

1 AN ACT relating to the Kentucky all-payer claims database.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) The Kentucky all-payer claims database is established in Sections 1 to 6 of this*

6 *Act to effectuate the following purposes:*

7 *(a) Allow for targeted population health initiatives;*

8 *(b) Determine state health status needs;*

9 *(c) Inform state health care planning;*

10 *(d) Support research in the areas of health care cost, quality, and accessibility;*

11 *(e) Improve the accessibility, adequacy, and affordability of health care and*  
12 *health care coverage through the review and dissemination of data;*

13 *(f) Review health care costs among various treatment settings, providers, and*  
14 *modalities;*

15 *(g) Evaluate the effectiveness of health care programs and services to improve*  
16 *patient outcomes; and*

17 *(h) Support the development of quality improvement initiatives.*

18 *(2) Sections 1 to 6 of this Act shall not be construed to supersede, supplement, or*  
19 *limit the provisions of KRS Chapter 216B relating to certificates of need.*

20 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO  
21 READ AS FOLLOWS:

22 *As used in Sections 1 to 6 of this Act:*

23 *(1) "Executive director" means the executive director of the Office of Data Analytics*  
24 *created in Section 8 of this Act;*

25 *(2) "Health care claims":*

26 *(a) Means claims made for the payment or reimbursement of the following*  
27 *types of health care services:*

- 1           1. Medical and hospital, which includes without limitation surgical,  
2           mental health, substance use disorder, nursing, rehabilitative and  
3           habilitative services, and laboratory services;
- 4           2. Dental;
- 5           3. Pharmacy; and
- 6           4. Any other health care service designated by the executive director in  
7           an administrative regulation promulgated in accordance with KRS  
8           Chapter 13A; and
- 9           (b) Does not include claims made to a primary care provider for the provision  
10           of primary care services under a direct primary care membership agreement  
11           established under KRS 311.6201, 311.6202, 314.198, or 314.199;
- 12       (3) (a) "Health payer" means any person that pays, or administers the payment of,  
13           health care claims.
- 14           (b) As used in paragraph (a) of this subsection, "person" includes but is not  
15           limited to:
- 16           1. Medicare;
- 17           2. Medicaid;
- 18           3. The Kentucky Children's Health Insurance Program;
- 19           4. Workers' compensation insurers, including governmental and  
20           nongovernmental workers' compensation self-insurers and self-  
21           insured groups;
- 22           5. Insurers, self-insurers, and self-insured groups, including  
23           governmental and nongovernmental self-insured employers, self-  
24           insured health plans, and self-insured employer-organized  
25           associations, that provide:
- 26           a. Coverage for health care services;
- 27           b. Health care benefits; or

- 1                    c. Any kind of insurance regulated under KRS Chapter 304;  
 2                    6. Health maintenance organizations;  
 3                    7. Limited health service organizations;  
 4                    8. Provider-sponsored integrated health delivery networks;  
 5                    9. Nonprofit hospital, medical-surgical, dental, and health service  
 6                    corporations;  
 7                    10. Administrators, as defined in KRS 304.9-051;  
 8                    11. Pharmacy benefit managers;  
 9                    12. Any third-party payor that is not exempt by federal law from  
 10                    regulation under the insurance laws of this state;  
 11                    13. Any person that contracts with a state or federal agency to provide  
 12                    coverage for health care services; and  
 13                    14. Any vendor or contractor of a person listed in this paragraph; and  
 14                    (4) "Kentucky all-payer claims database" means the all-payer claims database  
 15                    established in Sections 1 to 6 of this Act.
- 16                    ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO  
 17 READ AS FOLLOWS:
- 18                    (1) The Kentucky all-payer claims database fund is hereby established as a restricted  
 19                    fund in the State Treasury.
- 20                    (2) The following shall be deposited into the fund:
- 21                    (a) All grants and funds received or raised under Section 4 of this Act;  
 22                    (b) Any fees collected under Section 6 of this Act;  
 23                    (c) Any penalties collected under Section 10 of this Act; and  
 24                    (d) Any appropriations made to the fund by the General Assembly.
- 25                    (3) Notwithstanding KRS 45.229, moneys in the fund not expended at the close of a  
 26                    fiscal year shall not lapse but shall be carried forward to the next fiscal year.
- 27                    (4) Moneys in the fund shall be available to the executive director to develop,

1 implement, operate, and maintain the Kentucky all-payer claims database.

2 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO  
3 READ AS FOLLOWS:

4 (1) The executive director shall develop, implement, operate, and maintain the  
5 Kentucky all-payer claims database in accordance with Sections 1 to 6 of this Act.

