

1 AN ACT relating to gender transition services.

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) As used in this section:

6 (a) "Gender transition services":

7 1. Means surgical, medical, mental health, or pharmaceutical services
8 that are performed for the purpose of altering the appearance of an
9 individual's sex or validating or affirming an individual's perception
10 of the individual's sex, if that appearance or perception is inconsistent
11 with the individual's sex;

12 2. Includes but is not limited to the following surgical, medical, mental
13 health, and pharmaceutical services, if performed for the purposes
14 stated in subparagraph 1. of this paragraph:

15 a. Prescribing or administering any drug, including testosterone,
16 estrogen, or progesterone;

17 b. Performing any sterilizing surgery, including castration,
18 hysterectomy, oophorectomy, orchiectomy, penectomy, and
19 vasectomy;

20 c. Performing any surgery that artificially constructs tissue having
21 the appearance of genitalia differing from the individual's sex,
22 including metoidioplasty, phalloplasty, and vaginoplasty;

23 d. Removing any healthy or non diseased body part or tissue; and

24 e. Providing any counseling or therapy; and

25 3. Does not include surgical, medical, mental health, or pharmaceutical
26 services provided to an individual:

27 a. Born with a medically verifiable disorder of sex development,

1 including external biological sex characteristics that are
2 irresolvably ambiguous;

3 b. Diagnosed with a disorder of sexual development, if a health
4 care provider has determined, through genetic or biochemical
5 testing, that the individual does not have a sex chromosome
6 structure, sex steroid hormone production, or sex steroid
7 hormone action that is normal for a biological male or biological
8 female; or

9 c. Needing treatment for an infection, injury, disease, or disorder
10 that has been caused or exacerbated by surgical, medical, mental
11 health, or pharmaceutical services performed for the purposes
12 stated in subparagraph 1. of this paragraph;

13 (b) "Health care provider" means any person, agency, clinic, or facility that is:

14 1. Engaged in the rendering of any surgical, medical, mental health, or
15 pharmaceutical services; and

16 2. Licensed, certified, or otherwise regulated in this state or subject to
17 regulation in this state;

18 (c) "Health plan" means any policy, certificate, contract, or plan that offers or
19 provides coverage in this state for surgical, medical, mental health, or
20 pharmaceutical services:

21 1. By direct payment, reimbursement, or otherwise; and

22 2. On a fully insured or self-insured basis or any combination thereof;

23 (d) "Sex" means the biological indication of male and female as evidenced by
24 sex chromosomes, naturally occurring sex hormones, gonads, and
25 nonambiguous internal and external genitalia present at birth; and

26 (e) "State or local government" means this state or any local government of
27 this state, including:

- 1 1. Any agency, board, bureau, department, council, commission,
2 committee, government corporation, institution, legislative body,
3 authority, hospital, clinic, political subdivision, instrumentality, or
4 other entity of this state;
- 5 2. Any city, county, charter county government, urban-county
6 government, consolidated local government, unified local government,
7 public school district, public institution of education, special district,
8 hospital district, or municipal corporation of this state; and
- 9 3. Any agency, board, bureau, department, council, commission,
10 committee, institution, legislative body, authority, hospital, clinic,
11 entity, or other instrumentality, of an entity referenced in
12 subparagraph 2. of this paragraph.

13 (2) A health care provider shall not:

- 14 (a) Render gender transition services to any individual in the course and scope
15 of employment by a state or local government; or
- 16 (b) Seek or accept payment or reimbursement for the rendering of gender
17 transition services to any individual from any of the following:
 - 18 1. A state or local government, including:
 - 19 a. A person contracted with a state or local government to provide
20 or administer a health plan; and
 - 21 b. A health plan offered or sponsored by a state or local
22 government; or
 - 23 2. A federal agency providing or administering Medicare benefits to or
24 on behalf of a Medicare beneficiary in this state, including a:
 - 25 a. Person contracted with a federal agency to provide or administer
26 Medicare benefits in this state; and
 - 27 b. Health plan that provides Medicare benefits that are publicly

1 funded or subsidized.

