

1 AN ACT relating to reproductive privacy.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) Every individual has a fundamental right to choose or refuse contraception or*
6 *sterilization.*

7 *(2) Every individual has a fundamental right to choose or refuse to bear a child or*
8 *obtain an abortion prior to the viability of the fetus, or to protect the life or health*
9 *of the pregnant person.*

10 *(3) The state shall not, in the regulation or provision of benefits, facilities, services,*
11 *or information, deny or interfere with an individual's fundamental rights,*
12 *including individuals under state supervision, custody, or control to:*

13 *(a) Choose or refuse contraception or sterilization; or*

14 *(b) Choose or refuse to bear a child or obtain an abortion.*

15 *(4) The state shall not discriminate in the protection or enforcement of these*
16 *fundamental rights on the basis of sex, disability, race, ethnicity, gender identity,*
17 *age, marital status, national origin, immigration status, religion, or sexual*
18 *orientation.*

19 *(5) Any state or local official who is charged with violating this section shall be*
20 *subject to an action in federal or state court for injunctive relief and damages,*
21 *which may be brought by any person or entity that may be aggrieved by the*
22 *official's actions.*

23 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO
24 READ AS FOLLOWS:

25 *As used in Sections 2 to 7 of this Act:*

26 *(1) "Abortion" means the purposeful termination of a pregnancy;*

27 *(2) "Cabinet" means the Cabinet for Health and Family Services of the*

1 Commonwealth of Kentucky;

2 (3) "Medical emergency" means any condition that in the physician's reasonable
3 medical judgment, based upon facts known to the physician at the time, so
4 complicates the person's pregnancy as to necessitate the immediate performance
5 or inducement of an abortion to prevent the death of the pregnant person or to
6 avoid a serious risk of substantial and irreversible impairment of a major bodily
7 function of the pregnant person that delay in the performance or inducement of
8 the abortion would create;

9 (4) "Physician" means any person licensed to practice medicine or osteopathy in the
10 Commonwealth pursuant to this chapter;

11 (5) "Probable gestational age of the embryo or fetus" means the gestational age that,
12 in the judgment of a physician, is, within reasonable probability, the gestational
13 age of the embryo or fetus at the time that the abortion is planned to be
14 performed;

15 (6) "Reasonable medical judgment" means a medical judgment that would be made
16 by a reasonably prudent physician, knowledgeable about the case and the
17 treatment possibilities with respect to the medical conditions involved;

18 (7) "Unborn child" means a member of the species homo sapiens in utero; and

19 (8) "Viability" means that state of human development when the life of the unborn
20 child may be continued by natural or life-supportive systems outside the womb of
21 the pregnant person.

22 ➔Section 3. KRS 311.780 is repealed, reenacted as a new section of KRS Chapter
23 311, and amended to read as follows:

24 No abortion shall be performed or prescribed knowingly after the unborn child may
25 reasonably be expected to have reached viability, except when necessary to preserve the
26 life or health of the pregnant person~~[woman]~~. In those instances where an abortion is
27 performed under this section, the person performing the abortion shall take all reasonable

1 steps in keeping with reasonable medical practices to preserve the life and health of the
2 child[, including but not limited to KRS 311.760(2)].

3 ➔Section 4. KRS 311.783 is repealed, reenacted as a new section of KRS Chapter
4 311, and amended to read as follows:

5 (1) Except in a medical emergency that prevents compliance with this section, no
6 physician shall intentionally perform or induce or intentionally attempt to perform
7 or induce an abortion on a pregnant person[woman] unless, prior to the
8 performance or inducement of the abortion or the attempt to perform or induce the
9 abortion, the physician determines, in the physician's reasonable medical judgment,
10 the unborn child's probable gestational age. The physician shall make that
11 determination after making inquiries of the pregnant person[woman] and
12 performing any medical examinations or tests of the pregnant person[woman] the
13 physician considers necessary as a reasonably prudent physician, knowledgeable
14 about the case and medical conditions involved, would consider necessary to
15 determine the unborn child's probable gestational age.

16 (2) Except in a medical emergency that prevents compliance with this section, no
17 physician shall intentionally perform or induce or intentionally attempt to perform
18 or induce an abortion on a pregnant person[woman] after the unborn child reaches
19 the probable gestational age of fifteen (15) weeks without first entering the
20 determination made in subsection (1) of this section and the associated findings of
21 the medical examination and tests in the medical record of the pregnant
22 person[woman].

23 (3) The state Board of Medical Licensure shall suspend a physician's license to practice
24 medicine in this state for a period of not less than six (6) months if the physician
25 violates this section.

26 (4) The physician shall submit a report on a form provided by the cabinet that includes
27 at a minimum the information required by KRS 213.101 and:

- 1 (a) The unborn child's probable gestational age determined by the physician; and
2 (b) The results of inquiries of the pregnant person~~[woman]~~ and any medical
3 examinations or tests performed.

4 ➔Section 5. KRS 311.7710 is repealed and reenacted as a new section of KRS
5 Chapter 311 to read as follows:

6 The Cabinet for Health and Family Services shall inspect the medical records from any
7 facility that performs abortions to ensure that the physicians or other persons who
8 perform abortions at that facility are in compliance with the reporting requirements under
9 KRS 213.101. The facility shall make the medical records available for inspection to the
10 Cabinet for Health and Family Services but shall not release any personal medical
11 information in the medical records that is prohibited by law.

12 ➔Section 6. KRS 311.810 is repealed, reenacted as a new section of KRS Chapter
13 311, and amended to read as follows:

14 No person~~[woman]~~ may be denied governmental assistance or be otherwise
15 discriminated against or otherwise subjected to coercion in any way for accepting or
16 refusing to accept or submit to an abortion, which she may do or not do for any reason
17 without explanation.

18 ➔Section 7. KRS 311.820 is repealed and reenacted as a new section of KRS
19 Chapter 311 to read as follows:

20 (1) As used in this section, an abortion referral or counseling agency is any person,
21 group, or organization, whether funded publicly or privately, that provides advice or
22 help to persons in obtaining abortions.

23 (2) No abortion referral or counseling agency shall charge or accept any fee, kickback,
24 or compensation of any nature from a physician, hospital, clinic or other medical
25 facility for referring a person thereto for an abortion.

26 ➔Section 8. KRS 311.990 is amended to read as follows:

27 (1) Any person who violates KRS 311.250 shall be guilty of a violation.

- 1 (2) Any college or professor thereof violating the provisions of KRS 311.300 to
2 311.350 shall be civilly liable on his bond for a sum not less than one hundred
3 dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation,
4 which may be recovered by an action in the name of the Commonwealth.
- 5 (3) Any person who presents to the county clerk for the purpose of registration any
6 license which has been fraudulently obtained, or obtains any license under KRS
7 311.380 to 311.510 by false or fraudulent statement or representation, or practices
8 podiatry under a false or assumed name or falsely impersonates another practitioner
9 or former practitioner of a like or different name, or aids and abets any person in the
10 practice of podiatry within the state without conforming to the requirements of KRS
11 311.380 to 311.510, or otherwise violates or neglects to comply with any of the
12 provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor.
13 Each case of practicing podiatry in violation of the provisions of KRS 311.380 to
14 311.510 shall be considered a separate offense.
- 15 (4) Each violation of KRS 311.560 shall constitute a Class D felony.
- 16 (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under
17 this subsection of a holder of a license or permit shall result automatically in
18 permanent revocation of such license or permit.
- 19 (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or
20 interfering with the board or any of its members, or of any officer, agent, inspector,
21 or investigator of the board or the Cabinet for Health and Family Services, in the
22 administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class
23 A misdemeanor.
- 24 (7) Each violation of KRS 311.375(1) shall, for the first offense, be a Class B
25 misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- 26 (8) Each violation of KRS 311.375(2) shall, for the first offense, be a violation, and, for
27 each subsequent offense, be a Class B misdemeanor.

- 1 (9) Each day of violation of either subsection of KRS 311.375 shall constitute a
2 separate offense.
- 3 (10) ~~{(a) Any person who intentionally or knowingly performs an abortion contrary to
4 the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
5 (b) Any person who intentionally, knowingly, or recklessly violates the
6 requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.~~
- 7 ~~(11) (a) 1. Any physician who performs a partial birth abortion in violation of KRS
8 311.765 shall be guilty of a Class D felony. However, a physician shall
9 not be guilty of the criminal offense if the partial birth abortion was
10 necessary to save the life of the mother whose life was endangered by a
11 physical disorder, illness, or injury.~~
- 12 ~~2. A physician may seek a hearing before the State Board of Medical
13 Licensure on whether the physician's conduct was necessary to save the
14 life of the mother whose life was endangered by a physical disorder,
15 illness, or injury. The board's findings, decided by majority vote of a
16 quorum, shall be admissible at the trial of the physician. The board shall
17 promulgate administrative regulations to carry out the provisions of this
18 subparagraph.~~
- 19 ~~3. Upon a motion of the physician, the court shall delay the beginning of
20 the trial for not more than thirty (30) days to permit the hearing, referred
21 to in subparagraph 2. of this paragraph, to occur.~~
- 22 ~~(b) Any person other than a physician who performs a partial birth abortion shall
23 not be prosecuted under this subsection but shall be prosecuted under
24 provisions of law which prohibit any person other than a physician from
25 performing any abortion.~~
- 26 ~~(c) No penalty shall be assessed against the woman upon whom the partial birth
27 abortion is performed or attempted to be performed.~~

- 1 ~~(12) (a) Except as provided in KRS 311.732(12), any person who intentionally,~~
2 ~~knowingly, or recklessly performs an abortion upon a minor without obtaining~~
3 ~~the required consent pursuant to KRS 311.732 shall be guilty of a Class D~~
4 ~~felony.~~
- 5 ~~(b) Except as provided in paragraph (a) of this subsection, any person who~~
6 ~~intentionally or knowingly fails to conform to any requirement of KRS~~
7 ~~311.732 is guilty of a Class A misdemeanor.~~
- 8 ~~(c) Any person who negligently releases information or documents which are~~
9 ~~confidential under KRS 311.732 is guilty of a Class B misdemeanor.~~
- 10 ~~(13) Any person who performs an abortion upon a married woman either with~~
11 ~~knowledge or in reckless disregard of whether KRS 311.735 applies to her and who~~
12 ~~intentionally, knowingly, or recklessly fails to conform to the requirements of KRS~~
13 ~~311.735 shall be guilty of a Class D felony.~~
- 14 ~~(14) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.~~
- 15 ~~(15) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.~~
- 16 ~~(16) Any person who violates KRS 311.770 shall be guilty of a Class D felony.~~
- 17 ~~(17) Except as provided in KRS 311.787(3), any person who intentionally violates KRS~~
18 ~~311.787 shall be guilty of a Class D felony.~~
- 19 ~~(18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.~~
- 20 ~~(19) Except as provided in KRS 311.782(6), any person who intentionally violates KRS~~
21 ~~311.782 shall be guilty of a Class D felony.~~
- 22 ~~(20) Any person who violates KRS 311.783(1) shall be guilty of a Class B~~
23 ~~misdemeanor.~~
- 24 ~~(21) Any person who violates KRS 311.7705(1) is guilty of a Class D felony.~~
- 25 ~~(22) Any person who violates KRS 311.7706(1) is guilty of a Class D felony.~~
- 26 ~~(23) Except as provided in KRS 311.731(7), any person who violates KRS 311.731(2)~~
27 ~~shall be guilty of a Class D felony.~~

1 ~~(24) Any physician, physician assistant, advanced practice registered nurse, nurse, or~~
2 ~~other healthcare provider who intentionally violates KRS 311.823(2) shall be guilty~~
3 ~~of a Class D felony. As used in this subsection, "healthcare provider" has the same~~
4 ~~meaning as in KRS 311.821.~~

5 ~~(25)~~ Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

6 ~~(11)~~~~(26)~~ Any professional medical association or society, licensed physician, or
7 hospital or hospital medical staff who shall have violated the provisions of KRS
8 311.606 shall be guilty of a Class B misdemeanor.

9 ~~(12)~~~~(27)~~ Any administrator, officer, or employee of a publicly owned hospital or
10 publicly owned health care facility who performs or permits the performance of
11 abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

12 ~~(28)~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.

13 ~~(13)~~~~(29)~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a
14 Class A misdemeanor.

15 ~~(14)~~~~(30)~~ (a) Any person who fails to test organs, skin, or other human tissue which is
16 to be transplanted, or violates the confidentiality provisions required by KRS
17 311.281, shall be guilty of a Class A misdemeanor.

