AN ACT relating to the production of medical records.

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

➔Section 1. KRS 422.305 is amended to read as follows:

(1) ***(a)*** When a subpoena duces tecum is served upon any employee of any ***medical provider***[hospital], requiring the production of any[such] medical charts or records at any action or proceeding, it is sufficient if the employee of the ***medical provider***[hospital] charged with the responsibility of being custodian of the original ***charts or records***[thereof] promptly notifies, in writing, the attorney for the party causing service of the subpoena, of the ***medical provider's***[hospital's] election to proceed under the provisions of KRS 422.300 to 422.330 and of the estimated actual and reasonable expenses of reproducing ***the requested***[such] charts or records.

(b) Upon ***receipt of the***[such] notification, the attorney causing the service of the subpoena shall notify all other attorneys of record**,** or other parties if they are not represented by attorneys**,** of the ***medical provider's***[hospital's] election.

(c) Following ***the medical provider's***[such] election, the employee of the ***medical provider***[hospital] charged with the responsibility of being custodian of the original charts or records specified in the subpoena shall hold the originals available at the ***medical provider's facility***[hospital], and upon payment to the ***medical provider***[hospital] of the estimated reproduction expenses by the party causing service of the subpoena, or by any other party, shall promptly deliver, by certified mail or by personal delivery, legible and durable copies, certified by ***the medical provider's***[said hospital] employee, of all medical charts or records specified in ***the***[such] subpoena to the person specified in the subpoena.

(2) ***(a)*** The certification shall be signed before a notary public by the employee of the ***medical facility***[hospital] charged with[the responsibility of] being ***the***

custodian of the records and shall include the full name of the patient, the patient's medical record number, the number of pages in the medical record, and a legend substantially to the following effect: "The copies of records for which this certification is made are true and complete reproductions of the original or microfilmed medical records which are housed in (name of ***medical provider***[~~hospital~~]). The original records were made in the regular course of business, and it was the regular course of (name of ***medical provider***[~~hospital~~]) to make ***the***[~~such~~] records at or near the time of the matter recorded. This certification is given pursuant to KRS .... by the custodian of the records in lieu of his or her personal appearance."

(b) 1. The[~~Such~~] copies shall be separately enclosed and sealed in an inner envelope or wrapper bearing the legend "Copies of Medical Records***.***[~~,~~]"

2. [~~and~~]The title and number of the action or proceeding, the date of the subpoena, the name of the ***medical provider***[~~hospital~~], the full name of the patient, the patient's medical record number***,*** and the name and business telephone number of the employee making the certification, ***together with***[~~and~~] the sealed envelope or wrapper ***and***[~~, together with~~] the certification, shall then be enclosed and sealed in an outer envelope or wrapper, and delivered to the requesting party.

(3) ***(a)*** When the copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his ***or her*** signature and shall be immediately signed and returned to the person delivering the records. The receipt shall contain the name of the ***medical provider***[~~hospital~~], the full name of the patient, the medical record number of the patient, the date the copies of records were received, and the signature of the person receiving the records.

(b) When the copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove delivery and receipt of the copies

of records.

(4) If the ***medical provider***~~[hospital]~~ has none of the charts or records specified in the subpoena, or only part ***of the charts or records***~~[thereof]~~, the employee of the ***medical provider***~~[hospital]~~ charged with~~[the responsibility of]~~ being ***the*** custodian of ***the*** original ***medical provider's***~~[hospital]~~ charts or records shall~~[so]~~ state ***that fact*** in a notarized affidavit and, following notice and payment of expenses shall hold available the original charts or records which are in the ***medical provider's***~~[hospital's]~~ custody and specified in the subpoena***,*** and shall deliver ***the*** certified~~[the]~~ copies together with the affidavit.

(5) A subpoena duces tecum under subsection (1) of this section shall be served no later than fourteen (14) days prior to the date and time set in the subpoena commanding the appearance and production of the requested charts or records for inspection and copying.