2 (3) (a) State or local government funds shall not be directly or indirectly used,
3 granted, paid, or distributed to any entity, organization, or individual for the
4 provision or subsidy of any gender transition services.

5 (b) Paragraph (a) of this subsection includes but is not limited to a prohibition
6 on the use of:

7 1. Any state or local government property, facility, or building to provide
8 or subsidize any gender transition services; and

9 2. Federal funds by a state or local government to provide or subsidize
10 any gender transition services.

11 (4) (a) If a licensing, certifying, or other regulatory authority for a health care
12 provider finds, in accordance with the agency's disciplinary and hearing
13 process, that a health care provider has violated this section, the authority
14 shall revoke the health care provider's licensure, certification, or other
15 authorization to provide services in this state.

16 (b) An intentional violation of this section by a public servant shall be a
17 violation of KRS 522.030.

18 ➔Section 2. KRS 15.241 is amended to read as follows:

19 (1) The Attorney General may seek injunctive relief as well as civil and criminal
20 penalties in courts of proper jurisdiction to prevent, penalize, and remedy violations
21 of:

22 (a) KRS Chapter 216B regarding abortion facilities and the administrative
23 regulations promulgated in furtherance thereof;

24 (b) KRS 311.710 to 311.830 regarding abortions and the administrative
25 regulations promulgated in furtherance thereof;~~and~~

26 (c) KRS Chapter 39A and any orders or directives issued thereunder relating to
27 elective medical procedures, including but not limited to abortions; and

1 **(d) KRS 311.372 and Section 1 of this Act regarding gender transition services.**

2 (2) Nothing in this section shall limit or preclude such authority as the secretary of the
3 Cabinet for Health and Family Services has to seek the relief set forth in subsection
4 (1) of this section.

5 ➔Section 3. KRS 156.496 is amended to read as follows:

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

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

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

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

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

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

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

26 (3) Youth services centers shall be located in or near each school in the
27 Commonwealth, except elementary schools, in which twenty percent (20%) or more

1 of the student body are eligible for free or reduced-price school meals. Youth
2 services centers shall promote identification and coordination of existing resources
3 and shall include but not be limited to the following core components for each site:

- 4 (a) Referrals to health and social services;
- 5 (b) Career exploration and development;
- 6 (c) Summer and part-time job development for high school students;
- 7 (d) Substance abuse education and counseling; and
- 8 (e) Family crisis and mental health counseling.

9 (4) A grant program is hereby established to provide financial assistance to eligible
10 school districts to establish or maintain family resource or youth services centers.
11 The Cabinet for Health and Family Services shall award grants pursuant to KRS
12 156.4977. Funding provided to the Cabinet for Health and Family Services for the
13 grant program and agency administrative costs shall include an increase that is
14 equal to or greater than the general fund growth factor provided in agency budget
15 instructions.

16 (5) A family resource or youth services center that receives funding for one (1) year or
17 more shall not be considered ineligible for funding based solely on the percent of
18 the student body eligible for free or reduced-price school meals unless the percent
19 of the student body eligible for free or reduced-price school meals is below twenty
20 percent (20%) for five (5) consecutive years.

21 (6) A school district shall not operate a family resource center or a youth services
22 center that:

- 23 (a) Provides abortion counseling or gender transition services, as defined in
24 Section 1 of this Act; or
- 25 (b) Makes referrals to a health care facility for the purpose of seeking an abortion
26 or gender transition services, as defined in Section 1 of this Act.

27 (7) A school district may accept monetary donations for the operation and maintenance

1 of family resource and youth services centers. Any donations given to the school
2 district for the operation and maintenance of family resource and youth services
3 centers shall be used only for the operation and maintenance of family resource and
4 youth services centers, and for no other purpose.

5 ➔Section 4. KRS 39A.180 is amended to read as follows:

6 (1) The political subdivisions of the state and other agencies designated or appointed by
7 the Governor may make, amend, and rescind orders and promulgate administrative
8 regulations necessary for disaster and emergency response purposes, and to
9 supplement the carrying out of the provisions of this chapter, if not inconsistent
10 with any orders or administrative regulations promulgated by the Governor or by
11 any state agency exercising a power delegated to it by the Governor.

