquiry panel shall cause a complaint to be served on the charged physician by
- 19 personal delivery or by certified mail to the physician's last address of which the
- 20 board has record. The physician shall submit a response within thirty (30) days after
- 21 service. Failure to submit a timely response or willful avoidance of service may be
- 22 taken by the board as an admission of the charges.
- 23 (5) Upon the issuance of the complaint, the executive director shall assign the matter
- 24 for an administrative hearing by a hearing panel. No member who served on the
- 25 inquiry panel may also serve as a member of the hearing panel. The hearing panel
- 26 or the hearing officer on behalf of the panel shall preside over all proceedings
- 27 pursuant to the issuance of a complaint.

- 1 (6) The board may promulgate administrative regulations regarding the informal
2 disposition of any complaint, and an informal disposition may be made at any stage
3 of the proceeding.
- 4 (7) Upon completion of an administrative hearing, the hearing panel shall issue a final
5 order that:
- 6 (a) Dismisses the complaint upon a conclusion that~~[the provisions of]~~ this
7 chapter has~~have~~ not been violated;
- 8 (b) Finds a violation~~[of the provisions]~~ of this chapter, but does not impose
9 discipline because the panel does not believe discipline to be necessary under
10 the circumstances; or
- 11 (c) Imposes discipline upon the licensee; in these instances, the panel may
12 revoke, suspend, restrict, deny, or limit a license, or may reprimand a licensee
13 or place a licensee on probation under terms the panel may establish to protect
14 the licensee, his or her patients, or the general public. The hearing panel may
15 impose a fine whenever it finds that a violation of this chapter has occurred. If
16 the board substantiates that sexual contact occurred between the physician and
17 the patient while the patient was under the care of or in a professional
18 relationship with the physician, the physician's license may be revoked or
19 suspended with mandatory treatment of the physician as prescribed by the
20 board. The board may require the physician to pay a specified amount for
21 mental health services for the patient which are needed as a result of the
22 sexual contact. The hearing panel's order shall be considered the final order of
23 the board regarding the matter.
- 24 (8) Notwithstanding~~[Regardless of]~~ the restrictions on public disclosure of information
25 established in subsection (9) of this section, the board may order information
26 derived from any investigation or inquiry be released to the physician licensure
27 authority of another state or to any health care or mental health care facility licensed

1 and regulated by the Commonwealth of Kentucky upon a showing that the
2 information is necessary to determine the propriety of a physician practicing in a
3 particular state or facility.

4 (9) The presiding officer at any proceeding held pursuant to a complaint or show cause
5 order shall take whatever measures are necessary to protect the privacy interests of
6 individuals other than the charged physician upon a showing that evidence is to be
7 introduced, the public disclosure of which would constitute a clear invasion of
8 personal privacy. It is the general policy of the Commonwealth that administrative
9 proceedings should be open to the public. Therefore, in applying this subsection,
10 the presiding officer shall balance the competing interests and employ the least
11 restrictive measures available to protect the privacy interests involved.

12 ➔Section 44. KRS 311.686 is amended to read as follows:

13 (1) At any time when an inquiry panel established under KRS 311.591 has probable
14 cause to believe that an acupuncturist has violated the terms of an agreed order as
15 defined in KRS 311.550(18)(~~19~~), or violated the terms of a disciplinary order, or
16 that an acupuncturist's practice constitutes a danger to the health, welfare, or safety
17 of patients or the general public, the inquiry panel may issue an emergency order in
18 accordance with KRS 13B.125 suspending, limiting, or restricting the
19 acupuncturist's license.

20 (2) For the purposes of a hearing conducted under KRS 311.592 on an emergency order
21 issued under this section, the findings of fact in the emergency order shall constitute
22 a rebuttable presumption of substantial evidence of a violation of law that
23 constitutes immediate danger to the health, welfare, or safety of patients or the
24 general public. For the purposes of this hearing only, hearsay shall be admissible
25 and may serve as a basis of the board's findings.