18 (b) Any person who has human immunodeficiency virus infection, who knows he
19 is infected with human immunodeficiency virus, and who has been informed
20 that he may communicate the infection by donating organs, skin, or other
21 human tissue who donates organs, skin, or other human tissue shall be guilty
22 of a Class D felony.

23 ~~(15)~~~~(31)~~ Any person who sells or makes a charge for any transplantable organ shall be
24 guilty of a Class D felony.

25 ~~(16)~~~~(32)~~ Any person who offers remuneration for any transplantable organ for use in
26 transplantation into himself shall be fined not less than five thousand dollars
27 (\$5,000) nor more than fifty thousand dollars (\$50,000).

1 ~~(17)~~~~(33)~~ Any person brokering the sale or transfer of any transplantable organ shall be
2 guilty of a Class C felony.

3 ~~(18)~~~~(34)~~ Any person charging a fee associated with the transplantation of a
4 transplantable organ in excess of the direct and indirect costs of procuring,
5 distributing, or transplanting the transplantable organ shall be fined not less than
6 fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars
7 (\$500,000).

8 ~~(19)~~~~(35)~~ Any hospital performing transplantable organ transplants which knowingly
9 fails to report the possible sale, purchase, or brokering of a transplantable organ
10 shall be fined not less than ten thousand dollars (\$10,000) or more than fifty
11 thousand dollars (\$50,000).

12 ~~(20)~~~~(36)~~ (a) ~~Any physician or qualified technician who violates KRS 311.727 shall~~
13 ~~be fined not more than one hundred thousand dollars (\$100,000) for a first~~
14 ~~offense and not more than two hundred fifty thousand dollars (\$250,000) for~~
15 ~~each subsequent offense.~~

16 (b) ~~In addition to the fine, the court shall report the violation of any physician, in~~
17 ~~writing, to the Kentucky Board of Medical Licensure for such action and~~
18 ~~discipline as the board deems appropriate.~~

19 ~~(37)~~ Any person who violates KRS 311.691 shall be guilty of a Class B misdemeanor
20 for the first offense, and a Class A misdemeanor for a second or subsequent offense.
21 In addition to any other penalty imposed for that violation, the board may, through
22 the Attorney General, petition a Circuit Court to enjoin the person who is violating
23 KRS 311.691 from practicing genetic counseling in violation of the requirements of
24 KRS 311.690 to 311.700.

25 ~~(38) Any person convicted of violating KRS 311.728 shall be guilty of a Class D felony.~~

26 ~~(39) (a) A person who intentionally, knowingly, or recklessly violates KRS 311.7731~~
27 ~~to 311.7739 is guilty of a Class D felony.~~

1 ~~(b) No criminal penalty may be assessed against a pregnant patient upon whom a~~
2 ~~drug-induced abortion is attempted, induced, or performed.]~~

3 ➔Section 9. KRS 18A.225 is amended to read as follows:

4 (1) (a) The term "employee" for purposes of this section means:

- 5 1. Any person, including an elected public official, who is regularly
6 employed by any department, office, board, agency, or branch of state
7 government; or by a public postsecondary educational institution; or by
8 any city, urban-county, charter county, county, or consolidated local
9 government, whose legislative body has opted to participate in the state-
10 sponsored health insurance program pursuant to KRS 79.080; and who
11 is either a contributing member to any one (1) of the retirement systems
12 administered by the state, including but not limited to the Kentucky
13 Retirement Systems, County Employees Retirement System, Kentucky
14 Teachers' Retirement System, the Legislators' Retirement Plan, or the
15 Judicial Retirement Plan; or is receiving a contractual contribution from
16 the state toward a retirement plan; or, in the case of a public
17 postsecondary education institution, is an individual participating in an
18 optional retirement plan authorized by KRS 161.567; or is eligible to
19 participate in a retirement plan established by an employer who ceases
20 participating in the Kentucky Employees Retirement System pursuant to
21 KRS 61.522 whose employees participated in the health insurance plans
22 administered by the Personnel Cabinet prior to the employer's effective
23 cessation date in the Kentucky Employees Retirement System;
- 24 2. Any certified or classified employee of a local board of education or a
25 public charter school as defined in KRS 160.1590;
- 26 3. Any elected member of a local board of education;
- 27 4. Any person who is a present or future recipient of a retirement

- 1 allowance from the Kentucky Retirement Systems, County Employees
2 Retirement System, Kentucky Teachers' Retirement System, the
3 Legislators' Retirement Plan, the Judicial Retirement Plan, or the
4 Kentucky Community and Technical College System's optional
5 retirement plan authorized by KRS 161.567, except that a person who is
6 receiving a retirement allowance and who is age sixty-five (65) or older
7 shall not be included, with the exception of persons covered under KRS
8 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively
9 employed pursuant to subparagraph 1. of this paragraph; and
- 10 5. Any eligible dependents and beneficiaries of participating employees
11 and retirees who are entitled to participate in the state-sponsored health
12 insurance program;
- 13 (b) The term "health benefit plan" for the purposes of this section means a health
14 benefit plan as defined in KRS 304.17A-005;
- 15 (c) The term "insurer" for the purposes of this section means an insurer as defined
16 in KRS 304.17A-005; and
- 17 (d) The term "managed care plan" for the purposes of this section means a
18 managed care plan as defined in KRS 304.17A-500.
- 19 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
20 recommendation of the secretary of the Personnel Cabinet, shall procure, in
21 compliance with ~~the provisions of~~ KRS 45A.080, 45A.085, and 45A.090,
22 from one (1) or more insurers authorized to do business in this state, a group
23 health benefit plan that may include but not be limited to health maintenance
24 organization (HMO), preferred provider organization (PPO), point of service
25 (POS), and exclusive provider organization (EPO) benefit plans
26 encompassing all or any class or classes of employees. With the exception of
27 employers governed by ~~the provisions of~~ KRS Chapters 16, 18A, and 151B,

1 all employers of any class of employees or former employees shall enter into
2 a contract with the Personnel Cabinet prior to including that group in the state
3 health insurance group. The contracts shall include but not be limited to
4 designating the entity responsible for filing any federal forms, adoption of
5 policies required for proper plan administration, acceptance of the contractual
6 provisions with health insurance carriers or third-party administrators, and
7 adoption of the payment and reimbursement methods necessary for efficient
8 administration of the health insurance program. Health insurance coverage
9 provided to state employees under this section shall, at a minimum, contain
10 the same benefits as provided under Kentucky Kare Standard as of January 1,
11 1994, and shall include a mail-order drug option as provided in subsection
12 ~~(12)~~~~(13)~~ of this section. All employees and other persons for whom the
13 health care coverage is provided or made available shall annually be given an
14 option to elect health care coverage through a self-funded plan offered by the
15 Commonwealth or, if a self-funded plan is not available, from a list of
16 coverage options determined by the competitive bid process under ~~the~~
17 ~~provisions of~~ KRS 45A.080, 45A.085, and 45A.090 and made available
18 during annual open enrollment.

19 (b) The policy or policies shall be approved by the commissioner of insurance
20 and may contain the provisions the commissioner of insurance approves,
21 whether or not otherwise permitted by the insurance laws.

22 (c) Any carrier bidding to offer health care coverage to employees shall agree to
23 provide coverage to all members of the state group, including active
24 employees and retirees and their eligible covered dependents and
25 beneficiaries, within the county or counties specified in its bid. Except as
26 provided in subsection ~~(19)~~~~(20)~~ of this section, any carrier bidding to offer
27 health care coverage to employees shall also agree to rate all employees as a

1 single entity, except for those retirees whose former employers insure their
2 active employees outside the state-sponsored health insurance program and as
3 otherwise provided in KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b.

4 (d) Any carrier bidding to offer health care coverage to employees shall agree to
5 provide enrollment, claims, and utilization data to the Commonwealth in a
6 format specified by the Personnel Cabinet with the understanding that the data
7 shall be owned by the Commonwealth; to provide data in an electronic form
8 and within a time frame specified by the Personnel Cabinet; and to be subject
9 to penalties for noncompliance with data reporting requirements as specified
10 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
11 to protect the confidentiality of each individual employee; however,
12 confidentiality assertions shall not relieve a carrier from the requirement of
13 providing stipulated data to the Commonwealth.

14 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
15 for timely analysis of data received from carriers and, to the extent possible,
16 provide in the request-for-proposal specifics relating to data requirements,
17 electronic reporting, and penalties for noncompliance. The Commonwealth
18 shall own the enrollment, claims, and utilization data provided by each carrier
19 and shall develop methods to protect the confidentiality of the individual. The
20 Personnel Cabinet shall include in the October annual report submitted
21 pursuant to ~~the provisions of~~ KRS 18A.226 to the Governor, the General
22 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
23 financial stability of the program, which shall include but not be limited to
24 loss ratios, methods of risk adjustment, measurements of carrier quality of
25 service, prescription coverage and cost management, and statutorily required
26 mandates. If state self-insurance was available as a carrier option, the report
27 also shall provide a detailed financial analysis of the self-insurance fund

- 1 including but not limited to loss ratios, reserves, and reinsurance agreements.
- 2 (f) If any agency participating in the state-sponsored employee health insurance
3 program for its active employees terminates participation and there is a state
4 appropriation for the employer's contribution for active employees' health
5 insurance coverage, then neither the agency nor the employees shall receive
6 the state-funded contribution after termination from the state-sponsored
7 employee health insurance program.
- 8 (g) Any funds in flexible spending accounts that remain after all reimbursements
9 have been processed shall be transferred to the credit of the state-sponsored
10 health insurance plan's appropriation account.
- 11 (h) Each entity participating in the state-sponsored health insurance program shall
12 provide an amount at least equal to the state contribution rate for the employer
13 portion of the health insurance premium. For any participating entity that used
14 the state payroll system, the employer contribution amount shall be equal to
15 but not greater than the state contribution rate.
- 16 (3) The premiums may be paid by the policyholder:
- 17 (a) Wholly from funds contributed by the employee, by payroll deduction or
18 otherwise;
- 19 (b) Wholly from funds contributed by any department, board, agency, public
20 postsecondary education institution, or branch of state, city, urban-county,
21 charter county, county, or consolidated local government; or
- 22 (c) Partly from each, except that any premium due for health care coverage or
23 dental coverage, if any, in excess of the premium amount contributed by any
24 department, board, agency, postsecondary education institution, or branch of
25 state, city, urban-county, charter county, county, or consolidated local
26 government for any other health care coverage shall be paid by the employee.
- 27 (4) If an employee moves his or her place of residence or employment out of the

1 service area of an insurer offering a managed health care plan, under which he or
2 she has elected coverage, into either the service area of another managed health care
3 plan or into an area of the Commonwealth not within a managed health care plan
4 service area, the employee shall be given an option, at the time of the move or
5 transfer, to change his or her coverage to another health benefit plan.

6 (5) No payment of premium by any department, board, agency, public postsecondary
7 educational institution, or branch of state, city, urban-county, charter county,
8 county, or consolidated local government shall constitute compensation to an
9 insured employee for the purposes of any statute fixing or limiting the
10 compensation of such an employee. Any premium or other expense incurred by any
11 department, board, agency, public postsecondary educational institution, or branch
12 of state, city, urban-county, charter county, county, or consolidated local
13 government shall be considered a proper cost of administration.

14 (6) The policy or policies may contain the provisions with respect to the class or classes
15 of employees covered, amounts of insurance or coverage for designated classes or
16 groups of employees, policy options, terms of eligibility, and continuation of
17 insurance or coverage after retirement.

18 (7) Group rates under this section shall be made available to the disabled child of an
19 employee regardless of the child's age if the entire premium for the disabled child's
20 coverage is paid by the state employee. A child shall be considered disabled if he or
21 she has been determined to be eligible for federal Social Security disability benefits.

22 (8) The health care contract or contracts for employees shall be entered into for a
23 period of not less than one (1) year.

24 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
25 State Health Insurance Subscribers to advise the secretary or the secretary's
26 designee regarding the state-sponsored health insurance program for employees.
27 The secretary shall appoint, from a list of names submitted by appointing

1 authorities, members representing school districts from each of the seven (7)
2 Supreme Court districts, members representing state government from each of the
3 seven (7) Supreme Court districts, two (2) members representing retirees under age
4 sixty-five (65), one (1) member representing local health departments, two (2)
5 members representing the Kentucky Teachers' Retirement System, and three (3)
6 members at large. The secretary shall also appoint two (2) members from a list of
7 five (5) names submitted by the Kentucky Education Association, two (2) members
8 from a list of five (5) names submitted by the largest state employee organization of
9 nonschool state employees, two (2) members from a list of five (5) names submitted
10 by the Kentucky Association of Counties, two (2) members from a list of five (5)
11 names submitted by the Kentucky League of Cities, and two (2) members from a
12 list of names consisting of five (5) names submitted by each state employee
13 organization that has two thousand (2,000) or more members on state payroll
14 deduction. The advisory committee shall be appointed in January of each year and
15 shall meet quarterly.