12 (2) (a) All written orders and administrative regulations promulgated by the
13 Governor, the director, or by any political subdivision or other agency
14 authorized by KRS Chapters 39A to 39F to make orders and promulgate
15 administrative regulations, shall have the full force of law and, if promulgated
16 as administrative regulations, shall follow the requirements for promulgating
17 administrative regulations under KRS Chapter 13A. All written orders
18 authorized by KRS Chapters 39A to 39F shall be filed with the Legislative
19 Research Commission.

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

- 22 1. The statute is specifically enumerated by the Governor in the executive
23 order; and
- 24 2. The executive order specifying the suspension is approved by the
25 Attorney General in writing.

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

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

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

- 6 1. Become void; and
- 7 2. Be withdrawn, amended, or repealed in accordance with KRS Chapter
8 13A.

9 (3) Notwithstanding subsection (2) of this section, the Governor shall not suspend any
10 laws in KRS Chapters 39A to 39F, Chapter 13A, 446.350, 527.020, 311.372,
11 Section 1 of this Act, 311.710 to 311.820, or any other statutes related to abortion
12 or gender transition services, as defined in Section 1 of this Act.

13 (4) The law enforcement authorities of the state and of its counties, urban-counties,
14 charter counties, and cities shall enforce the written orders and administrative
15 regulations issued pursuant to KRS Chapters 39A to 39F.

16 ➔Section 5. KRS 205.5365 is amended to read as follows:

17 (1) As used in this section, "gender transition services" has the same meaning as in
18 Section 1 of this Act.

19 (2) Notwithstanding any provision of law to the contrary and unless required under
20 federal law, the Department for Medicaid Services, ~~and~~ any managed care
21 organization with whom the department contracts for the delivery of Medicaid
22 services, and the state's medical assistance program are hereby prohibited from
23 expending any Medicaid funds on, or providing benefits or coverage for, gender
24 transition services, including but not limited to ~~any of the following~~:

25 (a) ~~(1)~~ Cross-sex hormones when prescribed or administered primarily or solely
26 for the treatment of gender dysphoria; and

27 (b) ~~(2)~~ Gender reassignment surgery to alter or remove physical or anatomical

1 characteristics or features that are typical for and characteristic of a person's
2 biological sex.

3 ➔SECTION 6. A NEW SECTION OF KRS 205.6481 TO 205.6495 IS
4 CREATED TO READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Gender transition services" has the same meaning as in Section 1 of this
7 Act; and

8 (b) "KCHIP" means:

- 9 1. The state child health plan known as the Kentucky Children's Health
10 Insurance Program; or
11 2. Any plan submitted for federal approval of a children's health
12 insurance program for Kentucky under Title XXI of the Federal
13 Social Security Act.

14 (2) KCHIP shall not reimburse or provide benefits or coverage for gender transition
15 services.

16 ➔SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
17 IS CREATED TO READ AS FOLLOWS:

18 (1) As used in this section, the following have the same meaning as in Section 1 of
19 this Act:

20 (a) "Gender transition services";

21 (b) "Health plan"; and

22 (c) "State or local government."

23 (2) All of the following shall not reimburse or provide benefits or coverage for
24 gender transition services:

25 (a) A health plan offered or sponsored by a state or local government; and

26 (b) A health plan, including Medicare supplement insurance, that provides
27 Medicare benefits that are publicly funded or subsidized.

1 ➔Section 8. KRS 18A.225 is amended to read as follows:

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

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

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

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

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

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

1 otherwise provided in KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b.

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

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

27 (f) If any agency participating in the state-sponsored employee health insurance

1 program for its active employees terminates participation and there is a state
2 appropriation for the employer's contribution for active employees' health
3 insurance coverage, then neither the agency nor the employees shall receive
4 the state-funded contribution after termination from the state-sponsored
5 employee health insurance program.

