

1 AN ACT relating to health care services agencies.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO
4 READ AS FOLLOWS:

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

6 *(1) "Assisted-living community" has the same meaning as in KRS 194A.700;*

7 *(2) "Cabinet" means the Cabinet for Health and Family Services;*

8 *(3) "Controlling person" means:*

9 *(a) A corporation, partnership, or other business entity, or an officer, program*
10 *administrator or director thereof, whose responsibilities include the*
11 *direction of the management or policies of a health care services agency; or*

12 *(b) An individual who, directly or indirectly, beneficially owns an interest in a*
13 *corporation, partnership, or other business entity that is a health care*
14 *services agency;*

15 *(4) "Direct care service" means a service provided to a resident in an assisted-living*
16 *community, a resident in a long-term care facility, or a patient in a hospital, by*
17 *direct care staff;*

18 *(5) "Direct care staff" means an individual who contracts with or is employed by a*
19 *health care services agency to provide direct care services to residents in assisted-*
20 *living communities, residents in long-term care facilities, or patients in hospitals;*

21 *(6) "Health care services agency" means any person, firm, corporation, partnership,*
22 *or other business entity engaged in the business of referring direct care staff to*
23 *render temporary direct care services to an assisted-living community, a long-*
24 *term care facility, or a hospital but does not include a health care services agency*
25 *operated by an assisted-living community, a long-term care facility, a hospital, or*
26 *any affiliates thereof, solely for the purpose of procuring, furnishing, or referring*
27 *temporary or permanent direct care staff for employment at that assisted-living*

1 community, long-term care facility, hospital, or any affiliates thereof;

2 (7) "Hospital" means a facility licensed pursuant to KRS Chapter 216B as an acute-
3 care hospital, psychiatric hospital, rehabilitation hospital, or chemical
4 dependency treatment facility; and

5 (8) "Long-term care facilities" has the same meaning as in KRS 216.510.

6 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO
7 READ AS FOLLOWS:

8 (1) No health care services agency shall be operated, maintained, or advertised
9 without registering with the Cabinet for Health and Family Services. Each
10 separate location of a health care services agency shall register and obtain a
11 separate registration.

12 (2) The cabinet shall promulgate administrative regulations in accordance with KRS
13 Chapter 13A to establish the application process for health care services agency
14 registration. The application shall include:

15 (a) The names and addresses of any controlling person;

16 (b) The names and addresses of any owner who does not meet the definition of
17 controlling person. If the owner is a corporation, the application shall
18 include copies of its articles of incorporation and current bylaws, and the
19 names and addresses of its officers and directors;

20 (c) Satisfactory proof of compliance with Sections 1 to 6 of this Act;

21 (d) A policy and procedure that describes how the health care services agency's
22 records will be immediately available to the cabinet upon request;

23 (e) Any other relevant information that the cabinet determines is necessary to
24 properly evaluate an application for registration; and

25 (f) A registration fee in the amount of three thousand dollars (\$3,000) per
26 registration.

27 (3) The cabinet shall deny any application for health care services agency

1 registration for failure to provide the information required by this section.

2 (4) A registration issued by the cabinet to a health care services agency shall be
 3 effective for a period of one (1) year from the date of its issuance unless the
 4 registration is revoked for noncompliance with Sections 1 to 6 of this Act. If a
 5 controlling person changes, the health care services agency is sold, or
 6 management is transferred, the registration of the agency shall be voided and the
 7 new controlling person, owner, or manager may apply for a new registration.

8 (5) The cabinet shall not issue or renew a health care services agency registration if
 9 a controlling person's registration has not been renewed or has been revoked due
 10 to noncompliance with requirements in Sections 1 to 6 of this Act for five (5)
 11 years from the date of nonrenewal or revocation.

12 (6) A health care services agency may request a hearing in accordance with KRS
 13 Chapter 13B to appeal a denial of an application for registration, revocation of
 14 registration, or an imposed monetary penalty.

