

## CHAPTER 86

## ( HB 148 )

AN ACT relating to the assignment of substance abuse or mental health treatment benefits.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Health insurance policy":*

1. *Includes any health insurance policy, certificate, plan, or contract or managed care plan, as defined in KRS 304.17A-500, regardless of whether the policy, certificate, plan, or contract was issued or delivered in this state; and*
2. *Does not include Medicare or Medicaid benefits;*

(b) *"Insurer":*

1. *Means any domestic, foreign, or alien insurer, self-insurer, self-insured plan, or self-insured group; and*
2. *Includes any domestic, foreign, or alien:*
  - a. *Health maintenance organization;*
  - b. *Limited health service organization;*
  - c. *Provider-sponsored integrated health delivery network; and*
  - d. *Nonprofit hospital, medical-surgical, dental, and health service corporation; and*

(c) *"Substance abuse or mental health facility" means a structurally distinct public or private health care establishment, institution, or facility located and licensed in this state that is primarily constituted, staffed, and equipped to deliver substance abuse or mental health treatment services, or both substance abuse and mental health treatment services, to the general public.*

(2) *To the extent permitted under federal law, an insurer or its agent:*

(a) *Shall not prohibit or restrict, except as provided in paragraph (b) of this subsection, an insured under a health insurance policy from making a written assignment of any substance abuse or mental health treatment benefits available under the policy to a substance abuse or mental health facility; and*

(b) *May require a substance abuse or mental health facility that receives a written assignment of benefits from an insured to:*

1. *Provide the following information to the insured prior to performing a health care service associated with the benefits:*
  - a. *A statement informing the insured that the facility, as applicable:*
    - i. *Is an out-of-network provider;*
    - ii. *May charge the insured for services not covered under the health insurance policy; and*
    - iii. *May charge the insured the balance of any bill for services that are covered under the health insurance policy;*
  - b. *A schedule of all applicable charges for the services that the facility may provide to the insured;*
  - c. *Any terms of payment that may apply to the insured; and*

- d. *Whether interest will apply to, and the amount of interest that will be charged against, any payment owed by the insured to the facility;*
  - 2. *Submit claims associated with the benefits within ninety (90) days of the date of service;*
  - 3. *Maintain records of claims associated with the benefits;*
  - 4. *Respond to any inquiry regarding the benefits from an investigative unit established under KRS 304.47-080 or other similar unit; and*
  - 5. *Make a good-faith effort to abide by the standards of care set forth by the following, as applicable:*
    - a. *The American Society of Addiction Medicine;*
    - b. *The American Association for Community Psychiatry's Level of Care Utilization System (LOCUS); or*
    - c. *The American Association for Community Psychiatry's and the American Academy of Child and Adolescent Psychiatry's Child and Adolescent Level of Care/Service Intensity Utilization System (CALOCUS-CASII).*
- (3) *For an assignment of benefits made in accordance with this section:*
- (a) *The assignment shall:*
    - 1. *Be valid as of the effective date contained in the assignment; and*
    - 2. *Remain in effect until the earlier of the following:*
      - a. *The date the insured is discharged from the care of the substance abuse or mental health facility; or*
      - b. *The date the substance abuse or mental health facility receives written notice of the insured's termination of the assignment; and*
  - (b) *Upon notice of the assignment, the insurer shall make payments directly to the substance abuse or mental health facility for all services rendered by the facility to the insured for the duration of the assignment.*
- (4) *This section shall not be construed to:*
- (a) *Provide a coverage or benefit that is not otherwise available under the health insurance policy;*
  - (b) *Prohibit an insurer from enforcing any terms or conditions of the health insurance policy that are not in conflict with this section;*
  - (c) *Relieve an insured from the contractual obligation to pay deductibles, copayments, or coinsurance;*
  - (d) *Permit a substance abuse or mental health facility to waive deductibles, copayments, or coinsurance by the notice of assignment; or*
  - (e) *Violate:*
    - 1. *29 U.S.C. sec. 1185a, as amended; or*
    - 2. *KRS 304.17A-660 to 304.17A-669.*

➔Section 2. KRS 304.14-250 is amended to read as follows:

*Except as provided in Section 1 of this Act:*

- (1) A policy may be assignable or not assignable, as provided by its terms;~~[-]~~
- (2) Subject to its terms relating to assignability, a life or health insurance policy, **regardless of when it was**~~whether heretofore or hereafter~~ issued, under the terms of which the beneficiary may be changed upon the sole request of the insured or owner, may be assigned either by pledge or transfer of title, by an assignment executed by the insured or owner alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer;~~[-]~~
- (3) Any assignment of a policy which is otherwise lawful and of which the insurer has received notice~~[-]~~ shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms

of the assignment, until the insurer has received at its principal office written notice of the termination of the assignment or pledge~~[,]~~ or written notice by or on behalf of some interest in the policy in conflict with the assignment; *and*~~[,]~~

- (4) (a) Any individual insured under a group insurance policy or group annuity contract shall have the right, unless expressly prohibited under the terms of the policy or contract, to assign to any other person his rights and benefits under the policy or contract, including~~[,]~~ but not limited to~~[,]~~ the right to designate the beneficiary or beneficiaries and the rights as to conversion provided for in KRS 304.16-180 to 304.16-200, inclusive.
- (b) While the assignment is in effect, and *regardless of when it was*~~[ whether heretofore or hereafter]~~ made, the insurer shall be entitled to deal with the assignee as the owner of *the*~~[such]~~ rights and benefits in accordance with the terms of the assignment *and*~~[, but]~~ without prejudice to the insurer on account of any lawful action taken or payment made by *the insurer*~~[it]~~ prior to receipt by *the insurer*~~[it]~~ at its principal office *of*~~[or]~~ written notice of the assignment or of the termination thereof.
- (c) This *subsection*~~[section]~~ acknowledges, confirms, and codifies the existing right of assignment of interests under group life insurance policies.

➔Section 3. KRS 304.17-130 is amended to read as follows:

- (1) There shall be a provision as follows:

"Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting payment which may be prescribed herein and effective at the time of payment. If no designation or provision is then effective, any indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to a beneficiary or to the estate. All other indemnities will be payable to the insured."

- (2) *Except as provided in Section 1 of this Act*, the following provisions, or either of them, may be included with the~~[foregoing]~~ provision *required under subsection (1) of this section* at the option of the insurer:

- (a) "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$... (insert an amount which shall not exceed \$5,000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of the payment."; *and*
- (b) "Subject to any written direction of the insured in the application or otherwise, all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of the loss, be paid directly to the hospital or person rendering services,~~[,]~~ but it is not required that the service be rendered by a particular hospital or person."

➔Section 4. KRS 304.18-090 is amended to read as follows:

*Except as provided in Section 1 of this Act:*

- (1) *Subject to*~~[Except as provided in]~~ subsection (2) of this section, all benefits under any blanket health *insurance* policy or contract shall be payable to the person insured, or to *the person's*~~[his]~~ designated beneficiary or beneficiaries, or to *the person's*~~[his]~~ estate, except that if the person insured is a minor or otherwise not competent to give a valid release, *the*~~[such]~~ benefits may be made payable to *the person's*~~[his]~~ parent, guardian, conservator, or other person actually supporting *the minor or person not competent to give a valid release; and*~~[him,]~~
- (2) (a) *A blanket health insurance policy or contract*~~[The policy]~~ may provide that all or a portion of any indemnities provided by *the*~~[any such]~~ policy *or contract* on account of hospital, nursing, medical, or surgical services may, at the option of the insurer and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services,~~[,]~~ but the policy *or contract* may not require that the service be rendered by a particular hospital or person.

- (b) Payment~~[-so]~~ made *directly to a hospital or other person for all or a portion of any indemnities provided by a blanket health insurance policy or contract* shall discharge the obligation of the insurer with respect to the amount of insurance so paid.