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

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

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

15 (a) Wholly from funds contributed by the employee, by payroll deduction or
16 otherwise;

17 (b) Wholly from funds contributed by any department, board, agency, public
18 postsecondary education institution, or branch of state, city, urban-county,
19 charter county, county, or consolidated local government; or

20 (c) Partly from each, except that any premium due for health care coverage or
21 dental coverage, if any, in excess of the premium amount contributed by any
22 department, board, agency, postsecondary education institution, or branch of
23 state, city, urban-county, charter county, county, or consolidated local
24 government for any other health care coverage shall be paid by the employee.

25 (4) If an employee moves his or her place of residence or employment out of the
26 service area of an insurer offering a managed health care plan, under which he or
27 she has elected coverage, into either the service area of another managed health care

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

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

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

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

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

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

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

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

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

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

1 preclude a retiree and an active employee spouse from using both contributions to
2 the extent needed for purchase of one (1) state sponsored health insurance policy
3 for that plan year.

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

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

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

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

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

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

26 (17) If a state employee's residence and place of employment are in the same county,
27 and if the hospital located within that county does not offer surgical services,

1 intensive care services, obstetrical services, level II neonatal services, diagnostic
2 cardiac catheterization services, and magnetic resonance imaging services, the
3 employee may select a plan available in a contiguous county that does provide
4 those services, and the state contribution for the plan shall be the amount available
5 in the county where the plan selected is located.

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

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

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

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

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

- 1 (c) The request for proposal shall require a carrier's bid to include every county
2 within the region or regions for which the bid is submitted and include but not
3 be restricted to a preferred provider organization (PPO) option;
- 4 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
5 carrier all of the counties included in its bid within the region. If the Personnel
6 Cabinet deems the bids submitted in accordance with this subsection to be in
7 the best interests of state employees in a region, the cabinet may award the
8 contract for that region to no more than two (2) carriers; and
- 9 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
10 other requirements or criteria in the request for proposal.
- 11 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or
12 after July 12, 2006, to public employees pursuant to this section which provides
13 coverage for services rendered by a physician or osteopath duly licensed under KRS
14 Chapter 311 that are within the scope of practice of an optometrist duly licensed
15 under the provisions of KRS Chapter 320 shall provide the same payment of
16 coverage to optometrists as allowed for those services rendered by physicians or
17 osteopaths.
- 18 (22) Any fully insured health benefit plan or self-insured plan issued or renewed to
19 public employees pursuant to this section shall comply with:
- 20 (a) KRS 304.12-237;
- 21 (b) KRS 304.17A-270 and 304.17A-525;
- 22 (c) KRS 304.17A-600 to 304.17A-633;
- 23 (d) KRS 205.593;
- 24 (e) KRS 304.17A-700 to 304.17A-730;
- 25 (f) KRS 304.14-135;
- 26 (g) KRS 304.17A-580 and 304.17A-641;
- 27 (h) KRS 304.99-123;

- 1 (i) KRS 304.17A-138;
2 (j) KRS 304.17A-148;
3 (k) KRS 304.17A-163 and 304.17A-1631;
4 (l) KRS 304.17A-265;
5 (m) KRS 304.17A-261;
6 (n) KRS 304.17A-262;
7 (o) KRS 304.17A-145;
8 (p) KRS 304.17A-129;
9 (q) KRS 304.17A-133;
10 (r) KRS 304.17A-264; and
11 (s) Administrative regulations promulgated pursuant to statutes listed in this
12 subsection.
- 13 (23) (a) Any fully insured health benefit plan or self-insured plan issued or renewed to
14 public employees pursuant to this section shall provide a special enrollment
15 period to pregnant women who are eligible for coverage in accordance with
16 the requirements set forth in KRS 304.17-182.
- 17 (b) The Department of Employee Insurance shall, at or before the time a public
18 employee is initially offered the opportunity to enroll in the plan or coverage,
19 provide the employee a notice of the special enrollment rights under this
20 subsection.
- 21 (24) (a) As used in this subsection, "gender transition services" has the same
22 meaning as in Section 1 of this Act.
- 23 (b) Any fully insured health benefit plan or self-insured plan issued or renewed
24 to public employees pursuant to this section shall not reimburse or provide
25 benefits or coverage for gender transition services.
- 26 (c) State or local government funds shall not be used to provide or subsidize
27 gender transition services to public employees or their dependents.