15 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO
 16 READ AS FOLLOWS:

17 (1) A health care services agency shall:

18 (a) Retain documentation that each direct care staff contracted with or
 19 employed by the agency meets the minimum licensing, certification,
 20 training, and continuing education standards for his or her position;

21 (b) Comply with all pertinent requirements relating to the health and other
 22 qualifications of personnel employed in assisted-living communities, long-
 23 term care facilities, or hospitals;

24 (c) Carry all professional and general liability insurance coverage to insure
 25 against loss, damage, or expense incident to a claim arising out of the death
 26 or injury of any person as the result of negligence or malpractice in the
 27 provision of direct care services by the health care services agency or any

- 1 direct care staff;
- 2 (d) Carry an employee dishonesty bond in the amount of ten thousand dollars
- 3 (\$10,000);
- 4 (e) Maintain coverage for workers' compensation for all direct care staff; and
- 5 (f) Retain all records for five (5) calendar years and make all records
- 6 immediately available to the cabinet upon request.
- 7 (2) Failure to comply with subsection (1) of this section shall result in:
- 8 (a) Denial of an application for registration or registration renewal; or
- 9 (b) Revocation of registration and a monetary penalty in the amount of twenty-
- 10 five thousand dollars (\$25,000).
- 11 (3) If the cabinet determines that a health care services agency has knowingly
- 12 provided to an assisted-living community, a long-term care facility, or a hospital
- 13 direct care staff who have illegally or fraudulently obtained or been issued a
- 14 diploma, registration, license, certification, or criminal background check, the
- 15 cabinet shall immediately notify the agency that its registration will be revoked in
- 16 fifteen (15) days.

17 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO

18 READ AS FOLLOWS:

- 19 (1) A health care services agency shall not:
- 20 (a) Restrict in any manner the employment opportunities of any direct care
- 21 staff that is contracted with or employed by the agency including but not
- 22 limited to contract buy-out provisions or contract non-compete clauses;
- 23 (b) Require, in any contract with direct care staff, an assisted-living
- 24 community, a long-term care facility, or a hospital, the payment of
- 25 liquidated damages, employment fees, or other compensation should the
- 26 employee be hired as a permanent employee of the assisted-living
- 27 community, long-term care facility, or hospital except in cases where the

1 damages, fees, or compensation are payable, solely by the assisted-living
 2 community, long-term care facility, or hospital and the contract with the
 3 assisted-living community, long-term care facility, or hospital specifies that
 4 the amount will be reduced pro-rata based on the length of time the direct
 5 care staff performs services for the assisted-living community, long-term
 6 care facility, or hospital while on the payroll of the health care services
 7 agency; or

8 (c) Solicit or recruit the current staff of an assisted-living community, long-
 9 term care facility, or hospital, or require, as a condition of employment,
 10 assignment, or referral, that their employees recruit new employees for the
 11 agency from among the current employees of the assisted-living community,
 12 long-term care facility, or hospital to which the agency employees are
 13 employed, assigned, or referred.

14 (2) Any contract between a health care services agency and direct care staff that does
 15 not comply with subsection (1) of this section shall be considered an unfair trade
 16 practice and be void pursuant to KRS 365.060.

17 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO
 18 READ AS FOLLOWS:

19 The cabinet shall establish a reporting system for complaints relating to a health care
 20 services agency or direct care staff. Complaints may be reported by any member of the
 21 public. The cabinet shall investigate the complaints and report its findings to the
 22 complaining party and the health care services agency.

23 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO
 24 READ AS FOLLOWS:

25 (1) A health care services agency shall submit quarterly reports to the cabinet.

26 (2) The cabinet shall promulgate administrative regulations in accordance with KRS
 27 Chapter 13A to establish requirements for health care services agencies to submit

1 quarterly reports. The quarterly reports shall include but not be limited to the
 2 following:

3 (a) The name, professional licensure or certification, and assigned location for
 4 each direct care staff;

5 (b) The length of time the direct care staff have been assigned to the assisted-
 6 living communities, long-term care facilities, or hospitals and the total
 7 hours worked; and

8 (c) For all long-term care facilities or hospitals that participate in the Medicare
 9 and Medicaid programs, copies of all invoices submitted to the long-term
 10 care community or hospital and proof of payment by the long-term care
 11 community or hospital.

12 (3) A health care services agency shall disclose the following information in
 13 response to a request from the Attorney General during an investigation of an
 14 alleged or suspected violation of Section 7 of this Act by the health care services
 15 agency:

16 (a) The amount charged for each direct care staff;

17 (b) The amount paid to each direct care staff;

18 (c) The amount of payment received that is retained by the health care services
 19 agency; and

20 (d) Any other information that the Attorney General deems relevant to
 21 determine the amount that the assisted-living facility, long-term care
 22 facility, or hospital is charged by the health care services agency.