26 (3) An emergency order as described in subsection (1) of this section shall not be
27 issued unless grounds exist for the issuance of a complaint. The inquiry panel shall

1 issue a complaint prior to the date of the emergency hearing or the emergency order
2 shall become void.

3 (4) An emergency order suspending, limiting, or restricting a license shall not be
4 maintained after a final order as defined in KRS 311.550~~(19)~~~~(20)~~ is served on the
5 charged acupuncturist pursuant to the proceeding on the complaint. An appeal of an
6 emergency order shall not prejudice the board from proceeding with the complaint.

7 ➔Section 45. KRS 311.852 is amended to read as follows:

8 (1) At any time when an inquiry panel established under KRS 311.591 has probable
9 cause to believe that a physician assistant has violated the terms of an agreed order
10 as defined in KRS 311.550~~(18)~~~~(19)~~, or violated the terms of a disciplinary order,
11 or that a physician assistant's practice constitutes a danger to the health, welfare, or
12 safety of his or her patients or the general public, the inquiry panel may issue an
13 emergency order in accordance with KRS 13B.125 suspending, limiting, or
14 restricting the physician assistant's license.

15 (2) For the purposes of a hearing conducted under KRS 13B.125 on an emergency
16 order issued under this section, the findings of fact in the emergency order shall
17 constitute a rebuttable presumption of substantial evidence of a violation of law that
18 constitutes immediate danger to the health, welfare, or safety of patients or the
19 general public. For the purposes of this hearing only, hearsay shall be admissible
20 and may serve as a basis of the board's findings.

21 (3) An emergency order as described in subsection (1) of this section shall not be
22 issued unless grounds exist for the issuance of a complaint. The inquiry panel shall
23 issue a complaint prior to the date of the emergency hearing or the emergency order
24 shall become void.

25 (4) An order of temporary suspension, restriction, or limitation shall not be maintained
26 after a final order as defined in KRS 311.550~~(19)~~~~(20)~~ is served on the charged
27 physician assistant pursuant to the proceeding on the complaint. An appeal of an

1 emergency order shall not prejudice the board from proceeding with the complaint.

2 ➔Section 46. KRS 210.370 is amended to read as follows:

3 (1) The following fifteen (15) regional service areas for regional community services
4 programs are hereby created and established:

5 (a) Regional service area one (1), which shall include the counties of Ballard,
6 Carlisle, Hickman, Fulton, McCracken, Graves, Marshall, Livingston, and
7 Calloway;

8 (b) Regional service area two (2), which shall include the counties of Crittenden,
9 Lyon, Caldwell, Hopkins, Muhlenberg, Trigg, Christian, and Todd;

10 (c) Regional service area three (3), which shall include the counties of Union,
11 Henderson, Webster, McLean, Daviess, Ohio, and Hancock;

12 (d) Regional service area four (4), which shall include the counties of Logan,
13 Simpson, Butler, Warren, Edmonson, Hart, Barren, Allen, Metcalfe, and
14 Monroe;

15 (e) Regional service area five (5), which shall include the counties of
16 Breckinridge, Meade, Grayson, Hardin, Larue, Nelson, Washington, and
17 Marion;

18 (f) Regional service area six (6), which shall include the counties of Bullitt,
19 Henry, Jefferson, Oldham, Shelby, Spencer, and Trimble;

20 (g) Regional service area seven (7), which shall include the counties of Boone,
21 Kenton, Campbell, Carroll, Gallatin, Owen, Grant, and Pendleton;

22 (h) Regional service area eight (8), which shall include the counties of Bracken,
23 Mason, Robertson, Fleming, and Lewis;

24 (i) Regional service area nine (9), which shall include the counties of Rowan,
25 Bath, Montgomery, Menifee, and Morgan;

26 (j) Regional service area ten (10), which shall include the counties of Greenup,
27 Boyd, Carter, Elliott, and Lawrence;