6 (2) In carrying out the duties under subsection (1) of this section, the executive  
7 director:

8 (a) Shall make good-faith efforts to:

9 1. Seek and accept grants, or raise funds, from any available source,  
10 public or private, to support the development, implementation,  
11 operation, and maintenance of the database; and

12 2. Establish agreements:

13 a. For voluntary reporting of health care claims data from health  
14 payers that are not subject to mandatory reporting requirements.  
15 If feasible, the executive director shall implement the reporting  
16 format for self-insured group health plans described in 29 U.S.C.  
17 sec. 1191d, as amended;

18 b. With the federal Centers for Medicare and Medicaid Services to  
19 obtain Medicare health care claims data; and

20 c. With all-payer claims databases in other states to establish a  
21 single application for access to data by authorized users across  
22 multiple states, if the executive director determines that the  
23 agreements are feasible and beneficial for the operation of the  
24 Kentucky all-payer claims database;

25 (b) Shall:

26 1. Determine the measures necessary to implement reporting  
27 requirements in a manner that:

- 1                    a. Is cost effective and reasonable for data sources;
- 2                    b. Is timely, relevant, and reliable for data users;
- 3                    c. Eliminates, or reduces to the greatest extent practicable, the  
4                    submission of duplicate or redundant health care claims data;  
5                    and
- 6                    d. Does not violate any applicable laws;
- 7                    2. Establish policies and procedures necessary for the administration  
8                    and oversight of the database, including all necessary communication,  
9                    coordination, and data sharing with the commissioner of insurance  
10                   for enforcement under Section 10 of this Act;
- 11                   3. Ensure the integrity, privacy, and security of personal health  
12                   information and other proprietary information related to the collection  
13                   and release of data;
- 14                   4. Ensure that the database is operated in compliance with all state and  
15                   federal law, including but not limited to:
- 16                   a. The federal Health Insurance Portability and Accountability Act  
17                   of 1996, Pub. L. No. 104-191, as amended, and any related  
18                   federal regulations, as amended;
- 19                   b. 42 U.S.C. sec. 290dd-2, as amended, and any related federal  
20                   regulations, as amended, including but not limited to 42 C.F.R.  
21                   pt. 2; and
- 22                   c. All other applicable state and federal data privacy and security  
23                   laws relating to the collection, storage, and release of data,  
24                   except that the provisions of this section and Section 6 of this Act  
25                   shall control over any conflicting state laws; and
- 26                   5. Promulgate any administrative regulations in accordance with KRS  
27                   Chapter 13A that are necessary to carry out Sections 1 to 6 of this Act;

1 and

2 (c) May:

3 1. a. Audit any data required to be submitted under Section 6 of this  
4 Act as needed to corroborate the accuracy of submitted data.

5 b. Any audit conducted under this subparagraph shall, to the extent  
6 practicable, be coordinated with other audits or examinations  
7 performed by state or federal agencies;

8 2. a. Contract with one (1) or more qualified third parties:

9 i. To collect or process health care claims data; or

10 ii. For any other expertise, service, or function necessary to  
11 carry out the provisions of Sections 1 to 6 of this Act.

12 b. The authority granted under this subparagraph shall include  
13 without limitation designating a qualified third party to  
14 implement, operate, and maintain the Kentucky all-payer claims  
15 database; and

16 3. Share and receive data or other information, including confidential  
17 and proprietary data or information, with and from state agencies,  
18 federal agencies, and all-payer claims databases in other states if:

19 a. The recipient agrees in a written or electronic record to maintain  
20 any confidential or proprietary status afforded to the data or  
21 information; and

22 b. The data or information is shared or received in a manner that  
23 does not violate any applicable laws.

24 (3) If the executive director contracts with a third-party under subsection (2)(c)2. of  
25 this section, the executive director shall monitor and supervise the third party to  
26 ensure that the third party complies with Sections 1 to 6 of this Act.

27 (4) A third party that contracts with the executive director under subsection (2)(c)2.

1 of this section shall not release, publish, or otherwise use any information to  
2 which the third party has access under the contract without express permission in  
3 a written or electronic record from the executive director.

4 (5) A waiver of any applicable privilege or claim of confidentiality in data or  
5 information shall not occur as a result of a disclosure made under this section.

6 (6) (a) With regard to the Kentucky all-payer claims database, the executive  
7 director shall, by September 1 of each year, file a written report with the  
8 Governor and the Legislative Research Commission, for referral to the  
9 appropriate interim joint committees or other appropriate committees, that  
10 details the following:

11 1. The status of any development efforts, including efforts to obtain  
12 funding for the database;

13 2. A detailed summary of database operations for the previous year;

14 3. The financial stability of the database;

15 4. An assessment of:

16 a. The cost, performance, and effectiveness of the database;

17 b. The performance of any third parties designated by the executive  
18 director under subsection (2)(c)2. of this section; and

19 c. Whether the database has advanced the purposes set forth in  
20 Section 1 of this Act; and

21 5. Any recommendations for database changes or improvements,  
22 including statutory changes.