16 (10) ~~Notwithstanding any other provision of law to the contrary, the policy or policies~~
17 ~~provided to employees pursuant to this section shall not provide coverage for~~
18 ~~obtaining or performing an abortion, nor shall any state funds be used for the~~
19 ~~purpose of obtaining or performing an abortion on behalf of employees or their~~
20 ~~dependents.~~

21 ~~(11)~~ Interruption of an established treatment regime with maintenance drugs shall be
22 grounds for an insured to appeal a formulary change through the established appeal
23 procedures approved by the Department of Insurance, if the physician supervising
24 the treatment certifies that the change is not in the best interests of the patient.

25 (11)~~(12)~~ Any employee who is eligible for and elects to participate in the state health
26 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
27 one (1) of the state-sponsored retirement systems shall not be eligible to receive the

1 state health insurance contribution toward health care coverage as a result of any
2 other employment for which there is a public employer contribution. This does not
3 preclude a retiree and an active employee spouse from using both contributions to
4 the extent needed for purchase of one (1) state sponsored health insurance policy
5 for that plan year.

6 ~~(12)~~~~(13)~~ (a) The policies of health insurance coverage procured under subsection (2)
7 of this section shall include a mail-order drug option for maintenance drugs
8 for state employees. Maintenance drugs may be dispensed by mail order in
9 accordance with Kentucky law.

10 (b) A health insurer shall not discriminate against any retail pharmacy located
11 within the geographic coverage area of the health benefit plan and that meets
12 the terms and conditions for participation established by the insurer, including
13 price, dispensing fee, and copay requirements of a mail-order option. The
14 retail pharmacy shall not be required to dispense by mail.

15 (c) The mail-order option shall not permit the dispensing of a controlled
16 substance classified in Schedule II.

17 ~~(13)~~~~(14)~~ The policy or policies provided to state employees or their dependents
18 pursuant to this section shall provide coverage for obtaining a hearing aid and
19 acquiring hearing aid-related services for insured individuals under eighteen (18)
20 years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every
21 thirty-six (36) months pursuant to KRS 304.17A-132.

22 ~~(14)~~~~(15)~~ Any policy provided to state employees or their dependents pursuant to this
23 section shall provide coverage for the diagnosis and treatment of autism spectrum
24 disorders consistent with KRS 304.17A-142.

25 ~~(15)~~~~(16)~~ Any policy provided to state employees or their dependents pursuant to this
26 section shall provide coverage for obtaining amino acid-based elemental formula
27 pursuant to KRS 304.17A-258.

1 ~~(16)~~~~(17)~~ If a state employee's residence and place of employment are in the same
2 county, and if the hospital located within that county does not offer surgical
3 services, intensive care services, obstetrical services, level II neonatal services,
4 diagnostic cardiac catheterization services, and magnetic resonance imaging
5 services, the employee may select a plan available in a contiguous county that does
6 provide those services, and the state contribution for the plan shall be the amount
7 available in the county where the plan selected is located.

8 ~~(17)~~~~(18)~~ If a state employee's residence and place of employment are each located in
9 counties in which the hospitals do not offer surgical services, intensive care
10 services, obstetrical services, level II neonatal services, diagnostic cardiac
11 catheterization services, and magnetic resonance imaging services, the employee
12 may select a plan available in a county contiguous to the county of residence that
13 does provide those services, and the state contribution for the plan shall be the
14 amount available in the county where the plan selected is located.

15 ~~(18)~~~~(19)~~ The Personnel Cabinet is encouraged to study whether it is fair and reasonable
16 and in the best interests of the state group to allow any carrier bidding to offer
17 health care coverage under this section to submit bids that may vary county by
18 county or by larger geographic areas.

19 ~~(19)~~~~(20)~~ Notwithstanding any other provision of this section, the bid for proposals for
20 health insurance coverage for calendar year 2004 shall include a bid scenario that
21 reflects the statewide rating structure provided in calendar year 2003 and a bid
22 scenario that allows for a regional rating structure that allows carriers to submit bids
23 that may vary by region for a given product offering as described in this subsection:

- 24 (a) The regional rating bid scenario shall not include a request for bid on a
25 statewide option;
- 26 (b) The Personnel Cabinet shall divide the state into geographical regions which
27 shall be the same as the partnership regions designated by the Department for

1 Medicaid Services for purposes of the Kentucky Health Care Partnership
2 Program established pursuant to 907 KAR 1:705;

3 (c) The request for proposal shall require a carrier's bid to include every county
4 within the region or regions for which the bid is submitted and include but not
5 be restricted to a preferred provider organization (PPO) option;

6 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
7 carrier all of the counties included in its bid within the region. If the Personnel
8 Cabinet deems the bids submitted in accordance with this subsection to be in
9 the best interests of state employees in a region, the cabinet may award the
10 contract for that region to no more than two (2) carriers; and

11 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
12 other requirements or criteria in the request for proposal.

13 ~~(20)~~~~(21)~~ Any fully insured health benefit plan or self-insured plan issued or renewed
14 on or after July 12, 2006, to public employees pursuant to this section which
15 provides coverage for services rendered by a physician or osteopath duly licensed
16 under KRS Chapter 311 that are within the scope of practice of an optometrist duly
17 licensed under the provisions of KRS Chapter 320 shall provide the same payment
18 of coverage to optometrists as allowed for those services rendered by physicians or
19 osteopaths.

20 ~~(21)~~~~(22)~~ Any fully insured health benefit plan or self-insured plan issued or renewed to
21 public employees pursuant to this section shall comply with:

- 22 (a) KRS 304.12-237;
- 23 (b) KRS 304.17A-270 and 304.17A-525;
- 24 (c) KRS 304.17A-600 to 304.17A-633;
- 25 (d) KRS 205.593;
- 26 (e) KRS 304.17A-700 to 304.17A-730;
- 27 (f) KRS 304.14-135;

- 1 (g) KRS 304.17A-580 and 304.17A-641;
- 2 (h) KRS 304.99-123;
- 3 (i) KRS 304.17A-138;
- 4 (j) KRS 304.17A-148;
- 5 (k) KRS 304.17A-163 and 304.17A-1631; and
- 6 (l) Administrative regulations promulgated pursuant to statutes listed in this
- 7 subsection.

8 ➔Section 10. KRS 39A.180 is amended to read as follows:

- 9 (1) The political subdivisions of the state and other agencies designated or appointed by
- 10 the Governor may make, amend, and rescind orders and promulgate administrative
- 11 regulations necessary for disaster and emergency response purposes, and to
- 12 supplement the carrying out of the provisions of this chapter, if not inconsistent
- 13 with any orders or administrative regulations promulgated by the Governor or by
- 14 any state agency exercising a power delegated to it by the Governor.
- 15 (2) (a) All written orders and administrative regulations promulgated by the
- 16 Governor, the director, or by any political subdivision or other agency
- 17 authorized by KRS Chapters 39A to 39F to make orders and promulgate
- 18 administrative regulations, shall have the full force of law and, if promulgated
- 19 as administrative regulations, shall follow the requirements for promulgating
- 20 administrative regulations under KRS Chapter 13A. All written orders
- 21 authorized by KRS Chapters 39A to 39F shall be filed with the Legislative
- 22 Research Commission.
- 23 (b) The Governor may suspend a statute by executive order when an emergency
- 24 is declared under this chapter if:
- 25 1. The statute is specifically enumerated by the Governor in the executive
- 26 order; and
- 27 2. The executive order specifying the suspension is approved by the

1 Attorney General in writing.

2 (c) A statute suspension authorized in paragraph (b) of this subsection shall only
3 be in effect while the emergency executive order is in effect.

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

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

9 1. Become void; and

10 2. Be withdrawn, amended, or repealed in accordance with KRS Chapter
11 13A.

12 (3) Notwithstanding subsection (2) of this section, the Governor shall not suspend any
13 laws in KRS Chapters 39A to 39F, Chapter 13A, 446.350, or 527.020~~, 311.710 to~~
14 ~~311.820, or any other statutes related to abortion~~.

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

18 ➔Section 11. KRS 156.496 is amended to read as follows:

19 (1) Family resource and youth services centers shall be designed to meet the needs of
20 children and their families by providing services to enhance a student's ability to
21 succeed in school. If resources are limited, students and families who are the most
22 economically disadvantaged shall receive priority status for receiving services.

23 (2) Family resource centers shall be located in or near each elementary school in the
24 Commonwealth in which twenty percent (20%) or more of the student body are
25 eligible for free or reduced-price school meals. Family resource centers shall
26 promote identification and coordination of existing resources and shall include but
27 not be limited to the following core components for each site:

- 1 (a) Full-time preschool child care for children two (2) and three (3) years of age;
- 2 (b) After-school child care for children ages four (4) through twelve (12), with
3 the child care being full-time during the summer and on other days when
4 school is not in session;
- 5 (c) Families in training, which shall consist of an integrated approach to home
6 visits, group meetings, and monitoring child development for new and
7 expectant parents;
- 8 (d) Family literacy services as described in KRS 158.360 or a similar program
9 designed to provide opportunities for parents and children to learn together
10 and promote lifelong learning; and
- 11 (e) Health services or referrals to health services, or both.
- 12 (3) Youth services centers shall be located in or near each school in the
13 Commonwealth, except elementary schools, in which twenty percent (20%) or more
14 of the student body are eligible for free or reduced-price school meals. Youth
15 services centers shall promote identification and coordination of existing resources
16 and shall include but not be limited to the following core components for each site:
- 17 (a) Referrals to health and social services;
- 18 (b) Career exploration and development;
- 19 (c) Summer and part-time job development for high school students;
- 20 (d) Substance abuse education and counseling; and
- 21 (e) Family crisis and mental health counseling.
- 22 (4) A grant program is hereby established to provide financial assistance to eligible
23 school districts to establish or maintain family resource or youth services centers.
24 The Cabinet for Health and Family Services shall award grants pursuant to KRS
25 156.4977. Funding provided to the Cabinet for Health and Family Services for the
26 grant program and agency administrative costs shall include an increase that is
27 equal to or greater than the general fund growth factor provided in agency budget

1 instructions.

2 (5) A family resource or youth services center that receives funding for one (1) year or
3 more shall not be considered ineligible for funding based solely on the percent of
4 the student body eligible for free or reduced-price school meals unless the percent
5 of the student body eligible for free or reduced-price school meals is below twenty
6 percent (20%) for five (5) consecutive years.

7 ~~(6) A school district shall not operate a family resource center or a youth services
8 center that provides abortion counseling or makes referrals to a health care facility
9 for the purpose of seeking an abortion.~~

10 ~~(7)~~ A school district may accept monetary donations for the operation and maintenance
11 of family resource and youth services centers. Any donations given to the school
12 district for the operation and maintenance of family resource and youth services
13 centers shall be used only for the operation and maintenance of family resource and
14 youth services centers, and for no other purpose.

