

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, orchectomy, 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,

including external biological sex characteristics that are irresolvably ambiguous;

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

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

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

- 1. Engaged in the rendering of any surgical, medical, mental health, or pharmaceutical services; and**
- 2. Licensed, certified, or otherwise regulated in this state or subject to regulation in this state;**

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

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

**2. On a fully insured or self-insured basis or any combination thereof:**

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

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

- 1       1. Any agency, board, bureau, department, council, commission, committee, government corporation, institution, legislative body, authority, hospital, clinic, political subdivision, instrumentality, or other entity of this state;
- 2       2. Any city, county, charter county government, urban-county government, consolidated local government, unified local government, public school district, public institution of education, special district, hospital district, or municipal corporation of this state; and
- 3       3. Any agency, board, bureau, department, council, commission, committee, institution, legislative body, authority, hospital, clinic, entity, or other instrumentality, of an entity referenced in 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 of employment by a state or local government; or
- 15       (b) Seek or accept payment or reimbursement for the rendering of gender transition services to any individual from any of the following:
  - 16       1. A state or local government, including:
    - 17       a. A person contracted with a state or local government to provide or administer a health plan; and
    - 18       b. A health plan offered or sponsored by a state or local government; or
  - 19       2. A federal agency providing or administering Medicare benefits to or on behalf of a Medicare beneficiary in this state, including a:
    - 20       a. Person contracted with a federal agency to provide or administer Medicare benefits in this state; and
    - 21       b. Health plan that provides Medicare benefits that are publicly

funded or subsidized.

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

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

1. Any state or local government property, facility, or building to provide or subsidize any gender transition services; and
2. Federal funds by a state or local government to provide or subsidize any gender transition services.

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

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

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

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

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

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

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

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

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

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

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

(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

8           5. Any eligible dependents and beneficiaries of participating employees  
9  
10           and retirees who are entitled to participate in the state-sponsored health  
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;



- (i) KRS 304.17A-138;
- (j) KRS 304.17A-148;
- (k) KRS 304.17A-163 and 304.17A-1631;
- (l) KRS 304.17A-265;
- (m) KRS 304.17A-261;
- (n) KRS 304.17A-262;
- (o) KRS 304.17A-145;
- (p) KRS 304.17A-129;
- (q) KRS 304.17A-133;
- (r) KRS 304.17A-264; and
- (s) Administrative regulations promulgated pursuant to statutes listed in this subsection.

(23) (a) Any fully insured health benefit plan or self-insured plan issued or renewed to public employees pursuant to this section shall provide a special enrollment period to pregnant women who are eligible for coverage in accordance with the requirements set forth in KRS 304.17-182.

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

(24) (a) As used in this subsection, "gender transition services" has the same meaning as in Section 1 of this Act.

(b) Any fully insured health benefit plan or self-insured plan issued or renewed to public employees pursuant to this section shall not reimburse or provide benefits or coverage for gender transition services.

(c) State or local government funds shall not be used to provide or subsidize 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**  
**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

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;

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.