23 (b) In completing the determination required under paragraph (a)4.c. of this  
24 subsection, the executive director shall, to the extent it is available, utilize  
25 economic expertise.

26 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO  
27 READ AS FOLLOWS:

1 (1) There is hereby established the Kentucky All-Payer Claims Database Advisory  
2 Council, whose duties shall be to make recommendations to the executive director  
3 as to the development, implementation, operation, and maintenance of the  
4 database.

5 (2) (a) The council shall consist of the following individual members:

6 1. A member of academia with experience in health care data research;

7 2. A representative from the Kentucky Hospital Association;

8 3. A representative from the Kentucky Medical Association;

9 4. A representative from the Kentucky Pharmacists Association;

10 5. A representative from the Kentucky Dental Association;

11 6. A representative from the Kentucky Primary Care Association;

12 7. A representative from a Medicaid managed care organization or an  
13 organization that represents Medicaid managed care organizations;

14 8. A representative from a health insurer that offers health insurance  
15 coverage in the private market or an organization that represents such  
16 health insurers;

17 9. A representative from an employer that provides self-insured group  
18 health insurance coverage to its employees;

19 10. A representative from a property and casualty insurer or an  
20 organization that represents property and casualty insurers;

21 11. A representative from a workers' compensation insurer, self-insurer,  
22 or self-insured group;

23 12. A person that advocates on behalf of, or promotes the interests of,  
24 health care consumers; and

25 13. A person with expertise or experience in health care data collection or  
26 storage.

27 (b) In addition to the members listed in paragraph (a) of this subsection, the

1 following persons, or their designees, shall serve as ex officio members of  
2 the council:

- 3 1. The commissioner of the Department of Insurance;
- 4 2. The executive director of the Commonwealth Office of Technology;
- 5 3. The commissioner of the Department of Employee Insurance;
- 6 4. The commissioner of the Department for Medicaid Services;
- 7 5. The commissioner of the Department for Public Health; and
- 8 6. The commissioner of the Department for Behavioral Health,  
9 Developmental and Intellectual Disabilities.

10 (c) The council shall include the following nonvoting ex officio members:

- 11 1. The executive director, who shall serve as chair of the council; and
- 12 2. A representative of the Office of Application Technology Services.

13 (d) The members listed in paragraph (a) of this subsection shall:

- 14 1. Be appointed by the Governor; and
- 15 2. Serve a term of three (3) years.

16 (e) 1. The Governor shall fill all vacancies under paragraph (a) of this  
17 subsection within sixty (60) days of the vacancy.

18 2. In the event a representative or person referenced in paragraph (a) of  
19 this subsection is not available or willing to serve, the Governor shall  
20 appoint a person with expertise or experience in the applicable  
21 referenced industry or subject matter.

22 (3) The council's recommendations shall include but not be limited to  
23 recommendations that:

24 (a) Provide specific strategies for measuring and collecting data related to  
25 health care safety, quality, utilization, health outcomes, and cost;

26 (b) Focus on data elements that foster quality improvement and peer group  
27 comparisons;

- 1        (c) Facilitate value-based, cost-effective purchasing of health care services by  
2            public and private purchasers and consumers;
- 3        (d) Result in usable and comparable information that allows public and private  
4            health care purchasers, consumers, and data analysts to identify and  
5            compare health plans, health payers, health care facilities, and health care  
6            providers regarding the provision of safe, cost-effective, and high-quality  
7            health care services;
- 8        (e) Use and build upon existing data collection standards and methods that  
9            establish and maintain the database in a cost-effective and efficient manner,  
10           which includes incorporating and utilizing uniform data collection that  
11           aligns, where possible, with national or federal uniform all-payer claims  
12           database standards;
- 13       (f) Incorporate and utilize claims, eligibility, and other publicly available data  
14           to the extent it is the most cost-effective method of collecting data to  
15           minimize the cost and administrative burden on data sources;
- 16       (g) Address whether publicly available data, in addition to the data submitted by  
17           health payers, should be included to measure or analyze health care quality,  
18           safety, or cost issues, including data on the uninsured;
- 19       (h) Address the use of a master person identification process to enable  
20           matching members across health plans;
- 21       (i) Ensure the integrity, privacy, and security of personal health information  
22           and other proprietary information related to the collection and release of  
23           data, including compliance with all state and federal laws as required under  
24           subsection (2)(b) of Section 4 of this Act;
- 25       (j) Address ongoing oversight of database operations; and
- 26       (k) Address the feasibility and advisability of working with all-payer claims  
27           databases in other states to establish a single application for access to data

1 by authorized users across multiple states.