15 ➔Section 12. KRS 205.010 is amended to read as follows:

16 As used in this chapter, unless the context requires otherwise:

17 (1) "Cabinet" means the Cabinet for Health and Family Services;

18 (2) "Secretary" means the secretary for health and family services or his authorized
19 representative;

20 (3) "Public assistance" means money grants, assistance in kind, or services to or for the
21 benefit of needy aged, needy blind, needy permanently and totally disabled persons,
22 needy children, or persons with whom a needy child lives or a family containing a
23 combination of these categories~~, except that the term shall not be construed to
24 permit the granting of financial aid where the purpose of such aid is to obtain an
25 abortion. For purposes of this section and KRS 205.560, "abortion" means an act,
26 procedure, device, or prescription administered or prescribed for a pregnant woman
27 by any person, including the pregnant woman herself, producing premature~~

- 1 ~~expulsion of the fetus. Abortion does not include an induced premature birth~~
2 ~~intended to produce a live viable child];~~
- 3 (4) "Needy child" means a child who has been deprived of parental support by reasons
4 prescribed by regulations within the scope of Title IV of the Social Security Act, its
5 amendments, and federal regulations and who does not have otherwise provided for
6 him a subsistence compatible with decency and health;
- 7 (5) "Parent," in addition to biological or adoptive parent, shall include stepparent;
- 8 (6) "Needy aged" means a person who has attained the age of sixty-five (65) and who
9 is unable to provide for himself ***or herself*** and who does not have otherwise
10 provided for him ***or her*** a subsistence compatible with decency and health;
- 11 (7) "Needy blind" means a person who has no vision or whose vision is so defective as
12 to prevent the performance of ordinary activities for which eyesight is essential and
13 who is unable to provide for himself ***or herself*** and who does not have otherwise
14 provided for him ***or her*** a subsistence compatible with decency and health;
- 15 (8) "Person with whom a needy child lives" means the individual prescribed by
16 regulation, with whom such child is living in a place of residence maintained by
17 such individual by himself, ***herself***, or together with one (1) or more other persons;
- 18 (9) "Needy permanently and totally disabled" means a person eighteen (18) years of
19 age or older and who has a permanent physical or mental impairment, disease, or
20 loss that substantially precludes ~~***the person***~~^[him] from engaging in useful
21 occupations within ~~***the person's***~~^[his] competence and who is unable to provide for
22 himself ***or herself*** and who does not have otherwise provided for him ***or her*** a
23 subsistence compatible with decency and health;
- 24 (10) "Private institution" means any establishment or place other than a public institution
25 operated or maintained by any individual, association, corporation, or other
26 organization which provides a group living arrangement for four (4) or more
27 individuals, who are cared for and maintained in residence for compensation or

1 otherwise;

2 (11) "Public institution" means any establishment or place which is the responsibility of
3 and administered by the state or any political subdivision thereof providing a group
4 living arrangement in which one (1) or more individuals are cared for and
5 maintained in residence;

6 (12) "Public medical institution" means any public institution the primary purpose of
7 which is to furnish hospital care and medical treatment;

8 (13) "Person determined to be potentially responsible" means any person who:

9 (a) Is not aged, blind, disabled, incapacitated, or needed in the home:

10 1. Because of the illness or incapacity of a member of the family; or

11 2. Because of children in the home under the age of six (6); or

12 (b) Volunteers for such determination;

13 ~~(14) [Nothing in this section shall be deemed to deprive a woman of all appropriate
14 medical care necessary to prevent her physical death;~~

15 ~~(15)~~ "Adult day-care center" means any adult care facility which provides part-time care,
16 day or night, but less than twenty-four (24) hours, to at least four (4) adults not
17 related to the operator of the adult care facility by blood, marriage, or adoption.

18 ➔Section 13. KRS 205.510 is amended to read as follows:

19 As used in this chapter as it pertains to medical assistance unless the context clearly
20 requires a different meaning:

21 (1) "Behavioral health professional" means a person authorized to provide mental
22 health or substance use disorder services under the laws of the Commonwealth;

23 (2) "Chiropractor" means a person authorized to practice chiropractic under the laws of
24 the Commonwealth;

25 (3) "Council" means the Advisory Council for Medical Assistance;

26 (4) "Dentist" means a person authorized to practice dentistry under *the* laws of the
27 Commonwealth;

- 1 (5) "Health professional" means a physician, physician assistant, nurse, doctor of
2 chiropractic, behavioral health professional, optometrist, dentist, or allied health
3 professional who is licensed in Kentucky;
- 4 (6) "Medical care" as used in this chapter means essential medical, surgical,
5 chiropractic, dental, optometric, podiatric, telehealth, and nursing services, in the
6 home, office, clinic, or other suitable places, which are provided or prescribed by
7 physicians, optometrists, podiatrists, or dentists licensed to render such services,
8 including drugs and medical supplies, appliances, laboratory, diagnostic and
9 therapeutic services, nursing-home and convalescent care, hospital care as defined
10 in KRS 205.560(1)(a), and such other essential medical services and supplies as
11 may be prescribed by such persons~~;~~ ~~but not including abortions, or induced~~
12 ~~miscarriages or premature births, unless in the opinion of a physician such~~
13 ~~procedures are necessary for the preservation of the life of the woman seeking such~~
14 ~~treatment or except in induced premature birth intended to produce a live viable~~
15 ~~child and such procedure is necessary for the health of the mother or her unborn~~
16 ~~child~~. However, this section does not authorize optometrists to perform any
17 services other than those authorized by KRS Chapter 320;
- 18 (7) "Nurse" means a person authorized to practice professional nursing under the laws
19 of the Commonwealth;
- 20 (8) "Nursing home" means a facility which provides routine medical care in which
21 physicians regularly visit patients, which provide nursing services and procedures
22 employed in caring for the sick which require training, judgment, technical
23 knowledge, and skills beyond that which the untrained person possesses, and which
24 maintains complete records on patient care, and which is licensed pursuant to ~~the~~
25 ~~provisions of~~ KRS 216B.015;
- 26 (9) "Optometrist" means a person authorized to practice optometry under the laws of
27 the Commonwealth;

- 1 (10) "Other persons eligible for medical assistance" may include the categorically needy
2 excluded from monetary payment status by state requirements and classifications of
3 medically needy individuals as permitted by federal laws and regulations and as
4 prescribed by administrative regulation of the secretary for health and family
5 services or his or her designee;
- 6 (11) "Pharmacist" means a person authorized to practice pharmacy under the laws of the
7 Commonwealth;
- 8 (12) "Physician" means a person authorized to practice medicine or osteopathy under the
9 laws of the Commonwealth;
- 10 (13) "Podiatrist" means a person authorized to practice podiatry under the laws of the
11 Commonwealth;
- 12 (14) "Primary-care center" means a facility which provides comprehensive medical care
13 with emphasis on the prevention of disease and the maintenance of the patients'
14 health as opposed to the treatment of disease;
- 15 (15) "Public assistance recipient" means a person who has been certified by the
16 Department for Community Based Services of the Cabinet for Health and Family
17 Services as being eligible for, and a recipient of, public assistance under the
18 provisions of this chapter;
- 19 (16) "Telehealth" means the same as in KRS 211.332;
- 20 (17) "Telehealth consultation" means a medical or health consultation, for purposes of
21 patient diagnosis or treatment, that meets the definition of telehealth in this section;
- 22 (18) "Third party" means an individual, institution, corporation, company, insurance
23 company, personal representative, administrator, executor, trustee, or public or
24 private agency, including, but not limited to, a reparation obligor and the assigned
25 claims bureau under the Motor Vehicle Reparations Act, Subtitle 39 of KRS
26 Chapter 304, who is or may be liable to pay all or part of the medical cost of injury,
27 disease, or disability of an applicant or recipient of medical assistance provided

1 under Title XIX of the Social Security Act, 42 U.S.C. sec. 1396 et seq.; and
2 (19) "Vendor payment" means a payment for medical care which is paid by the Cabinet
3 for Health and Family Services directly to the authorized person or institution
4 which rendered medical care to an eligible recipient.

5 ➔Section 14. KRS 205.560 is amended to read as follows:

6 (1) The scope of medical care for which the Cabinet for Health and Family Services
7 undertakes to pay shall be designated and limited by regulations promulgated by the
8 cabinet, pursuant to the provisions in this section. Within the limitations of any
9 appropriation therefor, the provision of complete upper and lower dentures to
10 recipients of Medical Assistance Program benefits who have their teeth removed by
11 a dentist resulting in the total absence of teeth shall be a mandatory class in the
12 scope of medical care. Payment to a dentist of any Medical Assistance Program
13 benefits for complete upper and lower dentures shall only be provided on the
14 condition of a preauthorized agreement between an authorized representative of the
15 Medical Assistance Program and the dentist prior to the removal of the teeth. The
16 selection of another class or other classes of medical care shall be recommended by
17 the council to the secretary for health and family services after taking into
18 consideration, among other things, the amount of federal and state funds available,
19 the most essential needs of recipients, and the meeting of such need on a basis
20 insuring the greatest amount of medical care as defined in KRS 205.510 consonant
21 with the funds available, including but not limited to the following categories~~;~~
22 ~~except where the aid is for the purpose of obtaining an abortion~~]:

- 23 (a) Hospital care, including drugs, and medical supplies and services during any
24 period of actual hospitalization;
- 25 (b) Nursing-home care, including medical supplies and services, and drugs during
26 confinement therein on prescription of a physician, dentist, or podiatrist;
- 27 (c) Drugs, nursing care, medical supplies, and services during the time when a

1 recipient is not in a hospital but is under treatment and on the prescription of a
2 physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall
3 include products for the treatment of inborn errors of metabolism or genetic,
4 gastrointestinal, and food allergic conditions, consisting of therapeutic food,
5 formulas, supplements, amino acid-based elemental formula, or low-protein
6 modified food products that are medically indicated for therapeutic treatment
7 and are administered under the direction of a physician, and include but are
8 not limited to the following conditions:

- 9 1. Phenylketonuria;
- 10 2. Hyperphenylalaninemia;
- 11 3. Tyrosinemia (types I, II, and III);
- 12 4. Maple syrup urine disease;
- 13 5. A-ketoacid dehydrogenase deficiency;
- 14 6. Isovaleryl-CoA dehydrogenase deficiency;
- 15 7. 3-methylcrotonyl-CoA carboxylase deficiency;
- 16 8. 3-methylglutaconyl-CoA hydratase deficiency;
- 17 9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase
18 deficiency);
- 19 10. B-ketothiolase deficiency;
- 20 11. Homocystinuria;
- 21 12. Glutaric aciduria (types I and II);
- 22 13. Lysinuric protein intolerance;
- 23 14. Non-ketotic hyperglycinemia;
- 24 15. Propionic acidemia;
- 25 16. Gyrate atrophy;
- 26 17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
- 27 18. Carbamoyl phosphate synthetase deficiency;

- 1 19. Ornithine carbamoyl transferase deficiency;
- 2 20. Citrullinemia;
- 3 21. Arginosuccinic aciduria;
- 4 22. Methylmalonic acidemia;
- 5 23. Argininemia;
- 6 24. Food protein allergies;
- 7 25. Food protein-induced enterocolitis syndrome;
- 8 26. Eosinophilic disorders; and
- 9 27. Short bowel syndrome;
- 10 (d) Physician, podiatric, and dental services;
- 11 (e) Optometric services for all age groups shall be limited to prescription
- 12 services, services to frames and lenses, and diagnostic services provided by an
- 13 optometrist, to the extent the optometrist is licensed to perform the services
- 14 and to the extent the services are covered in the ophthalmologist portion of the
- 15 physician's program. Eyeglasses shall be provided only to children under age
- 16 twenty-one (21);
- 17 (f) Drugs on the prescription of a physician used to prevent the rejection of
- 18 transplanted organs if the patient is indigent; and
- 19 (g) Nonprofit neighborhood health organizations or clinics where some or all of
- 20 the medical services are provided by licensed registered nurses or by
- 21 advanced medical students presently enrolled in a medical school accredited
- 22 by the Association of American Medical Colleges and where the students or
- 23 licensed registered nurses are under the direct supervision of a licensed
- 24 physician who rotates his *or her* services in this supervisory capacity between
- 25 two (2) or more of the nonprofit neighborhood health organizations or clinics
- 26 specified in this paragraph.
- 27 (2) Payments for hospital care, nursing-home care, and drugs or other medical,

1 ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount
2 of the payment to the cost of providing the services or supplies. It shall be one (1)
3 of the functions of the council to make recommendations to the Cabinet for Health
4 and Family Services with respect to the bases for payment. In determining the rates
5 of reimbursement for long-term-care facilities participating in the Medical
6 Assistance Program, the Cabinet for Health and Family Services shall, to the extent
7 permitted by federal law, not allow the following items to be considered as a cost to
8 the facility for purposes of reimbursement:

9 (a) Motor vehicles that are not owned by the facility, including motor vehicles
10 that are registered or owned by the facility but used primarily by the owner or
11 family members thereof;

12 (b) The cost of motor vehicles, including vans or trucks, used for facility business
13 shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted
14 annually for inflation according to the increase in the consumer price index-u
15 for the most recent twelve (12) month period, as determined by the United
16 States Department of Labor. Medically equipped motor vehicles, vans, or
17 trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation.
18 Costs exceeding this limit shall not be reimbursable and shall be borne by the
19 facility. Costs for additional motor vehicles, not to exceed a total of three (3)
20 per facility, may be approved by the Cabinet for Health and Family Services if
21 the facility demonstrates that each additional vehicle is necessary for the
22 operation of the facility as required by regulations of the cabinet;

23 (c) Salaries paid to immediate family members of the owner or administrator, or
24 both, of a facility, to the extent that services are not actually performed and
25 are not a necessary function as required by regulation of the cabinet for the
26 operation of the facility. The facility shall keep a record of all work actually
27 performed by family members;