- 1 (k) Regional service area eleven (11), which shall include the counties of
2 Johnson, Magoffin, Martin, Floyd, and Pike;
- 3 (l) Regional service area twelve (12), which shall include the counties of Wolfe,
4 Owsley, Lee, Breathitt, Leslie, Perry, Knott, and Letcher;
- 5 (m) Regional service area thirteen (13), which shall include the counties of
6 Jackson, Rockcastle, Laurel, Clay, Knox, Whitley, Bell, and Harlan;
- 7 (n) Regional service area fourteen (14), which shall include the counties of
8 Taylor, Adair, Green, Casey, Russell, Pulaski, Clinton, Cumberland, Wayne,
9 and McCreary; and
- 10 (o) Regional service area fifteen (15), which shall include the counties of
11 Anderson, Franklin, Woodford, Mercer, Boyle, Lincoln, Garrard, Jessamine,
12 Fayette, Scott, Harrison, Bourbon, Nicholas, Clark, Madison, Powell, and
13 Estill.
- 14 (2) Notwithstanding subsection (1) of this section, any combination of cities or counties
15 of over fifty thousand (50,000) population, and upon the consent of the secretary of
16 the cabinet any combination of cities or counties with less than fifty thousand
17 (50,000) population, may establish a regional community services program and
18 staff same with persons specially trained in psychiatry and related fields. Such
19 programs and clinics may be administered by a community board for mental health
20 or individuals with an intellectual disability established pursuant to KRS 210.370 to
21 210.460, or by a nonprofit corporation.
- 22 (3) Notwithstanding any provision of law to the contrary and except as provided for in
23 subsections (4) and (5) of this section:
- 24 (a) A regional community services program may provide services outside of its
25 regional service area as established in subsection (1) of this section, but when
26 doing so, the regional community services program shall be considered,
27 including by the cabinet, to be operating as a behavioral health services

1 organization and not a regional community services program.

2 (b) A regional community services program shall not be required to obtain
3 licensure or any other form of authorization from the cabinet to operate as a
4 behavioral health services organization outside of its regional service area as
5 established in subsection (1) of this section.

6 (c) When a regional community services program chooses to provide services as
7 a behavioral health services organization outside of its regional service area as
8 established in subsection (1) of this section, the regional community services
9 program shall:

- 10 1. Comply with all administrative regulations related to behavioral health
11 services organizations promulgated by the cabinet; and
- 12 2. Be reimbursed by the Department for Medicaid Services or a managed
13 care organization with whom the department has contracted for the
14 delivery of Medicaid services in accordance with KRS
15 205.560~~(6)~~~~(8)~~(b).

16 (4) (a) For any services being provided by a regional community services program
17 outside of its regional service area as established in subsection (1) of this
18 section prior to June 29, 2023, the provisions of subsection (3) of this section
19 apply on or after January 1, 2025.

20 (b) Beginning on June 29, 2023, the provisions of this subsection shall apply to
21 any expansion of current out-of-region services, including the provision of
22 additional services in an out-of-region county in which the regional
23 community services program is providing services on June 29, 2023, and any
24 expansion of services into an out-of-region county in which the regional
25 community services program is not providing services on June 29, 2023.

26 (5) (a) If a regional community services program notifies the secretary in writing that
27 the regional community services program is unable to provide a service that is

1 included in its respective plan and budget for the current fiscal year:

2 1. The secretary shall contact the regional community services programs in
3 the regional service areas contiguous to the region that has notified the
4 secretary to assess their interest in and ability to provide the service that
5 the regional community service program indicated it is unable to
6 provide. If a regional community services program in a contiguous
7 regional service area is interested in and able to provide the service, the
8 secretary shall approve it to provide that service in the regional service
9 area of the regional community services program that made notice to the
10 secretary; and

11 2. If a regional community services program in a contiguous region is not
12 interested in or is unable to provide the service, the secretary shall
13 contact all other regional community services programs to assess their
14 interest in and ability to provide the service that the regional community
15 services program indicated it is unable to provide. If another regional
16 community services program in a noncontiguous regional service area is
17 interested in and able to provide the service, the secretary shall approve
18 it to provide that service in the regional service area of the regional
19 community services program that made notice to the secretary.