2 (4) The first meeting of the council shall take place within thirty (30) days of  
3 appointment of all the members listed in subsection (2)(a) of this section.

4 (5) (a) The council shall meet upon the call of the executive director, but not less  
5 than quarterly for the first two (2) years after the date of the first council  
6 meeting. Thereafter, the council shall meet not less than semiannually.

7 (b) A majority of the voting members shall constitute a quorum to do business.

8 (c) Recommendations of the council shall require a:

9 1. Quorum; and

10 2. Majority of the voting members present.

11 (d) A member shall be permitted to participate and vote in council business  
12 through distance communication technology.

13 (6) The council shall be a budgetary unit of the cabinet, which shall:

14 (a) Pay the council's necessary operating expenses; and

15 (b) Furnish all office space, personnel, equipment, supplies, and technical or  
16 administrative services required by the council in the performance of the  
17 functions established in this section.

18 (7) Members of the council listed in subsection (2)(a) of this section shall receive no  
19 compensation for services, but shall receive actual and necessary travel expenses  
20 associated with attending meetings in accordance with state administrative  
21 regulations relating to travel reimbursement.

22 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO  
23 READ AS FOLLOWS:

24 (1) To the extent permitted under federal law, health payers shall submit data  
25 relating to health care claims to the executive director, or a third party designated  
26 by the executive director, beginning not later than the last of the following to  
27 occur:

- 1        (a) Three (3) months after the Kentucky all-payer claims database becomes  
2            fully operational; or
- 3        (b) The date the person begins to do business, operate, or otherwise engage in  
4            activity in Kentucky.
- 5        (2) (a) The executive director shall establish the following by administrative  
6            regulation:
- 7            1. The data elements to be collected, the reporting format, and the  
8            frequency of submissions under subsection (1) of this section;
- 9            2. The data available to data users under subsection (5) of this section,  
10           including:
- 11            a. The manner in which the data will be made available; and  
12            b. The process for accessing, requesting, and making the data  
13            available; and
- 14            3. Data access fees, which shall be deposited into the fund established in  
15            Section 3 of this Act.
- 16        (b) In carrying out the requirements of this subsection, the executive director  
17            may require data users to enter into data service agreements or memoranda  
18            of understanding.
- 19        (3) To the extent permitted under federal law, any health payer not required to  
20            comply with this section under state or federal law may opt to submit data under  
21            this section.
- 22        (4) All state and local government health plans or programs regulated, created, or  
23            authorized under Kentucky law, including any insurers or administrators  
24            offering or administering those plans or programs, shall comply with the data  
25            submission requirements of this section, including without limitation:
- 26            (a) Any plan or program offered or administered under KRS Chapter 205; and  
27            (b) Any governmental plan, as defined in 29 U.S.C. sec. 1002, including any

1                   plan offered to the Public Employee Health Insurance Program for public  
2                   employees under KRS 18A.225 or 18A.2254.

3 (5) Except as otherwise provided in this section, the Kentucky all-payer claims  
4 database shall:

5 (a) Be available to provide data to:

6                   1. Health payers, consumers, employers, health care facilities, health  
7                   care providers, purchasers of health care, and state agencies, in a  
8                   form and manner that ensures the privacy and security of personal  
9                   health information as required by state and federal law, for the  
10                   purpose of allowing continuous review of health care utilization,  
11                   expenditures, quality, and safety; and

12                   2. A state agency or other public or private entity for the purpose of  
13                   supporting the agency's or entity's demonstrated efforts to improve or  
14                   benefit the health care system through research and analysis, subject  
15                   to administrative regulations promulgated by the executive director;  
16                   and

17 (b) Present data in a manner that:

18                   1. Allows for comparisons of:

19                   a. Geographic, demographic, and economic factors; and

20                   b. Institutional size; and

21                   2. Is consumer-friendly.

22 (6) (a) To the extent permitted under federal law, a health payer shall not be  
23 required to obtain any individual's consent or permission in order to submit  
24 the individual's data in accordance with this section.

25 (b) Compliance with the requirements of this section shall not be deemed a  
26 violation of data or consumer privacy laws or any other laws.

27 (7) Except as provided in Section 4 of this Act and subsection (8) of this section, the

1 Kentucky all-payer claims database shall not disclose any data that:

2 (a) Could be used to identify an individual;

3 (b) Is determined by the executive director to be incomplete, preliminary,  
4 substantially in error, or not representative; or

5 (c) Could, due to small sample size or other factors, reveal the identity of an  
6 individual or produce misleading information.

7 (8) (a) The executive director may require health payers to submit or use direct  
8 identifying information about individuals for the purpose of assigning a  
9 unique patient identifier.