- 1 (d) The cost of contracts, loans, or other payments made by the facility to owners,
2 administrators, or both, unless the payments are for services which would
3 otherwise be necessary to the operation of the facility and the services are
4 required by regulations of the Cabinet for Health and Family Services. Any
5 other payments shall be deemed part of the owner's compensation in
6 accordance with maximum limits established by regulations of the Cabinet for
7 Health and Family Services. Interest paid to the facility for loans made to a
8 third party may be used to offset allowable interest claimed by the facility;
- 9 (e) Private club memberships for owners or administrators, travel expenses for
10 trips outside the state for owners or administrators, and other indirect
11 payments made to the owner, unless the payments are deemed part of the
12 owner's compensation in accordance with maximum limits established by
13 regulations of the Cabinet for Health and Family Services; and
- 14 (f) Payments made to related organizations supplying the facility with goods or
15 services shall be limited to the actual cost of the goods or services to the
16 related organization, unless it can be demonstrated that no relationship
17 between the facility and the supplier exists. A relationship shall be considered
18 to exist when an individual, including brothers, sisters, father, mother, aunts,
19 uncles, and in-laws, possesses a total of five percent (5%) or more of
20 ownership equity in the facility and the supplying business. An exception to
21 the relationship shall exist if fifty-one percent (51%) or more of the supplier's
22 business activity of the type carried on with the facility is transacted with
23 persons and organizations other than the facility and its related organizations.
- 24 (3) No vendor payment shall be made unless the class and type of medical care
25 rendered and the cost basis therefor has first been designated by regulation.
- 26 ~~(4) The rules and regulations of the Cabinet for Health and Family Services shall~~
27 ~~require that a written statement, including the required opinion of a physician, shall~~

1 ~~accompany any claim for reimbursement for induced premature births. This~~
2 ~~statement shall indicate the procedures used in providing the medical services.~~

3 ~~(5)~~ The range of medical care benefit standards provided and the quality and quantity
4 standards and the methods for determining cost formulae for vendor payments
5 within each category of public assistance and other recipients shall be uniform for
6 the entire state, and shall be designated by regulation promulgated within the
7 limitations established by the Social Security Act and federal regulations. It shall
8 not be necessary that the amount of payments for units of services be uniform for
9 the entire state but amounts may vary from county to county and from city to city,
10 as well as among hospitals, based on the prevailing cost of medical care in each
11 locale and other local economic and geographic conditions, except that insofar as
12 allowed by applicable federal law and regulation, the maximum amounts
13 reimbursable for similar services rendered by physicians within the same specialty
14 of medical practice shall not vary according to the physician's place of residence or
15 place of practice, as long as the place of practice is within the boundaries of the
16 state.

17 ~~[(6) Nothing in this section shall be deemed to deprive a woman of all appropriate~~
18 ~~medical care necessary to prevent her physical death.]~~

19 ~~(5)~~~~(7)~~ To the extent permitted by federal law, no medical assistance recipient shall
20 be recertified as qualifying for a level of long-term care below the recipient's
21 current level, unless the recertification includes a physical examination conducted
22 by a physician licensed pursuant to KRS Chapter 311 or by an advanced practice
23 registered nurse licensed pursuant to KRS Chapter 314 and acting under the
24 physician's supervision.

25 ~~(6)~~~~(8)~~ If payments made to community mental health centers, established pursuant to
26 KRS Chapter 210, for services provided to the intellectually disabled exceed the
27 actual cost of providing the service, the balance of the payments shall be used

1 solely for the provision of other services to the intellectually disabled through
2 community mental health centers.

3 ~~(7)~~⁽⁹⁾ No long-term-care facility, as defined in KRS 216.510, providing inpatient
4 care to recipients of medical assistance under Title XIX of the Social Security Act
5 on July 15, 1986, shall deny admission of a person to a bed certified for
6 reimbursement under the provisions of the Medical Assistance Program solely on
7 the basis of the person's paying status as a Medicaid recipient. No person shall be
8 removed or discharged from any facility solely because they became eligible for
9 participation in the Medical Assistance Program, unless the facility can demonstrate
10 the resident or the resident's responsible party was fully notified in writing that the
11 resident was being admitted to a bed not certified for Medicaid reimbursement. No
12 facility may decertify a bed occupied by a Medicaid recipient or may decertify a
13 bed that is occupied by a resident who has made application for medical assistance.

14 ~~(8)~~⁽¹⁰⁾ Family-practice physicians practicing in geographic areas with no more than
15 one (1) primary-care physician per five thousand (5,000) population, as reported by
16 the United States Department of Health and Human Services, shall be reimbursed
17 one hundred twenty-five percent (125%) of the standard reimbursement rate for
18 physician services.

19 ~~(9)~~⁽¹¹⁾ The Cabinet for Health and Family Services shall make payments under the
20 Medical Assistance program for services which are within the lawful scope of
21 practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the
22 Medical Assistance Program pays for the same services provided by a physician.

23 ~~(10)~~⁽¹²⁾ (a) The Medical Assistance Program shall use the appropriate form and
24 guidelines for enrolling those providers applying for participation in the
25 Medical Assistance Program, including those licensed and regulated under
26 KRS Chapters 311, 312, 314, 315, and 320, any facility required to be
27 licensed pursuant to KRS Chapter 216B, and any other health care practitioner

1 or facility as determined by the Department for Medicaid Services through an
2 administrative regulation promulgated under KRS Chapter 13A. A Medicaid
3 managed care organization shall use the forms and guidelines established
4 under KRS 304.17A-545(5) to credential a provider. For any provider who
5 contracts with and is credentialed by a Medicaid managed care organization
6 prior to enrollment, the cabinet shall complete the enrollment process and
7 deny, or approve and issue a Provider Identification Number (PID) within
8 fifteen (15) business days from the time all necessary completed enrollment
9 forms have been submitted and all outstanding accounts receivable have been
10 satisfied.

11 (b) Within forty-five (45) days of receiving a correct and complete provider
12 application, the Department for Medicaid Services shall complete the
13 enrollment process by either denying or approving and issuing a Provider
14 Identification Number (PID) for a behavioral health provider who provides
15 substance use disorder services, unless the department notifies the provider
16 that additional time is needed to render a decision for resolution of an issue or
17 dispute.

18 (c) Within forty-five (45) days of receipt of a correct and complete application for
19 credentialing by a behavioral health provider providing substance use disorder
20 services, a Medicaid managed care organization shall complete its contracting
21 and credentialing process, unless the Medicaid managed care organization
22 notifies the provider that additional time is needed to render a decision. If
23 additional time is needed, the Medicaid managed care organization shall not
24 take any longer than ninety (90) days from receipt of the credentialing
25 application to deny or approve and contract with the provider.

26 (d) A Medicaid managed care organization shall adjudicate any clean claims
27 submitted for a substance use disorder service from an enrolled and

1 credentialed behavioral health provider who provides substance use disorder
2 services in accordance with KRS 304.17A-700 to 304.17A-730.

3 (e) The Department of Insurance may impose a civil penalty of one hundred
4 dollars (\$100) per violation when a Medicaid managed care organization fails
5 to comply with this section. Each day that a Medicaid managed care
6 organization fails to pay a claim may count as a separate violation.

7 ~~(11)~~~~(13)~~ Dentists licensed under KRS Chapter 313 shall be excluded from the
8 requirements of subsection ~~(10)~~~~(12)~~ of this section. The Department for Medicaid
9 Services shall develop a specific form and establish guidelines for assessing the
10 credentials of dentists applying for participation in the Medical Assistance Program.

11 ➔Section 15. KRS 211.027 is amended to read as follows:

12 The Cabinet for Health and Family Services shall promulgate ~~reasonable rules and~~
13 regulations to effectuate the purposes of KRS 213.101 and 213.106 ~~and KRS 311.710 to~~
14 ~~311.810~~, which shall be submitted to the Legislative Research Commission in a manner
15 prescribed in KRS Chapter 13A; **and** the Legislative Research Commission shall refer
16 ~~the said rules and~~ regulations to the Interim Committee on Health and Welfare for the
17 purpose of approval or disapproval.

18 ➔Section 16. KRS 211.603 is amended to read as follows:

19 (1) There is created a trust fund to be known as the rape crisis center trust fund. The
20 fund shall be administered by the Cabinet for Health and Family Services.

21 (2) The trust fund shall be funded with moneys collected through the designation of a
22 taxpayer's refund as provided by KRS 141.447 and any contributions, gifts,
23 donations, or appropriations designated for the trust fund. Moneys in the fund shall
24 be used to support the services listed in KRS 211.600(3). ~~No moneys in the fund~~
25 ~~shall be used to support abortion services or abortion education.~~

26 (3) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the
27 fiscal year shall not lapse but shall be carried forward into the succeeding fiscal

1 year to be used for the purposes set forth in subsection (2) of this section.

2 (4) Any interest earned upon moneys in the rape crisis center trust fund shall become a
3 part of the fund and shall not lapse.

4 (5) Moneys deposited in the fund are appropriated for the purposes set forth in this
5 section and shall not be appropriated or transferred by the General Assembly for
6 any other purposes.

7 ➔Section 17. KRS 212.275 is amended to read as follows:

8 (1) The governing board for each local, district, and independent health department
9 shall have a written policy concerning the distribution of nonscheduled legend
10 drugs at the health department by an advanced practice registered nurse or a
11 registered nurse. In a health department, an advanced practice registered nurse or a
12 registered nurse may distribute nonscheduled legend drugs from a list that has been
13 prepared by the commissioner of the Department for Public Health. Nothing in this
14 section shall be construed to limit advanced practice registered nurses from
15 dispensing nonscheduled drug samples under KRS 314.011. Each prescription drug
16 distributed or dispensed at the health department shall be recorded in the patient
17 record. The director of each health department shall be responsible for keeping
18 track of the inventory of stock medications and accounting for the medications
19 dispensed or distributed.

20 (2) Only a health department board having within its membership a pharmacist holding
21 a valid license issued pursuant to KRS 315.030 shall be authorized to permit
22 advanced practice registered nurses or registered nurses to dispense nonscheduled
23 legend drugs according to the written policy of the board. If a health department is
24 unable to recruit a licensed pharmacist to serve on the board, the board shall
25 document consultation with a pharmacist licensed pursuant to KRS 315.030 in the
26 public health practice of the health department.

27 ~~[(3) No health department shall dispense any medication or device prescribed for the~~

1 ~~purpose of causing an abortion as defined in KRS 311.720(1).]~~

2 ➔Section 18. KRS 213.011 is amended to read as follows:

3 As used in this chapter, unless the context requires otherwise:

- 4 (1) "Abortion" means the purposeful termination~~[interruption]~~ of a pregnancy~~[with~~
5 ~~the intention other than to produce a live born infant or to remove a dead fetus and~~
6 ~~which does not result in a live birth]~~. "Abortion" excludes management of
7 prolonged retention of product of conception following fetal death;
- 8 (2) "Cabinet" means the Cabinet for Health and Family Services;
- 9 (3) "Dead body" means a human body or parts of the human body from the condition
10 of which it reasonably may be concluded that death recently occurred;
- 11 (4) "Fetal death" means death prior to the complete expulsion or extraction from its
12 mother of a product of human conception, irrespective of the duration of pregnancy;
13 the death is indicated by the fact that after such expulsion or extraction the fetus
14 does not breathe or show any other evidence of life such as beating of the heart,
15 pulsation of the umbilical cord, or definite movement of voluntary muscles. This
16 definition shall exclude abortion;
- 17 (5) "File" means the presentation of a vital record provided for in this chapter for
18 registration by the Vital Statistics Branch;
- 19 (6) "Final disposition" means the burial, interment, cremation, removal from the
20 Commonwealth, or other authorized disposition of a dead body or fetus;
- 21 (7) "Institution" means any establishment, public or private, which provides inpatient
22 medical, surgical, or diagnostic care or treatment or nursing, custodial, or
23 domiciliary care, or to which persons are committed by law;
- 24 (8) "Live birth" means the complete expulsion or extraction from its mother of a
25 product of human conception, irrespective of the duration of pregnancy which, after
26 the expulsion or extraction, breathes, or shows any other evidence of life such as
27 beating of the heart, pulsation of the umbilical cord, or definite movement of