20 (b) If the secretary receives joint notification from a regional community services
21 program assigned to serve a specific county pursuant to subsection (1) of this
22 section and a regional community services program whose region as
23 established in subsection (1) of this section is contiguous to the region in
24 which the county lies requesting that the regional community services
25 program from the contiguous region be permitted to continue to provide an
26 array of services that it was providing in the county in question on June 29,
27 2023, the secretary shall approve and recognize the collaborative request.

(c) If a regional community services program is approved by the secretary pursuant to this subsection to provide services outside of its regional service area as established in subsection (1) of this section, the regional community services program shall be considered, including by the cabinet, to be operating as a regional community services program and shall be reimbursed by the Department for Medicaid Services or a managed care organization with whom the department has contracted for the delivery of Medicaid services accordingly.

➔Section 47. KRS 216.2975 is amended to read as follows:

(1) As used in this section:

(a) "Baby" includes both an unborn child as defined in Section 2 of this Act~~KRS 311.781~~ and an infant as defined in paragraph (b) of this subsection~~KRS 311.821~~;

(b) "Infant" means a child of the species homo sapiens who has been completely expelled or extracted from his or her mother until the age of thirty (30) days post birth;

(c) "Perinatal" means the human reproductive condition of having an unborn child within the human body~~occurring in, concerned with, or being in the period around the time of birth~~; and

~~(d)~~~~(e)~~ "Pregnant" has the same meaning as in KRS 311.772.

(2) All hospitals and freestanding birthing centers offering obstetric services and maternal-fetal medicine, and the pregnant person's~~woman's~~ attending physician or midwife, shall offer to provide or make referrals to a perinatal palliative care program or perinatal palliative care support services for pregnant persons~~women~~, birth fathers, and family members when there is a:

(a) Prenatal diagnosis indicating that a baby may die before or after birth;

(b) Diagnosis of fetal anomalies where the likelihood of long-term survival is

- 1 uncertain or minimal; or
- 2 (c) Newborn who is diagnosed with a potentially life-limiting illness.
- 3 (3) Perinatal palliative care programs and support services shall include but not be
- 4 limited to:
- 5 (a) Coordination of care between medical, obstetric, neonatal, and perinatal
- 6 palliative care providers, hospital staff, and the pregnant person~~[woman]~~,
- 7 birth father, and family members;
- 8 (b) Care and specialized support through the remainder of a pregnancy, the birth,
- 9 the newborn period, and the death;
- 10 (c) Providing anticipatory guidance, education, and support for pregnant
- 11 persons~~[women]~~, birth fathers, and family members before, during, and after
- 12 delivery;
- 13 (d) Providing resources and referrals as needed;
- 14 (e) Assistance with making medical decisions;
- 15 (f) Counseling;
- 16 (g) Education, including specific information about the baby's diagnosis;
- 17 (h) Emotional support;
- 18 (i) Guidance on what to expect throughout the grieving process;
- 19 (j) Assistance with the creation of memories and keepsakes;
- 20 (k) Preparation for meeting the baby and understanding the limitations that may
- 21 be present at birth;
- 22 (l) Pastoral, emotional, and spiritual support for pregnant persons~~[women]~~, birth
- 23 fathers, and family members; and
- 24 (m) Preparing a plan of care for the baby, which may include medical
- 25 interventions as needed in the home, hospital, or neonatal hospice.
- 26 (4) The Cabinet for Health and Family Services shall create and maintain a list of
- 27 perinatal palliative care programs and service providers on its website~~[-]~~.

1 ~~(5) Nothing in this section shall be interpreted as permitting any violation of KRS~~
2 ~~311.723 or 311.772].~~

3 ➔Section 48. KRS 216B.198 is amended to read as follows:

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

8 (2) The cabinet shall establish licensure standards for freestanding birthing centers that:

9 (a) Require accreditation by the Commission for the Accreditation of Birth
10 Centers;

11 (b) Delineate requirements for medical malpractice insurance;

12 (c) Require location within thirty (30) miles of a hospital. If a hospital located
13 within thirty (30) miles of a freestanding birthing center ceases operations
14 after a freestanding birthing center has been established, the requirement of
15 this paragraph shall not apply to the affected freestanding birthing center;

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

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

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

22 1. Participation in approval of criteria that would exclude a client or
23 newborn from receiving care at the freestanding birthing center; and

24 2. Participation in the quality review functions of the freestanding birthing
25 center, including review of transfers and sentinel events.