23 (4) The information provided under subsection (3) of this section shall not be subject
 24 to open records laws pursuant to KRS 61.870 to 61.884.

25 ➔Section 7. KRS 367.374 is amended to read as follows:

26 (1) (a) When a Condition Red has been declared by the United States Department of
 27 Homeland Security under the Homeland Security Advisory System, the

1 *Secretary of the Department of Health and Human Services, under Section*
 2 *319 of the Public Health Service Act, declares a public health emergency,* or
 3 the Governor has declared a state of emergency under KRS 39A.100, the
 4 Governor may implement this section by executive order for a period of
 5 fifteen (15) days from notification of implementation, as required by KRS
 6 367.376. The order implementing this section shall be limited to the
 7 geographical area indicated in the declaration of emergency. The Governor
 8 may terminate or limit the scope of the order at any time.

- 9 (b) No person shall sell, rent, or offer to sell or rent, regardless of whether an
 10 actual sale or rental occurs, a good or service listed in this paragraph or any
 11 repair or reconstruction service for a price which is grossly in excess of the
 12 price prior to the declaration and unrelated to any increased cost to the seller.

13 Goods and services to which this section applies are:

- 14 1. Consumer food items;
- 15 2. Goods or services used for emergency cleanup;
- 16 3. Emergency supplies;
- 17 4. Medical supplies;
- 18 5. Home heating oil;
- 19 6. Building materials;
- 20 7. Housing;
- 21 8. Transportation, freight, and storage services; ~~and~~
- 22 9. Gasoline or other motor fuels; and

23 *10. Direct care staff services provided by a health care services agency as*
 24 *defined in Section 1 of this Act.*

- 25 (c) A person's price does not violate this subsection if it is:
- 26 1. Related to an additional cost imposed by a supplier of a good or other
 27 costs of providing the good or service, including an additional cost for

- 1 labor or materials used to provide a service;
- 2 2. Ten percent (10%) or less above the price prior to the declaration;
- 3 3. Ten percent (10%) or less above the sum of the person's costs and
- 4 normal markup for a good or service;
- 5 4. Generally consistent with fluctuations in applicable commodity,
- 6 regional, national, or international markets, or seasonal fluctuations; or
- 7 5. A contract price, or the result of a price formula, established prior to the
- 8 order implementing this subsection.

9 (d) Whether a price violates this subsection is a question of law. In determining if
10 a violation of this subsection has occurred, the court shall consider all relevant
11 circumstances, including prices prevailing in the locality at that time.

12 (2) The provisions of this section may be extended for up to three (3) additional fifteen
13 (15) day periods by the Governor, if necessary to protect the lives, property, or
14 welfare of the citizens.

15 (3) If a person sold or rented a good or service listed in subsection (1) of this section at
16 a reduced price in the thirty (30) days prior to the Governor's implementation of this
17 section, the price at which that person usually sells or rents the good or service in
18 the area for which the declaration was issued shall be used in determining if the
19 person is in violation of this section.

20 (4) If a person did not sell or rent or offer to sell or rent a good or service listed in
21 subsection (1) of this section prior to the Governor's implementation of this section,
22 the price at which a good or service was generally available in the area for which
23 the declaration was issued shall be used in determining if the person is in violation
24 of this section.

25 (5) Nothing in this section shall be affected by the requirements of KRS 39A.090.

26 ➔Section 8. KRS 45A.690 is amended to read as follows:

27 (1) As used in KRS 45A.690 to 45A.725:

- 1 (a) "Committee" means the Government Contract Review Committee of the
2 Legislative Research Commission;
- 3 (b) "Contracting body" means each state board, bureau, commission, department,
4 division, authority, university, college, officer, or other entity, except the
5 Legislature, authorized by law to contract for personal services. "Contracting
6 body" includes the Tourism Development Finance Authority with regard to
7 tax incentive agreements;
- 8 (c) "Governmental emergency" means an unforeseen event or set of
9 circumstances that creates an emergency condition as determined by the
10 committee by promulgation of an administrative regulation;
- 11 (d) "Memorandum of agreement" means any memorandum of agreement,
12 memorandum of understanding, program administration contract, interlocal
13 agreement to which the Commonwealth is a party, privatization contract, or
14 similar device relating to services between a state agency and any other
15 governmental body or political subdivision of the Commonwealth or entity
16 qualified as nonprofit under 26 U.S.C. sec. 501(c)(3) not authorized under
17 KRS Chapter 65 that involves an exchange of resources or responsibilities to
18 carry out a governmental function. It includes agreements by regional
19 cooperative organizations formed by local boards of education or other public
20 educational institutions for the purpose of providing professional educational
21 services to the participating organizations and agreements with Kentucky
22 Distinguished Educators pursuant to KRS 158.782. This definition does not
23 apply to:
- 24 1. Agreements between the Transportation Cabinet and any political
25 subdivision of the Commonwealth for road and road-related projects;
 - 26 2. Agreements between the Auditor of Public Accounts and any other
27 governmental agency or political subdivision of the Commonwealth for

- 1 auditing services;
- 2 3. Agreements between state agencies as required by federal or state law;
- 3 4. Agreements between state agencies and state universities or colleges
- 4 only when the subject of the agreement does not result in the use of an
- 5 employee or employees of a state university or college by a state agency
- 6 to fill a position or perform a duty that an employee or employees of
- 7 state government could perform if hired, and agreements between state
- 8 universities or colleges and employers of students in the Commonwealth
- 9 work-study program sponsored by the Kentucky Higher Education
- 10 Assistance Authority;
- 11 5. Agreements involving child support collections and enforcement;
- 12 6. Agreements with public utilities, providers of direct Medicaid health
- 13 care to individuals except for any health maintenance organization or
- 14 other entity primarily responsible for administration of any program or
- 15 system of Medicaid managed health care services established by law or
- 16 by agreement with the Cabinet for Health and Family Services, and
- 17 transit authorities;
- 18 7. Nonfinancial agreements;
- 19 8. Any obligation or payment for reimbursement of the cost of corrective
- 20 action made pursuant to KRS 224.60-140;
- 21 9. Exchanges of confidential personal information between agencies;
- 22 10. Agreements between state agencies and rural concentrated employment
- 23 programs; or
- 24 11. Any other agreement that the committee deems inappropriate for
- 25 consideration;
- 26 (e) "Motion picture or entertainment production" means the same as defined in
- 27 KRS 154.61-010;

- 1 (f) "Multicontract" means a group of personal service contracts between a
2 contracting body and individual vendors providing the same or substantially
3 similar services to the contracting body that, for purposes of the committee,
4 are treated as one (1) contract;
- 5 (g) "Nurse aide" means an individual who has successfully completed the nurse
6 aide training and competency evaluation program and may include a nursing
7 student, medication aide, or a person employed through a health care services
8 agency as defined in Section 1 of this Act~~nursing pool~~ who provides
9 nursing or nursing-related services to a resident in a nursing facility,
10 excluding:
- 11 1. An individual who is a licensed health professional;
 - 12 2. A volunteer who provides the nursing or nursing-related services
13 without monetary compensation; or
 - 14 3. A person who is hired by the resident or family to sit with the resident
15 and who does not perform nursing or nursing-related services;
- 16 (h) "Personal service contract" means an agreement whereby an individual, firm,
17 partnership, or corporation is to perform certain services requiring
18 professional skill or professional judgment for a specified period of time at a
19 price agreed upon. It includes all price contracts for personal services between
20 a governmental body or political subdivision of the Commonwealth and any
21 other entity in any amount. This definition does not apply to:
- 22 1. Agreements between the Department of Parks and a performing artist or
23 artists for less than five thousand dollars (\$5,000) per fiscal year per
24 artist or artists;
 - 25 2. Agreements with public utilities, foster care parents, providers of direct
26 Medicaid health care to individuals except for any health maintenance
27 organization or other entity primarily responsible for administration of