- 1 voluntary muscles, whether or not the umbilical cord has been cut or the placenta is
2 attached;
- 3 (9) "Provisional death certificate" means an interim certificate identifying the deceased
4 and authorizing a funeral director, or person acting as such, to take custody of the
5 body and, except for cremation, to make final disposition;
- 6 (10) "Registration" means the acceptance by the Vital Statistics Branch and the
7 incorporation of vital records provided for in this chapter into its official records;
- 8 (11) "System of vital statistics" means the registration, collection, preservation,
9 amendment, and certification of vital records and the collection of other reports
10 required by this chapter;
- 11 (12) "Secretary" means the secretary for health and family services;
- 12 (13) "Sudden infant death syndrome" means the death of an ostensibly healthy child who
13 is two (2) weeks of age or older but less than three (3) years of age, which occurs
14 suddenly and unexpectedly, with no known or apparent cause, and which remains
15 unexplained after the performance of an autopsy;
- 16 (14) "Vital records" means certificates or reports of birth, death, stillbirth, marriage,
17 dissolution of marriage, or annulment, and data related thereto;
- 18 (15) "Vital statistics" means the data derived from certificates and reports of birth, death,
19 stillbirth, abortion, marriage, dissolution of marriage, and related reports;
- 20 (16) "Certificate" means the certificate of birth, death, stillbirth, marriage, dissolution of
21 marriage, or annulment as required by this chapter;
- 22 (17) "Office" means the Office for Children with Special Health Care Needs;
- 23 (18) "Hard of hearing infant" means a child at birth with a significant hearing loss which
24 prevents the acquisition of speech and language through normal channels; and
- 25 (19) "Hearing risk certificate" means the certificate that includes questions which
26 identify newborn babies with a higher risk than normal for hearing loss.
- 27 ➔Section 19. KRS 213.101 is amended to read as follows:

- 1 (1) Each abortion as defined in KRS 213.011 which occurs in the Commonwealth,
2 regardless of the length of gestation, shall be reported to the Vital Statistics Branch
3 by the person in charge of the institution within fifteen (15)~~three (3)~~ days after the
4 end of the month in which the abortion occurred. If the abortion was performed
5 outside an institution, the attending physician shall prepare and file the report
6 within fifteen (15)~~three (3)~~ days after the end of the month in which the abortion
7 occurred.
- 8 (2) The report shall include the patient's:
- 9 (a) Age;
- 10 (b) County of residence;
- 11 (c) Number of previous pregnancies, if known;
- 12 (d) Number of living children, if known; and
- 13 (e) The type of abortion procedure performed~~all the information the physician~~
14 ~~is required to certify in writing or determine under KRS 311.731, 311.732,~~
15 ~~311.7704, 311.7705, 311.7706, 311.7707, 311.7735, 311.7736, 311.774,~~
16 ~~311.782, and 311.783, and at a minimum:~~
- 17 ~~(a) The full name and address of the physician who performed the abortion or~~
18 ~~provided the abortion inducing drug as defined in KRS 311.7731;~~
- 19 ~~(b) The address at which the abortion was performed or the address at which the~~
20 ~~abortion inducing drug was provided by a qualified physician, or the method~~
21 ~~of obtaining the abortion inducing drug if not provided by a qualified~~
22 ~~physician, including mail order, Internet order, or by a telehealth provider in~~
23 ~~which case identifying information for the pharmacy, Web site address, or the~~
24 ~~telemedicine provider shall be included;~~
- 25 ~~(c) The names, serial numbers, National Drug Codes, lot numbers, and expiration~~
26 ~~dates of the specific abortion inducing drugs that were provided to the~~
27 ~~pregnant patient and the dates each were provided;~~

- 1 ~~(d) The full name and address of the referring physician, agency, or service, if~~
2 ~~any;~~
- 3 ~~(e) The pregnant patient's city or town, county, state, country of residence, and~~
4 ~~zip code;~~
- 5 ~~(f) The pregnant patient's age, race, and ethnicity;~~
- 6 ~~(g) The age or approximate age of the father, if known;~~
- 7 ~~(h) The total number and dates of each previous pregnancy, live birth, and~~
8 ~~abortion of the pregnant patient;~~
- 9 ~~(i) The probable gestational and post fertilization ages of the unborn child, the~~
10 ~~methods used to confirm the gestational and post fertilization ages, and the~~
11 ~~date determined;~~
- 12 ~~(j) A list of any pre-existing medical conditions of the pregnant patient that may~~
13 ~~complicate her pregnancy, if any, including hemorrhage, infection, uterine~~
14 ~~perforation, cervical laceration, retained products, or any other condition;~~
- 15 ~~(k) Whether the fetus was delivered alive and the length of time the fetus~~
16 ~~survived;~~
- 17 ~~(l) Whether the fetus was viable and, if viable, the medical reason for~~
18 ~~termination;~~
- 19 ~~(m) Whether a pathological examination of the fetus was performed;~~
- 20 ~~(n) Whether the pregnant patient returned for a follow-up examination, the date~~
21 ~~and results of any such follow-up examination, and what reasonable efforts~~
22 ~~were made by the qualified physician to encourage the patient to reschedule a~~
23 ~~follow-up examination if the appointment was missed;~~
- 24 ~~(o) Whether the woman suffered any complications or adverse events as defined~~
25 ~~in KRS 311.7731 and what specific complications or adverse events occurred,~~
26 ~~and any follow-up treatment provided as required by KRS 311.774;~~
- 27 ~~(p) Whether the pregnant patient was Rh negative and, if so, was provided with~~

1 an Rh negative information fact sheet and treated with the prevailing medical
2 standard of care to prevent harmful fetal or child outcomes or Rh
3 incompatibility in future pregnancies;

4 ~~(q) The amount billed to cover the treatment for specific complications or adverse
5 events, including whether the treatment was billed to Medicaid, private
6 insurance, private pay, or other method. This should include ICD-10 codes
7 reported and charges for any physician, hospital, emergency room,
8 prescription or other drugs, laboratory tests, and any other costs for treatment
9 rendered;~~

10 ~~(r) The reason for the abortion, if known, including abuse, coercion, harassment,
11 or trafficking; and~~

12 ~~(s) Whether the pregnant patient was tested for sexually transmitted diseases
13 when providing the informed consent required in KRS 311.725 and 311.7735
14 twenty four (24) hours before the abortion procedure or tested at the time of
15 the abortion procedure, and if the pregnant patient tested positive, was treated
16 or referred for treatment and follow up care].~~

17 (3) The report shall not contain:

18 (a) The name of the pregnant patient;

19 (b) Common identifiers such as a Social Security number and motor vehicle
20 operator's license number; and

21 (c) Any other information or identifiers that would make it possible to ascertain
22 the patient's identity.

23 ~~(4) [If a person other than the physician described in this subsection makes or
24 maintains a record required by KRS 311.732, 311.7704, 311.7705, 311.7706, or
25 311.7707 on the physician's behalf or at the physician's direction, that person shall
26 comply with the reporting requirement described in this subsection as if the person
27 were the physician.~~

1 ~~(5) Each prescription issued for an abortion-inducing drug as defined in KRS 311.7731~~
2 ~~for which the primary indication is the induction of abortion as defined in KRS~~
3 ~~213.011 shall be reported to the Vital Statistics Branch within three (3) days after~~
4 ~~the end of the month in which the prescription was issued as required by KRS~~
5 ~~311.774, but the report shall not include information which will identify the woman~~
6 ~~involved or anyone who may be picking up the prescription on behalf of the~~
7 ~~woman.~~

8 ~~(6) The name of the person completing the report and the reporting institution shall not~~
9 ~~be subject to disclosure under KRS 61.870 to 61.884.~~

10 ~~(5)~~~~(7)~~ By September 30 of each year, the Vital Statistics Branch shall issue a public
11 report that provides statistics on all data collected, including the type of abortion
12 procedure used, for the previous calendar year compiled from all of the reports
13 covering that calendar year submitted to the cabinet in accordance with this section
14 for each of the items listed in this section.~~[Each annual report shall also provide~~
15 ~~statistics for all previous calendar years in which this section was in effect, adjusted~~
16 ~~to reflect any additional information from late or corrected reports.]~~ The Vital
17 Statistics Branch shall ensure that none of the information included in the report
18 could reasonably lead to the identification of any pregnant woman upon whom an
19 abortion was performed or attempted. Each annual report shall be made available
20 on the cabinet's website~~[Web site]~~.

21 ~~[(8) (a) Any person or institution who fails to submit a report by the end of thirty (30)~~
22 ~~days following the due date set in this section shall be subject to a late fee of~~
23 ~~five hundred dollars (\$500) for each additional thirty (30) day period or~~
24 ~~portion of a thirty (30) day period the report is overdue.~~

25 ~~(b) Any person or institution who fails to submit a report, or who has submitted~~
26 ~~only an incomplete report, more than one (1) year following the due date set~~
27 ~~in this section, may in a civil action brought by the Vital Statistics Branch be~~

1 ~~directed by a court of competent jurisdiction to submit a complete report~~
2 ~~within a time period stated by court order or be subject to contempt of court.~~

3 ~~(e) Failure by any physician to comply with the requirements of this section,~~
4 ~~other than filing a late report, or to submit a complete report in accordance~~
5 ~~with a court order shall subject the physician to KRS 311.595.~~

6 ~~(9) Intentional falsification of any report required under this section is a Class A~~
7 ~~misdemeanor.]~~

8 ~~(6)~~~~[(10)]~~ The Vital Statistics Branch shall promulgate administrative regulations
9 under~~[in accordance with]~~ KRS Chapter 13A to assist in compliance with this
10 section.

11 ~~[(11) (a) The Office of the Inspector General, Cabinet for Health and Family Services,~~
12 ~~shall annually audit the required reporting of abortion related information to~~
13 ~~the Vital Statistics Branch in this section and KRS 213.172, and in so doing,~~
14 ~~shall function as a health oversight agency of the Commonwealth for this~~
15 ~~specific purpose.~~

16 ~~(b) The Office of the Inspector General shall ensure that none of the information~~
17 ~~included in the audit report could reasonably lead to the identification of any~~
18 ~~pregnant woman upon whom an abortion was performed or attempted.~~

19 ~~(c) If any personally identifiable information is viewed or recorded by the Office~~
20 ~~of the Inspector General in conducting an audit authorized by this subsection,~~
21 ~~the information held by the Inspector General shall not be subject to the~~
22 ~~Kentucky Open Records Act, shall be confidential, and shall only be released~~
23 ~~upon court order.~~

24 ~~(d) The Inspector General shall submit a written report to the General Assembly~~
25 ~~and the Attorney General by October 1 of each year. The reports shall include~~
26 ~~findings from:~~

27 1. ~~The audit required in this subsection, including any identified reporting~~

1 deficiencies; and

2 2. ~~All abortion facility inspections, including any violations of KRS~~
3 ~~216B.0431 and 216B.0435.]~~

4 ➔Section 20. KRS 214.185 is amended to read as follows:

- 5 (1) Any physician, upon consultation by a minor as a patient, with the consent of such
6 minor may make a diagnostic examination for venereal disease, pregnancy, or
7 substance use disorder and may advise, prescribe for, and treat such minor
8 regarding venereal disease, substance use disorder, contraception, pregnancy, or
9 childbirth, all without the consent of or notification to the parent, parents, or
10 guardian of such minor patient, or to any other person having custody of such minor
11 patient. Treatment under this section does not include ~~inducing of an abortion or~~
12 performance of a sterilization operation. In any such case, the physician shall incur
13 no civil or criminal liability by reason of having made such diagnostic examination
14 or rendered such treatment, but such immunity shall not apply to any negligent acts
15 or omissions.
- 16 (2) Any physician may provide outpatient mental health counseling to any child age
17 sixteen (16) or older upon request of such child without the consent of a parent,
18 parents, or guardian of such child.
- 19 (3) Any qualified mental health professional, as defined by KRS 202A.011, may
20 provide outpatient mental health counseling to any child who is age sixteen (16) or
21 older and is an unaccompanied youth, as defined by 42 U.S.C. sec. 11434a(6), upon
22 request of such child without the consent of a parent, parents, or guardian of such
23 child.
- 24 (4) Notwithstanding any other provision of the law, and without limiting cases in which
25 consent may be otherwise obtained or is not required, any emancipated minor or
26 any minor who has contracted a lawful marriage or borne a child may give consent
27 to the furnishing of hospital, medical, dental, or surgical care to his or her child or

1 himself or herself and such consent shall not be subject to disaffirmance because of
2 minority. The consent of the parent or parents of such married or emancipated
3 minor shall not be necessary in order to authorize such care. For the purpose of this
4 section only, a subsequent judgment of annulment of marriage or judgment of
5 divorce shall not deprive the minor of his or her adult status once obtained. The
6 provider of care may look only to the minor or spouse for payment for services
7 under this section unless other persons specifically agree to assume the cost.

8 (5) Medical, dental, and other health services may be rendered to minors of any age
9 without the consent of a parent or legal guardian when, in the professional's
10 judgment, the risk to the minor's life or health is of such a nature that treatment
11 should be given without delay and the requirement of consent would result in delay
12 or denial of treatment.