26 (b) The cabinet shall establish a timeline for a freestanding birthing center to fill
27 the position of medical director if the position becomes vacant.

- 1 (4) A freestanding birthing center shall obtain written informed consent for each client
2 receiving care. The written informed consent shall include:
- 3 (a) A description of the benefits, risks, and eligibility requirements for receiving
4 care at the freestanding birthing center;
- 5 (b) A description of the education and credentials of practitioners providing
6 clinical care at the freestanding birthing center;
- 7 (c) Instructions for obtaining a copy of the administrative regulations
8 promulgated pursuant to this section;
- 9 (d) Instructions for filing a complaint relating to the freestanding birthing center
10 with the cabinet;
- 11 (e) A summary of a written protocol for emergencies, including transfer to a
12 higher level of care;
- 13 (f) Disclosure of professional liability insurance held by health care providers at
14 the freestanding birthing center; and
- 15 (g) A summary of procedures established by the freestanding birthing center for
16 professional collaboration with other care providers.
- 17 (5) (a) A freestanding birthing center shall have a written patient transfer agreement
18 with a hospital that provides obstetric services. The cabinet shall establish
19 minimum requirements for the patient transfer agreement which shall include:
- 20 1. Specifying the responsibilities that a freestanding birthing center and a
21 hospital assume in the transfer of a patient; and
- 22 2. Establishing the freestanding birthing center's responsibility for:
- 23 a. Notifying the receiving hospital promptly of the impending
24 transfer of a patient; and
- 25 b. Arranging for appropriate and safe transportation.
- 26 (b) The cabinet shall establish a process and criteria by which the requirement of
27 paragraph (a) of this subsection may be waived if a freestanding birthing

1 center submits to the cabinet evidence of a failure by a hospital that provides
2 obstetric services to enter into a written patient transfer agreement with the
3 freestanding birthing center.

4 (6) (a) A freestanding birthing center shall have a written patient transfer agreement
5 with a licensed emergency medical transportation service.

6 (b) The cabinet shall establish a process and criteria by which the requirement of
7 paragraph (a) of this subsection may be waived if a freestanding birthing
8 center submits to the cabinet evidence of a failure by a licensed emergency
9 medical transportation service to enter into a written patient transfer
10 agreement with the freestanding birthing center.

11 (7) A certificate of need shall not be required to establish and license a freestanding
12 birthing center with no more than four (4) beds.

13 (8) (a) Nothing in this section is intended to expand or limit the liability of a health
14 care provider, health care facility, or freestanding birthing center.

15 (b) In the event of an action for injury or death due to any act or omission of a
16 health care provider rendering services at a freestanding birthing center from
17 which an injured patient is transferred to any other licensed health care
18 provider or licensed health care facility:

19 1. The liability of the subsequent licensed health care provider or licensed
20 health care facility shall be limited to their own negligent acts and
21 omissions that violate their standards of care according to existing law,
22 except as provided in subparagraph 2. of this paragraph; and

23 2. If the subsequent licensed health care provider or licensed health care
24 facility owns, operates, or provides care at the freestanding birthing
25 center from which the injured patient was transferred, then the licensed
26 health care provider or licensed health care facility shall be liable for
27 acts or omissions that violate their standards of care and that occurred at

1 the freestanding birthing center}.