10 (b) Upon the assignment of a unique patient identifier, all direct identifying  
11 information about the individual shall be stripped from any data collected,  
12 and not be retained, by the executive director or any third party designated  
13 by the executive director.

14 (9) (a) A person shall not access, request, receive, or use any data or information  
15 disclosed under subsection (5) of this section:

16 1. To obtain or disclose trade secrets;

17 2. To reidentify or attempt to reidentify an individual's data or  
18 information;

19 3. To sell the data or information;

20 4. To distribute the data or information for commercial purposes;

21 5. To take any action in violation of any applicable data privacy or  
22 security laws; or

23 6. For any purpose not identified in subsection (5) of this section.

24 (b) A person shall not access or receive data from the Kentucky all-payer  
25 claims database unless the person agrees in a written or electronic record to  
26 comply with this subsection.

27 (10) All information and data acquired by the executive director or a third party

1 *designated by the executive director under this section shall:*

2 *(a) Be disclosed only to the extent provided in Section 4 of this Act and this*  
3 *section; and*

4 *(b) Not be subject to disclosure under KRS 61.870 to 61.884.*

5 ➔Section 7. KRS 194A.030 is amended to read as follows:

6 The cabinet consists of the following major organizational units, which are hereby  
7 created:

8 (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office  
9 of Legal Services, an Office of Inspector General, an Office of Public Affairs, an  
10 Office of Human Resource Management, an Office of Finance and Budget, an  
11 Office of Legislative and Regulatory Affairs, an Office of Administrative Services,  
12 an Office of Application Technology Services, an Office of Data Analytics, and an  
13 Office of Medical Cannabis as follows:

14 (a) The Office of Legal Services shall provide legal advice and assistance to all  
15 units of the cabinet in any legal action in which it may be involved. The  
16 Office of Legal Services shall employ all attorneys of the cabinet who serve  
17 the cabinet in the capacity of attorney, giving legal advice and opinions  
18 concerning the operation of all programs in the cabinet. The Office of Legal  
19 Services shall be headed by a general counsel who shall be appointed by the  
20 secretary with the approval of the Governor under KRS 12.050 and 12.210.  
21 The general counsel shall be the chief legal advisor to the secretary and shall  
22 be directly responsible to the secretary. The Attorney General, on the request  
23 of the secretary, may designate the general counsel as an assistant attorney  
24 general under the provisions of KRS 15.105;

25 (b) The Office of Inspector General shall be headed by an inspector general who  
26 shall be appointed by the secretary with the approval of the Governor. The  
27 inspector general shall be directly responsible to the secretary. The Office of

- 1 Inspector General shall be responsible for:
- 2 1. The conduct of audits and investigations for detecting the perpetration of  
3 fraud or abuse of any program by any client, or by any vendor of  
4 services with whom the cabinet has contracted; and the conduct of  
5 special investigations requested by the secretary, commissioners, or  
6 office heads of the cabinet into matters related to the cabinet or its  
7 programs;
  - 8 2. Licensing and regulatory functions as the secretary may delegate;
  - 9 3. Review of health facilities participating in transplant programs, as  
10 determined by the secretary, for the purpose of determining any  
11 violations of KRS 311.1911 to 311.1959, 311.1961, and 311.1963;
  - 12 4. The duties, responsibilities, and authority pertaining to the certificate of  
13 need functions and the licensure appeals functions, pursuant to KRS  
14 Chapter 216B;
  - 15 5. The notification and forwarding of any information relevant to possible  
16 criminal violations to the appropriate prosecuting authority;
  - 17 6. The oversight of the operations of the Kentucky Health Information  
18 Exchange; and
  - 19 7. The support and guidance to health care providers related to telehealth  
20 services, including the development of policy, standards, resources, and  
21 education to expand telehealth services across the Commonwealth;
- 22 (c) The Office of Public Affairs shall be headed by an executive director  
23 appointed by the secretary with the approval of the Governor in accordance  
24 with KRS 12.050. The office shall provide information to the public and news  
25 media about the programs, services, and initiatives of the cabinet;
- 26 (d) The Office of Human Resource Management shall be headed by an executive  
27 director appointed by the secretary with the approval of the Governor in