13 (6) The consent of a minor who represents that he or she may give effective consent for
14 the purpose of receiving medical, dental, or other health services but who may not
15 in fact do so, shall be deemed effective without the consent of the minor's parent or
16 legal guardian, if the person rendering the service relied in good faith upon the
17 representations of the minor.

18 (7) The consent of a minor who represents that he or she may give effective consent for
19 the purpose of receiving outpatient mental health counseling from a qualified
20 mental health professional, but who may not in fact do so, shall be deemed effective
21 without the consent of the minor's parent or legal guardian if the person rendering
22 the service relied in good faith upon the representations of the minor after a
23 reasonable attempt to obtain parental consent or to verify the minor's age and status
24 as an unaccompanied youth.

25 (8) The professional may inform the parent or legal guardian of the minor patient of
26 any treatment given or needed where, in the judgment of the professional,
27 informing the parent or guardian would benefit the health of the minor patient.

1 (9) Except as otherwise provided in this section, parents, the Cabinet for Health and
2 Family Services, or any other custodian or guardian of a minor shall not be
3 financially responsible for services rendered under this section unless they are
4 essential for the preservation of the health of the minor.

5 ➔Section 21. KRS 216B.400 is amended to read as follows:

6 (1) Where a person has been determined to be in need of emergency care by any person
7 with admitting authority, no such person shall be denied admission by reason only
8 of his or her inability to pay for services to be rendered by the hospital.

9 (2) Every hospital of this state which offers emergency services shall provide that a
10 physician, a sexual assault nurse examiner, who shall be a registered nurse licensed
11 in the Commonwealth and credentialed by the Kentucky Board of Nursing as
12 provided under KRS 314.142, or another qualified medical professional, as defined
13 by administrative regulation promulgated by the Justice and Public Safety Cabinet
14 in consultation with the Sexual Assault Response Team Advisory Committee as
15 defined in KRS 403.707, is available on call twenty-four (24) hours each day for the
16 examinations of persons seeking treatment as victims of sexual offenses as defined
17 by KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120,
18 510.130, 510.140, 530.020, 530.064(1)(a), and 531.310.

19 (3) An examination provided in accordance with this section of a victim of a sexual
20 offense may be performed in a sexual assault examination facility as defined in
21 KRS 216B.015. An examination under this section shall apply only to an
22 examination of a victim.

23 (4) The physician, sexual assault nurse examiner, or other qualified medical
24 professional, acting under a statewide medical forensic protocol which shall be
25 developed by the Justice and Public Safety Cabinet in consultation with the Sexual
26 Assault Response Team Advisory Committee as defined in KRS 403.707, and
27 promulgated by the secretary of justice and public safety pursuant to KRS Chapter

1 13A shall, upon the request of any peace officer or prosecuting attorney, and with
2 the consent of the victim, or upon the request of the victim, examine such person
3 for the purposes of providing basic medical care relating to the incident and
4 gathering samples that may be used as physical evidence. This examination shall
5 include but not be limited to:

6 (a) Basic treatment and sample gathering services; and

7 (b) Laboratory tests, as appropriate.

8 (5) Each victim shall be informed of available services for treatment of sexually
9 transmitted infections, pregnancy, and other medical and psychiatric problems~~[-~~
10 ~~Pregnancy counseling shall not include abortion counseling or referral information].~~

11 (6) Each victim shall be informed of available crisis intervention or other mental health
12 services provided by regional rape crisis centers providing services to victims of
13 sexual assault.

14 (7) Notwithstanding any other provision of law, a minor may consent to examination
15 under this section. This consent is not subject to disaffirmance because of minority,
16 and consent of the parents or guardians of the minor is not required for the
17 examination.

18 (8) (a) The examinations provided in accordance with this section shall be paid for
19 by the Crime Victims Compensation Board at a rate to be determined by the
20 administrative regulation promulgated by the board after consultation with the
21 Sexual Assault Response Team Advisory Committee as defined in KRS
22 403.707.

23 (b) Upon receipt of a completed claim form supplied by the board and an
24 itemized billing for a forensic sexual assault examination or related services
25 that are within the scope of practice of the respective provider and were
26 performed no more than twelve (12) months prior to submission of the form,
27 the board shall reimburse the hospital or sexual assault examination facility,

1 pharmacist, health department, physician, sexual assault nurse examiner, or
2 other qualified medical professional as provided in administrative regulations
3 promulgated by the board pursuant to KRS Chapter 13A. Reimbursement
4 shall be made to an out-of-state nurse who is credentialed in the other state to
5 provide sexual assault examinations, an out-of-state hospital, or an out-of-
6 state physician if the sexual assault occurred in Kentucky.

7 (c) Independent investigation by the Crime Victims Compensation Board shall
8 not be required for payment of claims under this section; however, the board
9 may require additional documentation or proof that the forensic medical
10 examination was performed.

11 (9) No charge shall be made to the victim for sexual assault examinations by the
12 hospital, the sexual assault examination facility, the physician, the pharmacist, the
13 health department, the sexual assault nurse examiner, other qualified medical
14 professional, the victim's insurance carrier, or the Commonwealth.

15 (10) (a) Each victim shall have the right to determine whether a report or other
16 notification shall be made to law enforcement, except where reporting of
17 abuse and neglect of a child or a vulnerable adult is required, as set forth in
18 KRS 209.030 and 620.030. No victim shall be denied an examination because
19 the victim chooses not to file a police report, cooperate with law enforcement,
20 or otherwise participate in the criminal justice system.

21 (b) If the victim chooses to report to law enforcement, the hospital shall notify
22 law enforcement within twenty-four (24) hours.

23 (c) 1. All samples collected during an exam where the victim has chosen not
24 to immediately report to law enforcement shall be stored, released, and
25 destroyed, if appropriate, in accordance with an administrative
26 regulation promulgated by the Justice and Public Safety Cabinet in
27 consultation with the Sexual Assault Response Team Advisory

- 1 Committee as defined in KRS 403.707.
- 2 2. Facilities collecting samples pursuant to this section may provide the
- 3 required secure storage, sample destruction, and related activities, or
- 4 may enter into agreements with other agencies qualified to do so,
- 5 pursuant to administrative regulation.
- 6 3. All samples collected pursuant to this section shall be stored for at least
- 7 one (1) year from the date of collection in accordance with the
- 8 administrative regulation promulgated pursuant to this subsection.
- 9 4. Notwithstanding KRS 524.140, samples collected during exams where
- 10 the victim chose not to report immediately or file a report within one (1)
- 11 year after collection may be destroyed as set forth in accordance with
- 12 the administrative regulation promulgated pursuant to this subsection.
- 13 The victim shall be informed of this process at the time of the
- 14 examination. No hospital, sexual assault examination facility, or
- 15 designated storage facility shall be liable for destruction of samples after
- 16 the required storage period has expired.

17 ➔Section 22. KRS 304.32-310 is amended to read as follows:

- 18 (1) A converted policy issued pursuant to the conversion privilege provided in KRS
- 19 304.32-300 providing hospital or surgical expense insurance shall provide on an
- 20 expense incurred basis, the following minimum benefits:
- 21 (a) Hospital room and board benefits of twenty-five dollars (\$25) per day, for a
- 22 minimum duration of seventy (70) days for any one period of hospital
- 23 confinement as defined in the converted policy.
- 24 (b) Miscellaneous hospital expense benefits for any one (1) period of hospital
- 25 confinement in a minimum amount up to twenty (20) times the hospital room
- 26 and board daily benefit provided under the converted policy.
- 27 (c) Surgical operation expense benefits according to a relative value schedule, or

1 a minimum of two hundred fifty dollars (\$250).

2 (d) The option to continue any existing benefits on account of pregnancy,
3 childbirth, or miscarriage.

4 (2) The relative values in the surgical schedule shall be consistent with the schedule of
5 operations generally offered by the insurer under group or individual health
6 insurance policies. In the event that the insurer and the employer agree upon one
7 (1) or more additional plans of benefits to be available for converted policies, the
8 applicant for the converted policy may, at his option, elect such a plan in lieu of a
9 converted policy providing the benefits of paragraphs (a), (b), and (c) of subsection
10 (1) of this section. In no event shall the benefits be less than the minimums set forth
11 in subsection (1) of this section.

12 (3) In no event need the insurer provide under the converted policy:

13 (a) ~~Benefits on account of abortion or complications thereof,~~

14 ~~(b)~~ The benefits of paragraphs (a) and (b) of subsection (1) of this section, unless
15 the group policy from which conversion is made provided hospital expense
16 insurance benefits, or

17 ~~(b)~~(c) The benefits of paragraph (c) of subsection (1) of this section, unless the
18 group policy provided surgical expense insurance benefits. Furthermore, the
19 converted policy may contain any exclusion, reduction, or limitation
20 contained in the group policy and any exclusion, reduction, or limitation
21 customarily used in individual policies issued by the insurer. With respect to
22 any person who was covered by the group policy, the period specified in the
23 time limit on certain defenses of the incontestable provision of the converted
24 policy shall commence with the date the insurance on such person or member
25 became effective under the group policy.

26 (4) The converted policy may provide that any hospital, surgical, or medical expense
27 benefits otherwise payable thereunder with respect to any person covered

1 thereunder may be reduced by the amount of any such benefits payable under the
2 group policy for the same loss with respect to such person after termination of such
3 person's coverage thereunder. The insurer shall not be entitled to use deterioration
4 of health as the basis for refusing to renew a converted policy. The converted policy
5 may provide for termination of coverage thereunder on any person when he is or
6 could be covered by Medicare (Title XVIII of the United States Social Security Act
7 as added by the Social Security Amendments of 1965 or as later amended or
8 superseded).

9 (5) A converted policy may include a provision whereby the insurer may request
10 information in advance of any premium due date of such policy of any person
11 covered thereunder as to whether:

12 (a) He or she is covered for similar benefits by another hospital, surgical, or
13 medical expense insurance policy or hospital or medical service subscriber
14 contract or medical practice or other prepayment plan or by any other plan or
15 program; or

16 (b) Similar benefits are provided for, or available to, such person pursuant to, or
17 in accordance with the requirements of, any statute.

18 If any such person is so covered or such statutory benefits are provided or available,
19 and such person fails to furnish the insurer the details of such coverage within
20 thirty-one (31) days after the date of such request, the benefits payable under the
21 converted policy may be based on the hospital or surgical or medical expenses
22 actually incurred after excluding expenses to the extent of the amount of benefits
23 provided or available therefor from any of the sources referred to in paragraphs (a)
24 and (b) of this subsection. A converted policy may contain any provisions permitted
25 herein and may also include any other provisions not expressly prohibited by law;
26 and any provision required to be permitted herein may be made a part of any such
27 policy by means of an endorsement or rider.

1 ➔Section 23. KRS 311.1911 is amended to read as follows:

2 As used in KRS 311.1911 to 311.1959:

- 3 (1) "Adult" means an individual who is at least eighteen (18) years of age;
- 4 (2) "Agent" means an individual:
- 5 (a) Authorized to make health-care decisions on the principal's behalf by a power
- 6 of attorney for health care; or
- 7 (b) Expressly authorized to make an anatomical gift on the principal's behalf by
- 8 any other record signed by the principal;
- 9 (3) "Anatomical gift" means a donation of all or part of a human body to take effect
- 10 after the donor's death for the purpose of transplantation, therapy, research, or
- 11 education;
- 12 (4) "Decedent" means a deceased individual whose body or part is or may be the source
- 13 of an anatomical gift. The term includes a stillborn infant and, subject to restrictions
- 14 imposed by law other than KRS 311.1911 to 311.1959, a fetus; however, the term
- 15 "fetus" does not include a blastocyst or embryo, ~~or fetus that was the subject of~~
- 16 ~~an induced abortion~~;
- 17 (5) "Disinterested witness" means a witness other than the spouse, child, parent,
- 18 sibling, grandchild, grandparent, or guardian of the individual who makes, amends,
- 19 revokes, or refuses to make an anatomical gift, or another adult who exhibited
- 20 special care and concern for the individual. The term does not include a person to
- 21 which an anatomical gift could pass under KRS 311.1929;
- 22 (6) "Document of gift" means a donor card or other record used to make an anatomical
- 23 gift. The term includes a statement or symbol on a driver's license, identification
- 24 card, or donor registry;
- 25 (7) "Donor" means an individual whose body or part is the subject of an anatomical
- 26 gift;
- 27 (8) "Donor registry" means a database that contains records of anatomical gifts and