- 1 any program or system of Medicaid managed health care services
2 established by law or by agreement with the Cabinet for Health and
3 Family Services, individuals performing homemaker services, and
4 transit authorities;
- 5 3. Agreements between state universities or colleges and employers of
6 students in the Commonwealth work study program sponsored by the
7 Kentucky Higher Education Assistance Authority;
- 8 4. Agreements between a state agency and rural concentrated employment
9 programs;
- 10 5. Agreements between the State Fair Board and judges, officials, and
11 entertainers contracted for events promoted by the State Fair Board;
- 12 6. Agreements between the Department of Public Advocacy and attorneys
13 for the representation of indigent clients who are entitled to
14 representation under KRS Chapter 31 and who, by reason of conflict or
15 otherwise, cannot be represented by the department, subject to quarterly
16 reports of all such agreements to the committee;
- 17 7. Agreements between the Office of Kentucky Veterans' Centers and
18 licensed nurses and nurse aides in order to provide critically needed
19 long-term care to Kentucky veterans who are residents in state veterans'
20 nursing homes pursuant to KRS 40.325; or
- 21 8. Any other contract that the committee deems inappropriate for
22 consideration;
- 23 (i) "Tax incentive agreement" means an agreement executed under KRS 154.61-
24 030; and
- 25 (j) "Tourism Development Finance Authority" means the authority established by
26 KRS 148.850.
- 27 (2) Compliance with the provisions of KRS 45A.690 to 45A.725 does not dispense

1 with the requirements of any other law necessary to make the personal service
2 contract or memorandum of agreement valid.

3 ➔Section 9. KRS 216.785 is amended to read as follows:

4 As used in KRS 216.785 to 216.793, unless the context otherwise requires:

- 5 (1) "Assisted-living community" shall have the same meaning as in KRS 194A.700.
- 6 (2) "Crime" means a conviction of or a plea of guilty to a felony offense related to theft;
7 abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the
8 commission of a sex crime. Conviction of or a plea of guilty to an offense
9 committed outside the Commonwealth of Kentucky is a crime if the offense would
10 have been a felony in Kentucky if committed in Kentucky.
- 11 (3) "Direct care service" has the same meaning as in Section 1 of this Act~~["Direct~~
12 ~~service" means personal or group interaction between the employee and the nursing~~
13 ~~facility resident or the senior citizen].~~
- 14 (4) "Health care services agency" has the same meaning as in Section 1 of this
15 Act~~["Nursing pool" means any person, firm, corporation, partnership, or association~~
16 ~~engaged for hire in the business of providing or procuring temporary employment in~~
17 ~~nursing facilities for medical personnel including, but not limited to, nurses, nursing~~
18 ~~assistants, nurses' aides, and orderlies].~~
- 19 (5) "Senior citizen" means a person sixty (60) years of age or older.

20 ➔Section 10. KRS 216.787 is amended to read as follows:

- 21 (1) No agency providing services to senior citizens which are funded by the Department
22 for Community Based Services of the Cabinet for Health and Family Services or the
23 Department for Aging and Independent Living of the Cabinet for Health and Family
24 Services shall employ persons in a position which involves providing direct care
25 services to a senior citizen if that person has been convicted of a felony offense
26 related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an
27 adult; or the commission of a sex crime.

1 (2) Operators of service provider agencies may employ persons convicted of or
2 pleading guilty to an offense classified as a misdemeanor.

3 (3) Each service provider agency providing direct care services to senior citizens as
4 specified under KRS 216.785 to 216.793 shall request all conviction information
5 from the Justice and Public Safety Cabinet for any applicant for employment prior
6 to employing the applicant.

7 ➔Section 11. KRS 216.789 is amended to read as follows:

8 (1) No long-term care facility as defined by KRS 216.535(1), health care services
9 agency~~[nursing pool]~~ providing staff to a nursing facility, or assisted-living
10 community shall knowingly employ a person in a position which involves providing
11 direct care services to a resident or client if that person has been convicted of a
12 felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or
13 exploitation of an adult; or a sexual crime.

14 (2) A nursing facility, health care services agency~~[nursing pool]~~ providing staff to a
15 nursing facility, or assisted-living community may employ persons convicted of or
16 pleading guilty to an offense classified as a misdemeanor if the crime is not related
17 to abuse, neglect, or exploitation of an adult.

18 (3) Each long-term care facility as defined by KRS 216.535(1), health care services
19 agency~~[nursing pool]~~ providing staff to a nursing facility, or assisted-living
20 community shall request all conviction information from the Justice and Public
21 Safety Cabinet for any applicant for employment pursuant to KRS 216.793.

22 (4) The long-term care facility, health care services agency~~[nursing pool]~~ providing
23 staff to a nursing facility, or assisted-living community may temporarily employ an
24 applicant pending the receipt of the conviction information.