- 1           accordance with KRS 12.050. The office shall coordinate, oversee, and  
2           execute all personnel, training, and management functions of the cabinet. The  
3           office shall focus on the oversight, development, and implementation of  
4           quality improvement services; curriculum development and delivery of  
5           instruction to staff; the administration, management, and oversight of training  
6           operations; health, safety, and compliance training; and equal employment  
7           opportunity compliance functions;
- 8           (e) The Office of Finance and Budget shall be headed by an executive director  
9           appointed by the secretary with the approval of the Governor in accordance  
10          with KRS 12.050. The office shall provide central review and oversight of  
11          budget, contract, and cabinet finances. The office shall provide coordination,  
12          assistance, and support to program departments and independent review and  
13          analysis on behalf of the secretary;
- 14          (f) The Office of Legislative and Regulatory Affairs shall be headed by an  
15          executive director appointed by the secretary with the approval of the  
16          Governor in accordance with KRS 12.050. The office shall provide central  
17          review and oversight of legislation, policy, and administrative regulations.  
18          The office shall provide coordination, assistance, and support to program  
19          departments and independent review and analysis on behalf of the secretary;
- 20          (g) The Office of Administrative Services shall be headed by an executive  
21          director appointed by the secretary with the approval of the Governor in  
22          accordance with KRS 12.050. The office shall provide central review and  
23          oversight of procurement, general accounting including grant monitoring, and  
24          facility management. The office shall provide coordination, assistance, and  
25          support to program departments and independent review and analysis on  
26          behalf of the secretary;
- 27          (h) The Office of Application Technology Services shall be headed by an

1 executive director appointed by the secretary with the approval of the  
2 Governor in accordance with KRS 12.050. The office shall provide  
3 application technology services including central review and oversight. The  
4 office shall provide coordination, assistance, and support to program  
5 departments and independent review and analysis on behalf of the secretary;

6 (i) The Office of Data Analytics shall be headed by an executive director who  
7 shall be appointed by the secretary with the approval of the Governor under  
8 KRS 12.050, and shall:

9 1. Identify and innovate strategic initiatives to inform public policy  
10 initiatives and provide opportunities for improved health outcomes for  
11 all Kentuckians through data analytics; ~~the office shall~~

12 2. Provide leadership in the redesign of the health care delivery system  
13 using electronic information technology to improve patient care and  
14 reduce medical errors and duplicative services; and

15 3. *Develop, implement, operate, and maintain the Kentucky all-payer*  
16 *claims database in accordance with Sections 1 to 6 of this Act; and*

17 (j) The Office of Medical Cannabis shall be headed by an executive director  
18 appointed by the Governor in accordance with KRS 12.040 and shall  
19 implement, operate, oversee, and regulate the medicinal cannabis program.  
20 The office shall be composed of the Division of Enforcement and Compliance  
21 and the Division of Licensure and Access. Each division in the office shall be  
22 headed by a director appointed by the secretary with the approval of the  
23 Governor in accordance with KRS 12.050.

24 (2) Department for Medicaid Services. The Department for Medicaid Services shall  
25 serve as the single state agency in the Commonwealth to administer Title XIX of  
26 the Federal Social Security Act. The Department for Medicaid Services shall be  
27 headed by a commissioner for Medicaid services, who shall be appointed by the

1 secretary with the approval of the Governor under KRS 12.050. The commissioner  
2 for Medicaid services shall be a person who by experience and training in  
3 administration and management is qualified to perform the duties of this office. The  
4 commissioner for Medicaid services shall exercise authority over the Department  
5 for Medicaid Services under the direction of the secretary and shall only fulfill  
6 those responsibilities as delegated by the secretary;

7 (3) Department for Public Health. The Department for Public Health shall develop and  
8 operate all programs of the cabinet that provide health services and all programs for  
9 assessing the health status of the population for the promotion of health and the  
10 prevention of disease, injury, disability, and premature death. This shall include but  
11 not be limited to oversight of the Division of Women's Health and the Office for  
12 Children with Special Health Care Needs. The duties, responsibilities, and authority  
13 set out in KRS 200.460 to 200.490 shall be performed by the Department for Public  
14 Health. The Department for Public Health shall advocate for the rights of children  
15 with disabilities and, to the extent that funds are available, shall ensure the  
16 administration of services for children with disabilities as are deemed appropriate  
17 by this office pursuant to Title V of the Social Security Act. The Department for  
18 Public Health may promulgate administrative regulations under KRS Chapter 13A  
19 as may be necessary to implement and administer its responsibilities. The Office for  
20 Children with Special Health Care Needs may be headed by an executive director  
21 appointed by the secretary with the approval of the Governor in accordance with  
22 KRS 12.050. The Department for Public Health shall be headed by a commissioner  
23 for public health who shall be appointed by the secretary with the approval of the  
24 Governor under KRS 12.050. The commissioner for public health shall be a duly  
25 licensed physician who by experience and training in administration and  
26 management is qualified to perform the duties of this office. The commissioner  
27 shall advise the head of each major organizational unit enumerated in this section

1 on policies, plans, and programs relating to all matters of public health, including  
2 any actions necessary to safeguard the health of the citizens of the Commonwealth.  
3 The commissioner shall serve as chief medical officer of the Commonwealth. The  
4 commissioner for public health shall exercise authority over the Department for  
5 Public Health under the direction of the secretary and shall only fulfill those  
6 responsibilities as delegated by the secretary;