2 ~~(9) In accordance with KRS 311.772, no person shall perform an abortion in a~~
3 ~~freestanding birthing center}.~~

4 ➔Section 49. KRS 508.025 is amended to read as follows:

5 (1) A person is guilty of assault in the third degree when the actor:

6 (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally
7 causes or attempts to cause physical injury to:

8 1. A state, county, city, or federal peace officer;

9 2. An employee of a detention facility, or state residential treatment facility
10 or state staff secure facility for residential treatment which provides for
11 the care, treatment, or detention of a juvenile charged with or
12 adjudicated delinquent because of a public offense or as a youthful
13 offender;

14 3. A health care~~[healthcare]~~ provider as defined in KRS 311.283~~[311.821]~~
15 or other person employed by or under contract with a health clinic,
16 doctor's office, dental office, long-term care facility, hospital, or a
17 hospital-owned or affiliate outpatient facility, if the event occurs in or on
18 the premises of a health clinic, doctor's office, dental office, long-term
19 care facility, hospital, or a hospital-owned or affiliate outpatient facility;

20 4. An employee of the Department for Community Based Services
21 employed as a social worker to provide direct client services, if the
22 event occurs while the worker is performing job-related duties;

23 5. Paid or volunteer emergency medical services personnel certified or
24 licensed pursuant to KRS Chapter 311A, if the event occurs while
25 personnel are performing job-related duties;

26 6. A paid or volunteer member of an organized fire department, if the
27 event occurs while the member is performing job-related duties;

- 1 7. Paid or volunteer rescue squad personnel affiliated with the Division of
2 Emergency Management of the Department of Military Affairs or a
3 local disaster and emergency services organization pursuant to KRS
4 Chapter 39F, if the event occurs while personnel are performing job-
5 related duties;
- 6 8. A probation and parole officer;
- 7 9. A transportation officer appointed by a county fiscal court or legislative
8 body of a consolidated local government, urban-county government, or
9 charter government to transport inmates when the county jail or county
10 correctional facility is closed while the transportation officer is
11 performing job-related duties;
- 12 10. A public or private elementary or secondary school or school district
13 classified or certified employee, school bus driver, or other school
14 employee acting in the course and scope of the employee's employment;
15 or
- 16 11. A public or private elementary or secondary school or school district
17 volunteer acting in the course and scope of that person's volunteer
18 service for the school or school district;
- 19 (b) Being a person confined in a detention facility, or a juvenile in a state
20 residential treatment facility or state staff secure facility for residential
21 treatment which provides for the care, treatment, or detention of a juvenile
22 charged with or adjudicated delinquent because of a public offense or as a
23 youthful offender, inflicts physical injury upon or throws or causes feces, or
24 urine, or other bodily fluid to be thrown upon an employee of the facility; or
- 25 (c) Intentionally causes a person, whom the actor knows or reasonably should
26 know to be a peace officer discharging official duties, to come into contact
27 with saliva, vomit, mucus, blood, seminal fluid, urine, or feces without the

1 consent of the peace officer.

2 (2) (a) For a violation of subsection (1)(a) of this section, assault in the third degree
3 is a Class D felony, unless the offense occurs during a declared emergency as
4 defined by KRS 39A.020 arising from a natural or man-made disaster, within
5 the area covered by the emergency declaration, and within the area impacted
6 by the disaster, in which case it is a Class C felony.

7 (b) For a violation of subsection (1)(b) of this section, assault in the third degree
8 is a Class D felony.

9 (c) For violations of subsection (1)(c) of this section, assault in the third degree is
10 a Class B misdemeanor, unless the assault is with saliva, vomit, mucus, blood,
11 seminal fluid, urine, or feces from an adult who knows that he or she has a
12 serious communicable disease and competent medical or epidemiological
13 evidence demonstrates that the specific type of contact caused by the actor is
14 likely to cause transmission of the disease or condition, in which case it is a
15 Class A misdemeanor.

16 (d) As used in paragraph (c) of this subsection, "serious communicable disease"
17 means a non-airborne disease that is transmitted from person to person and
18 determined to have significant, long-term consequences on the physical health
19 or life activities of the person infected.

20 ➔Section 50. The following KRS sections are repealed:

21 15.241 Attorney General's powers to prevent, penalize, and remedy violations of laws
22 relating to elective medical procedures, including abortions.