1 ➔Section 9. KRS 164.2871 is amended to read as follows:

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

- 1 (5) A self-insured employer group health plan provided by the governing board of a
2 state postsecondary education institution to its employees shall comply with:
- 3 (a) KRS 304.17A-129;
4 (b) KRS 304.17A-133;
5 (c) KRS 304.17A-145;
6 (d) KRS 304.17A-163 and 304.17A-1631;
7 (e) KRS 304.17A-261;
8 (f) KRS 304.17A-262;
9 (g) KRS 304.17A-264; and
10 (h) KRS 304.17A-265.
- 11 (6) (a) A self-insured employer group health plan provided by the governing board of
12 a state postsecondary education institution to its employees shall provide a
13 special enrollment period to pregnant women who are eligible for coverage in
14 accordance with the requirements set forth in KRS 304.17-182.
- 15 (b) The governing board of a state postsecondary education institution shall, at or
16 before the time an employee is initially offered the opportunity to enroll in the
17 plan or coverage, provide the employee a notice of the special enrollment
18 rights under this subsection.
- 19 (7) (a) As used in this subsection, "gender transition services" has the same
20 meaning as in Section 1 of this Act.
- 21 (b) A self-insured employer group health plan provided by the governing board
22 of a state postsecondary education institution to its employees shall not
23 reimburse or provide benefits or coverage for gender transition services.
- 24 (c) State or local government funds shall not be used to provide or subsidize
25 gender transition services to state postsecondary education institution
26 employees or their dependents.
- 27 ➔Section 10. KRS 304.17C-125 is amended to read as follows:

1 The following shall apply to limited health service benefit plans, including any limited
2 health service contract, as defined in KRS 304.38A-010:

3 (1) KRS 304.17A-129;

4 (2) KRS 304.17A-262;~~[-and]~~

5 (3) KRS 304.17A-591 to 304.17A-599; and

6 (4) Section 7 of this Act.

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

8 (1) (a) Any child committed to or in the custody of the cabinet or the Department of
9 Juvenile Justice who is not placed in a location where smoking cessation
10 services are provided may participate in smoking cessation services offered by
11 local health departments or their contracted agents at no cost.

12 (b) Unless provided otherwise, when any child committed to or in the custody of
13 the Department of Juvenile Justice or the cabinet requires medical or surgical
14 care or treatment, the Department of Juvenile Justice or the cabinet may
15 provide the same or arrange for the furnishing thereof by other public or
16 private agencies, and may give consent to the medical or surgical treatment.
17 For this purpose, the services and facilities of local health officers and
18 departments shall be made available, at a cost not to exceed the Medicaid
19 reimbursement rate, to the Department of Juvenile Justice or the cabinet, and
20 as far as practicable, any publicly owned hospital shall provide hospitalization
21 without charge for any such child who is a resident of the political subdivision
22 by which the hospital is owned or operated. This section does not authorize
23 nor shall permission be granted for abortion, ~~[-or]~~ sterilization, or gender
24 transition services, as defined in Section 1 of this Act.

25 (2) Any child placed in a foster home by an agency duly authorized in KRS Chapter
26 620 to place a child in a foster home shall receive a complete medical, visual, and
27 dental examination by a professional authorized by the Kentucky Revised Statutes

1 to conduct such examinations. Arrangements for a child placed in a foster home to
2 receive such examinations shall be made within two (2) weeks of his placement in a
3 foster home and not less than every twelve (12) months thereafter.