➔SECTION 5. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

*Limited health service organizations shall comply with Section 1 of this Act.*

➔Section 6. KRS 18A.225 is amended to read as follows:

- (1) (a) The term "employee" for purposes of this section means:
1. Any person, including an elected public official, who is regularly employed by any department, office, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, County Employees Retirement System, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567; or is eligible to participate in a retirement plan established by an employer who ceases participating in the Kentucky Employees Retirement System pursuant to KRS 61.522 whose employees participated in the health insurance plans administered by the Personnel Cabinet prior to the employer's effective cessation date in the Kentucky Employees Retirement System;
  2. Any certified or classified employee of a local board of education or a public charter school as defined in KRS 160.1590;
  3. Any elected member of a local board of education;
  4. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, County Employees Retirement System, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, or the Kentucky Community and Technical College System's optional retirement plan authorized by KRS 161.567, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and
  5. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program;
- (b) The term "health benefit plan" for the purposes of this section means a health benefit plan as defined in KRS 304.17A-005;
- (c) The term "insurer" for the purposes of this section means an insurer as defined in KRS 304.17A-005; and
- (d) The term "managed care plan" for the purposes of this section means a managed care plan as defined in KRS 304.17A-500.
- (2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more insurers authorized to do business in this state, a group health benefit plan that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration,

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

- (b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions the commissioner of insurance approves, whether or not otherwise permitted by the insurance laws.
  - (c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Except as provided in subsection (20) of this section, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program and as otherwise provided in KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b.
  - (d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.
  - (e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorily required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including but not limited to loss ratios, reserves, and reinsurance agreements.
  - (f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.
  - (g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.
  - (h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.
- (3) The premiums may be paid by the policyholder:
- (a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;

- (b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or
  - (c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.
- (4) If an employee moves his or her place of residence or employment out of the service area of an insurer offering a managed health care plan, under which he or she has elected coverage, into either the service area of another managed health care plan or into an area of the Commonwealth not within a managed health care plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health benefit plan.
  - (5) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.
  - (6) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.
  - (7) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he or she has been determined to be eligible for federal Social Security disability benefits.
  - (8) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.
  - (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or the secretary's designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.
  - (10) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.
  - (11) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.
  - (12) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active

employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.

- (13) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.
- (b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.
- (c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.
- (14) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months pursuant to KRS 304.17A-132.
- (15) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for the diagnosis and treatment of autism spectrum disorders consistent with KRS 304.17A-142.
- (16) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining amino acid-based elemental formula pursuant to KRS 304.17A-258.
- (17) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- (18) If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.
- (20) Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:
  - (a) The regional rating bid scenario shall not include a request for bid on a statewide option;
  - (b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;
  - (c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include but not be restricted to a preferred provider organization (PPO) option;
  - (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance with this subsection to be in the best interests of state employees in a region, the cabinet may award the contract for that region to no more than two (2) carriers; and
  - (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.
- (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees pursuant to this section which provides coverage for services rendered by a physician or osteopath

duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment of coverage to optometrists as allowed for those services rendered by physicians or osteopaths.

- (22) Any fully insured health benefit plan or self-insured plan issued or renewed to public employees pursuant to this section shall comply with:
- (a) KRS 304.12-237;
  - (b) KRS 304.17A-270 and 304.17A-525;
  - (c) KRS 304.17A-600 to 304.17A-633;
  - (d) KRS 205.593;
  - (e) KRS 304.17A-700 to 304.17A-730;
  - (f) KRS 304.14-135;
  - (g) KRS 304.17A-580 and 304.17A-641;
  - (h) KRS 304.99-123;
  - (i) KRS 304.17A-138;
  - (j) KRS 304.17A-148;
  - (k) KRS 304.17A-163 and 304.17A-1631; ~~and~~
  - (l) ***Section 1 of this Act; and***
  - (m) Administrative regulations promulgated pursuant to statutes listed in this subsection.

➔Section 7. KRS 164.2871 is amended to read as follows:

- (1) The governing board of each state postsecondary educational institution is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of such institution.
- (2) All retirement annuity allowances accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.
- (3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.
- (4) The governing board of each state postsecondary education institution is authorized to provide a self-insured employer group health plan to its employees, which plan shall:
  - (a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and
  - (b) Except as provided in subsection (5) of this section, be exempt from conformity with Subtitle 17A of KRS Chapter 304.
- (5) A self-insured employer group health plan provided by the governing board of a state postsecondary education institution to its employees shall comply with:
  - (a) KRS 304.17A-163 and 304.17A-1631; ***and***
  - (b) ***Section 1 of this Act.***

➔Section 8. This Act shall apply to:

- (1) Health insurance policies in effect on or after the effective date of this Act; and



- (2) Health insurance policies issued, delivered, or renewed on or after the effective date of this Act.

**Signed by Governor March 24, 2023.**