23 213.098 Disclosure regarding fetal remains -- Forms -- Prohibited activities.

24 213.172 Report on prescriptions for abortion-inducing drugs -- Failure to comply --
25 Administrative regulations.

26 213.174 Report forms -- Annual statistical report -- Public records -- Confidentiality of
27 identity -- Communication of reporting requirements.

- 1 213.176 Information and statement.
- 2 216B.0435 Requirement of written agreements between abortion facility and acute-care
3 hospital and ambulance service.
- 4 216B.200 Definitions for KRS 216B.200 to 216B.210.
- 5 216B.202 Kentucky Abortion-Inducing Drug Certification Program -- Administrative
6 regulations.
- 7 216B.204 Duties of cabinet -- Eligibility for certification.
- 8 216B.206 Eligibility to register as nonsurgical abortion provider -- Requirements for
9 registered physicians.
- 10 216B.208 Plan to enforce program -- Private right of action.
- 11 216B.210 Complaint portal.
- 12 304.5-160 Health insurance and health care contracts not to cover elective abortions
13 except by optional rider.
- 14 311.710 Legislative findings.
- 15 311.715 Use of public agency funds for abortion prohibited -- Use of public medical
16 facilities for in-vitro fertilization permitted -- Distribution of public agency funds to
17 entity that performs or counsels for abortion or family planning prohibited -- Order
18 of priority for awarding federal family planning funds upon repeal of federal
19 regulations that bar prioritizing recipients.
- 20 311.720 Definitions for KRS 311.710 to 311.820 and other laws.
- 21 311.723 When physician may perform action that separates woman from her unborn
22 child -- Guidelines.
- 23 311.724 Informed consent given in "individual, private setting."
- 24 311.725 Requirement of voluntary and informed written consent for abortion --
25 Cabinet's duty to produce and make available informational materials -- Abortions
26 in medical emergencies.
- 27 311.727 Requirement for performance and explanation of obstetric ultrasound and

- 1 ascultation of fetal heartbeat prior to abortion -- Exception for medical emergency
2 or necessity.
- 3 311.728 Physician must be physically present with patient to perform or induce abortion
4 -- Use of telehealth prohibited.
- 5 311.731 Prohibition against sex-, race-, color-, national origin-, or disability-based
6 abortion -- Certification to Vital Statistics Branch -- Revocation of license -- Action
7 for damages -- Severability.
- 8 311.732 Performance of abortion upon a minor -- Definitions -- Notice -- Consent
9 requirement -- Petition in District or Circuit Court -- Hearing -- Report -- Medical
10 emergencies.
- 11 311.733 Severability.
- 12 311.735 Notice to spouse -- Exceptions -- Civil remedies.
- 13 311.750 Performance by other than licensed physician prohibited.
- 14 311.760 Minimum standards for performance of abortion.
- 15 311.765 Prohibition against partial-birth abortion.
- 16 311.770 Restriction on use of saline method.
- 17 311.7701 Definitions for KRS 311.7701 to 311.7711.
- 18 311.7702 Findings and declarations.
- 19 311.7703 Application of KRS 311.7704, 311.7705, and 311.7706.
- 20 311.7704 Determination of fetal heartbeat -- Medical records -- Option to view or hear
21 heartbeat -- Administrative regulations -- Persons not in violation.
- 22 311.7705 Prohibition against performing or inducing abortion before determining
23 whether fetal heartbeat exists -- Exceptions -- Written notation -- Persons not in
24 violation.
- 25 311.7706 Prohibition against performing or inducing abortion if fetal heartbeat detected
26 -- Exceptions -- Written declaration -- Persons not in violation.
- 27 311.7707 Written document regarding purpose of abortion -- Retention of records.