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

7 (a) The Kentucky Educational Collaborative for State Agency Children shall be
8 established to serve children in facilities and programs operated or contracted
9 by the Department of Juvenile Justice or the Cabinet for Health and Family
10 Services, residential, day treatment, clinical, and group home programs. All
11 policies and procedures necessary to educate state agency children shall be
12 approved by the Kentucky Board of Education. All duties, responsibilities,
13 rights, and privileges specifically imposed on or granted to the local education
14 administration units shall be imposed on or granted to the Department of
15 Juvenile Justice or the Cabinet for Health and Family Services and contracted
16 agencies with regard to educating agency children. Classrooms for the
17 Kentucky Educational Collaborative for State Agency Children shall be
18 within or near the facilities and programs operated or contracted by the
19 Department of Juvenile Justice or the cabinet. The Kentucky Department of
20 Education, the Department of Juvenile Justice, and the Cabinet for Health and
21 Family Services, Department for Community Based Services, shall develop a
22 biennial plan regarding the educational needs and provisions of educational
23 programs, with emphasis on the coordination of all treatment services and
24 funds available to provide for the education of state agency children. The
25 biennial plan shall include strategies to assure that teacher preparation
26 programs include content related to working with state agency children and
27 that adequate professional development opportunities for better meeting the

1 needs of these students are available for teachers and schools.

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

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

- 11 1. The amount generated by state agency children under the Support
12 Education Excellence in Kentucky program as provided in KRS 157.360
13 for the guaranteed base and adjustments for the number of at-risk
14 students, exceptional students, and transportation costs;
- 15 2. A per-pupil distribution of professional development funds with the
16 collaborative serving as a consortium for state agency children;
- 17 3. A per-pupil distribution of technology funds in accordance with the state
18 education technology plan pursuant to KRS 156.670 and the formula for
19 the distribution of funds to local school districts;
- 20 4. A per-pupil distribution of textbook funds pursuant to KRS 157.100 and
21 157.190;
- 22 5. The funding for school services for state agency children authorized by
23 KRS 158.135; and
- 24 6. Other grants and entitlements, including federal funds, identified in the
25 implementation plan developed pursuant to paragraph (f) of this
26 subsection for the education of Kentucky's children.

27 (d) The commissioner of Juvenile Justice and the secretary of the Cabinet for

1 Health and Family Services shall promulgate administrative regulations,
2 pursuant to KRS Chapter 13A, with the assistance of the Kentucky
3 Department of Education and upon recommendation of the Kentucky Board
4 of Education regarding the governance, curriculum, and other topics
5 necessary to educate state agency children. The regulations shall:

6 1. Provide for the development and implementation of interagency
7 agreements that:

8 a. Define the financial responsibility of each state and local agency
9 for providing services to state agency children;

10 b. Establish procedures for resolving interagency disputes among
11 agencies that are parties to the agreements; and

12 2. Provide procedures for the implementation of the Kentucky statutes
13 regarding school-based decision making, student outcomes,
14 accountability, assessment, rewards and sanctions, technology, staff
15 development, salaries, and the development of coordinated individual
16 treatment, education, and transition plans to ensure compliance with
17 present education and treatment laws and regulations specific to the
18 needs of children in the programs of the Cabinet for Health and Family
19 Services.

20 (e) When the placement of a state agency child is changed so that the state agency
21 child must transfer from one school or educational facility to a different
22 school or educational facility, the school or educational facility that the state
23 agency child is leaving shall, within two (2) days of the state agency child
24 leaving, prepare an educational passport for the child, which shall be
25 delivered to the cabinet or the Department of Juvenile Justice. The cabinet or
26 the Department of Juvenile Justice shall, within two (2) days of enrolling a
27 state agency child in a new school or educational facility, present the

1 educational passport to the receiving school or educational facility.

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

6 ➔Section 12. The General Assembly finds that it would not be in the interest of
7 public health or welfare to use or receive public funds, or for public entities to offer or
8 sponsor health plans that provide benefits or coverage, for gender transition services due
9 to the substantial risks and known harmful effects of those services, including irreversible
10 physical alterations and, in some cases, sterility and lifelong sexual dysfunction.

11 ➔Section 13. If any provision of this Act, or this Act's application to any person
12 or circumstance, is held invalid, the invalidity shall not affect other provisions or
13 applications of the Act, which shall be given effect without the invalid provision or
14 application, and to this end the provisions and applications of this Act are severable.

15 ➔Section 14. Sections 7 to 10 of this Act apply to health plans issued or renewed
16 on or after the effective date of this Act.