25 ➔Section 12. KRS 216.793 is amended to read as follows:

26 (1) Each application form provided by the employer, or each application form provided
27 by a facility either contracted or operated by the Department for Behavioral Health,

1 Developmental and Intellectual Disabilities of the Cabinet for Health and Family
 2 Services, to the applicant for initial employment in an assisted-living community,
 3 nursing facility, or **health care services agency**~~[nursing pool]~~ providing staff to a
 4 nursing facility, or in a position funded by the Department for Community Based
 5 Services of the Cabinet for Health and Family Services or the Department for Aging
 6 and Independent Living of the Cabinet for Health and Family Services and which
 7 involves providing direct **care** services to senior citizens shall conspicuously state
 8 the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES
 9 A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

10 (2) Any request for criminal records of an applicant as provided under subsection (1) of
 11 this section shall be on a form or through a process approved by the Justice and
 12 Public Safety Cabinet or the Administrative Office of the Courts. The Justice and
 13 Public Safety Cabinet or the Administrative Office of the Courts may charge a fee
 14 to be paid by the applicant or state agency in an amount no greater than the actual
 15 cost of processing the request.

16 ➔Section 13. KRS 216B.020 is amended to read as follows:

17 (1) The provisions of this chapter that relate to the issuance of a certificate of need shall
 18 not apply to abortion facilities as defined in KRS 216B.015; any hospital which
 19 does not charge its patients for hospital services and does not seek or accept
 20 Medicare, Medicaid, or other financial support from the federal government or any
 21 state government; assisted living residences; family care homes; state veterans'
 22 nursing homes; services provided on a contractual basis in a rural primary-care
 23 hospital as provided under KRS 216.380; community mental health centers for
 24 services as defined in KRS Chapter 210; primary care centers; rural health clinics;
 25 private duty nursing services operating as **health care services agencies as defined**
 26 **in Section 1 of this Act**~~[nursing pools]~~; group homes; licensed residential crisis
 27 stabilization units; licensed free-standing residential substance use disorder

1 treatment programs with sixteen (16) or fewer beds, but not including Levels I and
2 II psychiatric residential treatment facilities or licensed psychiatric inpatient beds;
3 outpatient behavioral health treatment, but not including partial hospitalization
4 programs; end stage renal disease dialysis facilities, freestanding or hospital based;
5 swing beds; special clinics, including but not limited to wellness, weight loss,
6 family planning, disability determination, speech and hearing, counseling,
7 pulmonary care, and other clinics which only provide diagnostic services with
8 equipment not exceeding the major medical equipment cost threshold and for which
9 there are no review criteria in the state health plan; nonclinically related
10 expenditures; nursing home beds that shall be exclusively limited to on-campus
11 residents of a certified continuing care retirement community; home health services
12 provided by a continuing care retirement community to its on-campus residents; the
13 relocation of hospital administrative or outpatient services into medical office
14 buildings which are on or contiguous to the premises of the hospital; the relocation
15 of acute care beds which occur among acute care hospitals under common
16 ownership and which are located in the same area development district so long as
17 there is no substantial change in services and the relocation does not result in the
18 establishment of a new service at the receiving hospital for which a certificate of
19 need is required; the redistribution of beds by licensure classification within an
20 acute care hospital so long as the redistribution does not increase the total licensed
21 bed capacity of the hospital; residential hospice facilities established by licensed
22 hospice programs; or the following health services provided on site in an existing
23 health facility when the cost is less than six hundred thousand dollars (\$600,000)
24 and the services are in place by December 30, 1991: psychiatric care where
25 chemical dependency services are provided, level one (1) and level two (2) of
26 neonatal care, cardiac catheterization, and open heart surgery where cardiac
27 catheterization services are in place as of July 15, 1990. The provisions of this

1 section shall not apply to nursing homes, personal care homes, intermediate care
2 facilities, and family care homes; or nonconforming ambulance services as defined
3 by administrative regulation. These listed facilities or services shall be subject to
4 licensure, when applicable.