- 1 311.7708 Drugs, devices, and chemicals designed for contraceptive purposes.
- 2 311.7709 Civil action for wrongful death of unborn child -- Damages, costs, fees --
- 3 Defense.
- 4 311.7711 Effect of court order suspending enforcement -- Application to court
- 5 concerning constitutionality or injunction -- Severability.
- 6 311.772 Definitions for section -- Prohibition against intentional termination of life of
- 7 an unborn human being -- When section takes effect -- Penalties not to apply to
- 8 pregnant woman -- Contraception -- Appropriation of Medicaid funds.
- 9 311.7731 Definitions for KRS 311.7731 to 311.7739.
- 10 311.7733 Abortion-inducing drugs to be provided only by qualified physician --
- 11 Distribution prohibited.
- 12 311.7734 Requirements for physician providing abortion-inducing drug -- Examination
- 13 and follow-up visit.
- 14 311.7735 Informed consent of patient receiving abortion-inducing drug -- Form.
- 15 311.7736 Reports to cabinet -- Complication or adverse event.
- 16 311.7737 Construction of KRS 311.7731 to 311.7739 -- Drugs not to be provided in
- 17 school facility or on state grounds.
- 18 311.7739 Legal actions upon failure to comply with KRS 311.7731 to 311.7739.
- 19 311.774 Report on prescriptions for abortion-inducing drugs -- Information on potential
- 20 reversal of effect of drugs to be included with prescription -- Complications and
- 21 adverse events to be reported to Vital Statistics Branch.
- 22 311.7741 Report of complication, adverse event, medical treatment, or death following
- 23 abortion.
- 24 311.7743 Action and intervention by Attorney General -- Penalties -- Extradition.
- 25 311.781 Definitions for KRS 311.781 to 311.786.
- 26 311.7811 Legislative findings and declarations.
- 27 311.782 Prohibition against performing or inducing abortion when probable gestational

- 1 age of unborn child is 15 weeks or more -- Affirmative defenses -- Penalties for
2 violation.
- 3 311.784 Authorized civil action for violation of KRS 311.782.
- 4 311.7841 Actions to enforce KRS 311.781 to 311.786.
- 5 311.785 Kentucky pain-capable unborn child protection litigation fund.
- 6 311.786 Construction of KRS 213.101, 311.595, 311.781 to 311.786, 311.990, and
7 413.140.
- 8 311.787 Prohibition of certain abortion procedures when the probable gestational age of
9 the unborn child is 11 weeks or greater, except in the case of a medical emergency -
10 - Penalty not to apply to pregnant woman.
- 11 311.790 Issuance of birth and death certificates for live-born child after attempted
12 abortion.
- 13 311.800 Abortions in publicly owned hospital or health care facility prohibited --
14 Exception -- Injunction to enforce compliance -- Abortions in private hospital or
15 health care facility -- Unlawful discriminatory practices.
- 16 311.821 Definitions for KRS 311.821 to 311.827.
- 17 311.822 Legislative findings -- Purposes of KRS 311.821 to 311.827.
- 18 311.823 Denying or depriving a born-alive infant of care or treatment -- Duty of
19 physician performing abortion -- Born-alive infant to be treated as legal person --
20 Born-alive infant to become ward of the state if parent seeks to terminate parental
21 rights -- Construction of section's requirements -- Limitation of parent's criminal
22 and civil liability.
- 23 311.824 Additional remedies for failure to comply with KRS 311.823.
- 24 311.825 Construction of KRS 311.821 to 311.827.
- 25 311.826 Provision of KRS 311.821 to 311.827 held to be invalid or unenforceable to be
26 given maximum effect permitted by law -- Severability.
- 27 311.827 Appointment of legislative sponsors to intervene in constitutional challenge --

1 No waiver or diminishment of rights of legislative branch personnel.

2 311.830 Severability.

3 311.992 Penalty for violation of KRS 311.715.

4 315.315 Presumption regarding prescription or medical order.

5 ➔Section 51. If any provision of this Act or the application of any provision to
6 any person or circumstance is held invalid or unconstitutional, the declaration of such
7 invalidity shall not affect other provisions or applications of this Act that can be given
8 effect without the invalid provision or application, and to this end the provisions of this
9 Act are severable.

10 ➔Section 52. Section 10 of this Act takes effect January 1, 2027.