7 (4) Department for Behavioral Health, Developmental and Intellectual Disabilities. The  
8 Department for Behavioral Health, Developmental and Intellectual Disabilities shall  
9 develop and administer programs for the prevention of mental illness, intellectual  
10 disabilities, brain injury, developmental disabilities, and substance use disorders  
11 and shall develop and administer an array of services and support for the treatment,  
12 habilitation, and rehabilitation of persons who have a mental illness or emotional  
13 disability, or who have an intellectual disability, brain injury, developmental  
14 disability, or a substance use disorder. The Department for Behavioral Health,  
15 Developmental and Intellectual Disabilities shall be headed by a commissioner for  
16 behavioral health, developmental and intellectual disabilities who shall be  
17 appointed by the secretary with the approval of the Governor under KRS 12.050.  
18 The commissioner for behavioral health, developmental and intellectual disabilities  
19 shall be by training and experience in administration and management qualified to  
20 perform the duties of the office. The commissioner for behavioral health,  
21 developmental and intellectual disabilities shall exercise authority over the  
22 department under the direction of the secretary, and shall only fulfill those  
23 responsibilities as delegated by the secretary;

24 (5) Department for Family Resource Centers and Volunteer Services. The Department  
25 for Family Resource Centers and Volunteer Services shall streamline the various  
26 responsibilities associated with the human services programs for which the cabinet  
27 is responsible. This shall include, but not be limited to, oversight of the Division of

1 Family Resource and Youth Services Centers and Serve Kentucky. The Department  
2 for Family Resource Centers and Volunteer Services shall be headed by a  
3 commissioner who shall be appointed by the secretary with the approval of the  
4 Governor under KRS 12.050. The commissioner for family resource centers and  
5 volunteer services shall be by training and experience in administration and  
6 management qualified to perform the duties of the office, shall exercise authority  
7 over the department under the direction of the secretary, and shall only fulfill those  
8 responsibilities as delegated by the secretary;

9 (6) Department for Community Based Services. The Department for Community Based  
10 Services shall administer and be responsible for child and adult protection,  
11 guardianship services, violence prevention resources, foster care and adoption,  
12 permanency, and services to enhance family self-sufficiency, including child care,  
13 social services, public assistance, and family support. The department shall be  
14 headed by a commissioner appointed by the secretary with the approval of the  
15 Governor in accordance with KRS 12.050; and

16 (7) Department for Aging and Independent Living. The Department for Aging and  
17 Independent Living shall serve as the state unit as designated by the Administration  
18 on Aging Services under the Older Americans Act and shall have responsibility for  
19 administration of the federal community support services, in-home services, meals,  
20 family and caregiver support services, elder rights and legal assistance, senior  
21 community services employment program, the state health insurance assistance  
22 program, state home and community based services including home care,  
23 Alzheimer's respite services and the personal care attendant program, certifications  
24 of assisted living facilities, and the state Council on Alzheimer's Disease and other  
25 related disorders. The department shall also administer the Long-Term Care  
26 Ombudsman Program and the Medicaid Home and Community Based Waivers  
27 Participant Directed Services Option (PDS) Program. The department shall serve as

1 the information and assistance center for aging and disability services and  
2 administer multiple federal grants and other state initiatives. The department shall  
3 be headed by a commissioner appointed by the secretary with the approval of the  
4 Governor in accordance with KRS 12.050.

5 ➔Section 8. KRS 194A.101 is amended to read as follows:

6 (1) The Office of Data Analytics is hereby created in the Office of the Secretary. The  
7 office shall:

8 (a) Provide oversight and strategic direction ~~for,~~ and be responsible for ~~the~~  
9 coordinating ~~of,~~ the data analysis initiatives ~~of[for]~~ the various departments  
10 that regulate health care and social services to ensure that policy is consistent  
11 with the long-term goals across the Commonwealth; and

12 (b) *Develop, implement, operate, and maintain the Kentucky all-payer claims*  
13 *database in accordance with Sections 1 to 6 of this Act.*

14 (2) The office shall have the authority to review all data requests received by the  
15 cabinet from the public, review the requests for content to determine the cabinet's  
16 response, and approve the release of the requested information. The office shall  
17 review data analyses conducted by the departments within the cabinet to ensure the  
18 consistency, quality, and validity of the analysis prior to its use in operational and  
19 policy decisions. The office shall facilitate the process of data integration by  
20 initiating and maintaining data-sharing agreements in order to improve inter-agency  
21 and cross-cabinet collaboration.

22 (3) The Office of Data Analytics shall promulgate administrative regulations in  
23 accordance with KRS Chapter 13A to implement this section.

24 ➔Section 9. KRS 304.2-100 is amended to read as follows:

25 (1) The commissioner shall personally supervise the operations of the department.