5 (2) Nothing in this chapter shall be construed to authorize the licensure, supervision,
6 regulation, or control in any manner of:

7 (a) Private offices and clinics of physicians, dentists, and other practitioners of
8 the healing arts, except any physician's office that meets the criteria set forth
9 in KRS 216B.015(5) or that meets the definition of an ambulatory surgical
10 center as set out in KRS 216B.015;

11 (b) Office buildings built by or on behalf of a health facility for the exclusive use
12 of physicians, dentists, and other practitioners of the healing arts; unless the
13 physician's office meets the criteria set forth in KRS 216B.015(5), or unless
14 the physician's office is also an abortion facility as defined in KRS 216B.015,
15 except no capital expenditure or expenses relating to any such building shall
16 be chargeable to or reimbursable as a cost for providing inpatient services
17 offered by a health facility;

18 (c) Outpatient health facilities or health services that:

19 1. Do not provide services or hold patients in the facility after midnight;
20 and

21 2. Are exempt from certificate of need and licensure under subsection (3)
22 of this section;

23 (d) Dispensaries and first-aid stations located within business or industrial
24 establishments maintained solely for the use of employees, if the facility does
25 not contain inpatient or resident beds for patients or employees who generally
26 remain in the facility for more than twenty-four (24) hours;

27 (e) Establishments, such as motels, hotels, and boarding houses, which provide

1 domiciliary and auxiliary commercial services, but do not provide any health
2 related services and boarding houses which are operated by persons
3 contracting with the United States Department of Veterans Affairs for
4 boarding services;

5 (f) The remedial care or treatment of residents or patients in any home or
6 institution conducted only for those who rely solely upon treatment by prayer
7 or spiritual means in accordance with the creed or tenets of any recognized
8 church or religious denomination and recognized by that church or
9 denomination; and

10 (g) On-duty police and fire department personnel assisting in emergency
11 situations by providing first aid or transportation when regular emergency
12 units licensed to provide first aid or transportation are unable to arrive at the
13 scene of an emergency situation within a reasonable time.

14 (3) The following outpatient categories of care shall be exempt from certificate of need
15 and licensure on July 14, 2018:

16 (a) Primary care centers;

17 (b) Special health clinics, unless the clinic provides pain management services
18 and is located off the campus of the hospital that has majority ownership
19 interest;

20 (c) Specialized medical technology services, unless providing a State Health Plan
21 service;

22 (d) Retail-based health clinics and ambulatory care clinics that provide
23 nonemergency, noninvasive treatment of patients;

24 (e) Ambulatory care clinics treating minor illnesses and injuries;

25 (f) Mobile health services, unless providing a service in the State Health Plan;

26 (g) Rehabilitation agencies;

27 (h) Rural health clinics; and

- 1 (i) Off-campus, hospital-acquired physician practices.
- 2 (4) The exemptions established by subsections (2) and (3) of this section shall not apply
3 to the following categories of care:
- 4 (a) An ambulatory surgical center as defined by KRS 216B.015(4);
- 5 (b) A health facility or health service that provides one (1) of the following types
6 of services:
- 7 1. Cardiac catheterization;
- 8 2. Megavoltage radiation therapy;
- 9 3. Adult day health care;
- 10 4. Behavioral health services;
- 11 5. Chronic renal dialysis;
- 12 6. Birthing services; or
- 13 7. Emergency services above the level of treatment for minor illnesses or
14 injuries;
- 15 (c) A pain management facility as defined by KRS 218A.175(1);
- 16 (d) An abortion facility that requires licensure pursuant to KRS 216B.0431; or
- 17 (e) A health facility or health service that requests an expenditure that exceeds the
18 major medical expenditure minimum.
- 19 (5) An existing facility licensed as an intermediate care or nursing home shall notify the
20 cabinet of its intent to change to a nursing facility as defined in Public Law 100-
21 203. A certificate of need shall not be required for conversion of an intermediate
22 care or nursing home to the nursing facility licensure category.
- 23 (6) Ambulance services owned and operated by a city government, which propose to
24 provide services in coterminous cities outside of the ambulance service's designated
25 geographic service area, shall not be required to obtain a certificate of need if the
26 governing body of the city in which the ambulance services are to be provided
27 enters into an agreement with the ambulance service to provide services in the city.

1 (7) Notwithstanding any other provision of law, a continuing care retirement
2 community's nursing home beds shall not be certified as Medicaid eligible unless a
3 certificate of need has been issued authorizing applications for Medicaid
4 certification. The provisions of subsection (5) of this section notwithstanding, a
5 continuing care retirement community shall not change the level of care licensure
6 status of its beds without first obtaining a certificate of need.