26 (2) The commissioner shall examine and inquire into violations of this code, shall  
27 enforce the provisions of this code with impartiality and shall execute the duties

1 imposed upon him or her by this code.

2 (3) The commissioner shall have the powers and authority expressly conferred upon  
3 him or her by or reasonably implied from the provisions of this code.

4 (4) The commissioner may conduct such examinations and investigations of insurance  
5 matters, in addition to examinations and investigations expressly authorized, as the  
6 commissioner may deem proper upon reasonable and probable cause to determine  
7 whether any person has violated any provisions of this code or to secure  
8 information useful in the lawful administration of any such provision. The cost of  
9 such additional examinations and investigations shall be borne by the state.

10 (5) The commissioner may establish and maintain such branch offices in this state as  
11 may be reasonably required for the efficient administration of this code.

12 (6) The commissioner shall have such additional powers and duties as may be provided  
13 by other laws of this state.

14 (7) The commissioner shall assist the Office of ~~Health~~ Data ~~and~~ Analytics in  
15 carrying out Subtitle 17B of this chapter, ~~and~~ KRS 194A.099, **and Sections 1 to 6**  
16 **of this Act.**

17 ➔SECTION 10. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304  
18 IS CREATED TO READ AS FOLLOWS:

19 **(1) (a) The commissioner shall enforce the reporting requirements for health**  
20 **payers under Section 6 of this Act.**

21 **(b) In carrying out the duties under paragraph (a) of this subsection, the**  
22 **commissioner:**

23 **1. May assess a civil penalty in accordance with this section; and**

24 **2. Shall have the authority, powers, and duties set forth in Subtitle 2 of**  
25 **this chapter for violations of this code, including the requirements for**  
26 **orders, notices, and hearings.**

27 **(2) (a) Subject to paragraphs (b), (c), (d), and (e) of this subsection, the**

1           commissioner shall promulgate an administrative regulation designating a  
2           schedule of penalties, not to exceed one thousand dollars (\$1,000) per day,  
3           for any health payer that fails to comply with the reporting requirements for  
4           that person under Section 6 of this Act.

5           (b) Local government, state, and federal agencies shall not be assessed or  
6           subject to a penalty under this subsection.

7           (c) The commissioner may, by administrative regulation, adjust the maximum  
8           penalty established under paragraph (a) of this subsection every two (2)  
9           years based on the percent change in the nonseasonally adjusted annual  
10           average Consumer Price Index for All Urban Consumers (CPI-U), U.S. City  
11           Average, Medical Care, between the two (2) most recent calendar years  
12           available, as published by the United States Bureau of Labor Statistics.

13           (d) The commissioner shall promulgate an administrative regulation in  
14           accordance with KRS Chapter 13A designating the process for notice,  
15           hearing, and collection of any penalty assessed under paragraph (a) of this  
16           subsection.

17           (e) The commissioner may, upon such terms and conditions that are  
18           determined by the commissioner to be in the public interest, remit or  
19           mitigate any penalty assessed under paragraph (a) of this subsection.

20           (3) Any penalties collected by the department under this section shall be deposited  
21           into the Kentucky all-payer claims database fund established in Section 3 of this  
22           Act.

23           (4) The commissioner may promulgate any additional administrative regulations in  
24           accordance with KRS Chapter 13A necessary to implement or aid in the  
25           effectuation of this section.

26           ➔Section 11. (1) The Governor shall make all initial appointments under  
27           subsection (2)(a) of Section 5 of this Act within 90 days of the effective date of this Act.

1 (2) Notwithstanding subsection (2)(d)2. of Section 5 of this Act, initial  
2 appointments under subsection (2)(a) of Section 5 of this Act shall be staggered so that,  
3 of the initial 13 appointments:

4 (a) Five of the appointments expire four years after the initial appointment;

5 (b) Four of the appointments expire three years after the initial appointment; and

6 (c) Four of the appointments expire two years after the initial appointment.

7 ➔Section 12. If the Cabinet for Health and Family Services or the Department for  
8 Medicaid Services determines that a state plan amendment, waiver, or any other form of  
9 authorization or approval from any federal agency to implement Section 6 of this Act is  
10 necessary to prevent the loss of federal funds or to comply with federal law, the cabinet  
11 or department:

12 (1) Shall, within 90 days after the effective date of this section, request the  
13 necessary federal authorization or approval to implement Section 6 of this Act; and

14 (2) May only delay implementation of the provisions of Section 6 of this Act for  
15 which federal authorization or approval was deemed necessary until the federal  
16 authorization or approval is granted.

17 ➔Section 13. Sections 6 and 12 of this Act constitute the specific authorization  
18 required under KRS 205.5372(1).