- 1 amendments to or revocations of anatomical gifts;
- 2 (9) "Driver's license" means a license or permit issued by the Transportation Cabinet to
3 operate a vehicle, whether or not conditions are attached to the license or permit;
- 4 (10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or
5 state law to engage in the recovery, screening, testing, processing, storage, or
6 distribution of human eyes or portions of human eyes;
- 7 (11) "Guardian" means a person appointed by a court to make decisions regarding the
8 support, care, education, health, or welfare of an individual. The term does not
9 include a guardian ad litem;
- 10 (12) "Hospital" means a facility licensed as a hospital under the law of any state or a
11 facility operated as a hospital by the United States, a state, or a subdivision of a
12 state;
- 13 (13) "Identification card" means an identification card issued by the Transportation
14 Cabinet;
- 15 (14) "Know" means to have actual knowledge;
- 16 (15) "Minor" means an individual who is under eighteen (18) years of age;
- 17 (16) "Organ procurement organization" means a person designated by the Secretary of
18 the United States Department of Health and Human Services as an organ
19 procurement organization;
- 20 (17) "Parent" means a parent whose parental rights have not been terminated;
- 21 (18) "Part" means an organ, an eye, or tissue of a human being. The term does not
22 include the whole body;
- 23 (19) "Person" means an individual, corporation, business trust, estate, trust, partnership,
24 limited liability company, association, joint venture, public corporation,
25 government or governmental subdivision, agency, or instrumentality, or any other
26 legal or commercial entity;
- 27 (20) "Physician" means an individual authorized to practice medicine or osteopathy

- 1 under the law of any state;
- 2 (21) "Procurement organization" means an eye bank, organ procurement organization, or
3 tissue bank;
- 4 (22) "Prospective donor" means an individual who is dead or near death and has been
5 determined by a procurement organization to have a part that could be medically
6 suitable for transplantation, therapy, research, or education. The term does not
7 include an individual who has made a refusal;
- 8 (23) "Reasonably available" means able to be contacted by a procurement organization
9 without undue effort and willing and able to act in a timely manner consistent with
10 existing medical criteria necessary for the making of an anatomical gift;
- 11 (24) "Recipient" means an individual into whose body a decedent's part has been or is
12 intended to be transplanted;
- 13 (25) "Record" means information that is inscribed on a tangible medium or that is stored
14 in an electronic or other medium and is retrievable in perceivable form;
- 15 (26) "Refusal" means a record created under KRS 311.1921 that expressly states an
16 intent to bar other persons from making an anatomical gift of an individual's body
17 or part;
- 18 (27) "Sign" means, with the present intent to authenticate or adopt a record:
- 19 (a) To execute or adopt a tangible symbol; or
- 20 (b) To attach to or logically associate with the record an electronic symbol,
21 sound, or process;
- 22 (28) "State" means a state of the United States, the District of Columbia, Puerto Rico,
23 the United States Virgin Islands, or any territory or insular possession subject to the
24 jurisdiction of the United States;
- 25 (29) "Technician" means an individual determined to be qualified to remove or process
26 parts by an appropriate organization that is licensed, accredited, or regulated under
27 federal or state law. The term includes an ocular enucleator;

1 (30) "Tissue" means a portion of the human body other than an organ or an eye. The
2 term does not include:

- 3 (a) Blood unless the blood is donated for the purpose of research or education; or
4 (b) An ovum or sperm for the purpose of creating an embryo to be used in
5 therapy, research, or education;

6 (31) "Tissue bank" means a person that is licensed, accredited, or regulated under federal
7 or state law to engage in the recovery, screening, testing, processing, storage, or
8 distribution of tissue; and

9 (32) "Transplant hospital" means a hospital that furnishes organ transplants and other
10 medical and surgical specialty services required for the care of transplant patients.

11 ➔Section 24. KRS 311.595 is amended to read as follows:

12 If the power has not been transferred by statute to some other board, commission, or
13 agency of this state, the board may deny an application or reregistration for a license;
14 place a licensee on probation for a period not to exceed five (5) years; suspend a license
15 for a period not to exceed five (5) years; limit or restrict a license for an indefinite period;
16 or revoke any license heretofore or hereafter issued by the board, upon proof that the
17 licensee has:

18 (1) Knowingly made or presented, or caused to be made or presented, any false,
19 fraudulent, or forged statement, writing, certificate, diploma, or other thing, in
20 connection with an application for a license or permit;

21 (2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion,
22 or conspiracy in connection with an examination for a license;

23 ~~(3) Committed, procured, or aided in the procurement of an unlawful abortion,
24 including a partial birth abortion or an abortion in violation of KRS 311.731;~~

25 ~~(4)~~ Entered a guilty or nolo contendere plea, or been convicted, by any court within or
26 without the Commonwealth of Kentucky of a crime as defined in KRS 335B.010, if
27 in accordance with KRS Chapter 335B;

- 1 ~~(4)~~~~(5)~~ Been convicted of a misdemeanor offense under KRS Chapter 510 involving
2 a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or
3 been found by the board to have had sexual contact as defined in KRS 510.010(7)
4 with a patient while the patient was under the care of the physician;
- 5 ~~(5)~~~~(6)~~ Become addicted to a controlled substance;
- 6 ~~(6)~~~~(7)~~ Become a chronic or persistent alcoholic;
- 7 ~~(7)~~~~(8)~~ Been unable or is unable to practice medicine according to acceptable and
8 prevailing standards of care by reason of mental or physical illness or other
9 condition including but not limited to physical deterioration that adversely affects
10 cognitive, motor, or perceptive skills, or by reason of an extended absence from the
11 active practice of medicine;
- 12 ~~(8)~~~~(9)~~ Engaged in dishonorable, unethical, or unprofessional conduct of a character
13 likely to deceive, defraud, or harm the public or any member thereof;
- 14 ~~(9)~~~~(10)~~ Knowingly made, or caused to be made, or aided or abetted in the making of,
15 a false statement in any document executed in connection with the practice of his or
16 her profession;
- 17 ~~(10)~~~~(11)~~ Employed, as a practitioner of medicine or osteopathy in the practice of his or
18 her profession in this state, any person not duly licensed or otherwise aided,
19 assisted, or abetted the unlawful practice of medicine or osteopathy or any other
20 healing art;
- 21 ~~(11)~~~~(12)~~ Violated or attempted to violate, directly or indirectly, or assisted in or abetted
22 the violation of, or conspired to violate any provision or term of any medical
23 practice act, including but not limited to the code of conduct promulgated by the
24 board under KRS 311.601 or any other valid regulation of the board;
- 25 ~~(12)~~~~(13)~~ Violated any agreed order, letter of agreement, final order, or emergency
26 order issued by the board;
- 27 ~~(13)~~~~(14)~~ Engaged in or attempted to engage in the practice of medicine or osteopathy

1 under a false or assumed name, or impersonated another practitioner of a like,
2 similar, or different name;

3 ~~(14)~~~~(15)~~ Obtained a fee or other thing of value on the fraudulent representation that a
4 manifestly incurable condition could be cured;

5 ~~(15)~~~~(16)~~ Willfully violated a confidential communication;

6 ~~(16)~~~~(17)~~ Had his or her license to practice medicine or osteopathy in any other state,
7 territory, or foreign nation revoked, suspended, restricted, or limited or has been
8 subjected to other disciplinary action by the licensing authority thereof. This
9 subsection shall not require relitigation of the disciplinary action;

10 ~~(17)~~~~(18)~~ Failed or refused, without legal justification, to practice medicine in a rural
11 area of this state in violation of a valid medical scholarship loan contract with the
12 trustees of the rural Kentucky medical scholarship fund;

13 ~~(18)~~~~(19)~~ Given or received, directly or indirectly, from any person, firm, or
14 corporation, any fee, commission, rebate, or other form of compensation for
15 sending, referring, or otherwise inducing a person to communicate with a person
16 licensed under KRS 311.530 to 311.620 in his or her professional capacity or for
17 any professional services not actually and personally rendered; provided, however,
18 that nothing contained in this subsection shall prohibit persons holding valid and
19 current licenses under KRS 311.530 to 311.620 from practicing medicine in
20 partnership or association or in a professional service corporation authorized by
21 KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing,
22 dividing, or apportioning the fees and moneys received by them or by the
23 partnership, corporation, or association in accordance with the partnership
24 agreement or the policies of the board of directors of the corporation or association.
25 Nothing contained in this subsection shall abrogate the right of two (2) or more
26 persons holding valid and current licenses under KRS 311.530 to 311.620 to receive
27 adequate compensation for concurrently rendering professional care to a single

1 patient and divide a fee, if the patient has full knowledge of this division and if the
 2 division is made in proportion to the services performed and responsibility assumed
 3 by each;

4 ~~(19)~~~~(20)~~ Been removed, suspended, expelled, or disciplined by any professional
 5 medical association or society when the action was based upon what the association
 6 or society found to be unprofessional conduct, professional incompetence,
 7 malpractice, or a violation of any provision of KRS Chapter 311. This subsection
 8 shall not require relitigation of the disciplinary action;

9 ~~(20)~~~~(21)~~ Been disciplined by a licensed hospital or medical staff of the hospital,
 10 including removal, suspension, limitation of hospital privileges, failing to renew
 11 privileges for cause, resignation of privileges under pressure or investigation, or
 12 other disciplinary action if the action was based upon what the hospital or medical
 13 staff found to be unprofessional conduct, professional incompetence, malpractice,
 14 or a violation of any provisions of KRS Chapter 311. This subsection shall not
 15 require relitigation of the disciplinary action;

16 ~~(21)~~~~(22)~~ Failed to comply with the requirements of KRS 213.101~~;~~ ~~311.782,~~ ~~or~~
 17 ~~311.783~~ or failed to submit to the Vital Statistics Branch in accordance with a
 18 court order a complete report as described in KRS 213.101; or

19 ~~[(23) Failed to comply with any of the requirements regarding making or maintaining~~
 20 ~~medical records or documents described in KRS 311.7704 or 311.7707;~~

21 ~~(24) Failed to comply with the requirements of KRS 311.7705 or 311.7706;]~~

22 ~~(22)~~~~(25)~~ Been convicted of female genital mutilation under KRS 508.125, which shall
 23 result in mandatory revocation of a license~~;~~

24 ~~(26) As provided in KRS 311.824(2), been convicted of a violation of KRS 311.823(2);~~
 25 ~~or~~

26 ~~(27) Failed to comply with the requirements of KRS 311.732].~~

27 ➔Section 25. KRS 311.850 is amended to read as follows:

- 1 (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the license
2 of a physician assistant, or may fine, reprimand or place a physician assistant on
3 probation for no more than five (5) years upon proof that a physician assistant has:
- 4 (a) Knowingly made or presented or caused to be made or presented any false,
5 fraudulent, or forged statement, writing, certificate, diploma, or other
6 document relating to an application for licensure;
 - 7 (b) Practiced, aided, or abetted in the practice of fraud, forgery, deception,
8 collusion, or conspiracy relating to an examination for licensure;
 - 9 (c) Been convicted of a crime as defined in KRS 335B.010, if in accordance with
10 KRS Chapter 335B;
 - 11 (d) Been convicted of a misdemeanor offense under KRS Chapter 510 involving
12 a patient or a felony offense under KRS Chapter 510, KRS 530.064, or
13 531.310, or has been found by the board to have had sexual contact, as
14 defined in KRS 510.010, with a patient while the patient was under the care of
15 the physician assistant or the physician assistant's supervising physician;
 - 16 (e) Become addicted to a controlled substance, as defined in KRS
17 311.550~~(25)~~~~(26)~~;
 - 18 (f) Become a chronic or persistent alcoholic, as defined in KRS
19 311.550~~(24)~~~~(25)~~;
 - 20 (g) Been unable or is unable to practice medicine according to acceptable and
21 prevailing standards of care by reason of mental or physical illness or other
22 condition including but not limited to physical deterioration that adversely
23 affects cognitive, motor, or perceptive skills, or by reason of an extended
24 absence from the active practice of medicine;
 - 25 (h) Knowingly made or caused to be made or aided or abetted in the making of a
26 false statement in any document executed in connection with the practice of
27 medicine or osteopathy;

- 1 (i) Performed any act or service as a physician assistant without a designated
2 supervising physician;
- 3 (j) Exceeded the scope of medical services described by the supervising
4 physician in the applications required under KRS 311.854;
- 5 (k) Exceeded the scope of practice for which the physician assistant was
6 credentialed by the governing board of a hospital or licensed health care
7 facility under KRS 311.856 and 311.858;
- 8 (l) Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or
9 any healing art, including the unlawful practice of physician assistants;
- 10 (m) Willfully violated a confidential communication;
- 11 (n) Performed the services of a physician assistant in an unprofessional,
12 incompetent, or grossly or chronically negligent manner;
- 13 (o) Been removed, suspended, expelled, or placed on probation by any health care
14 facility or professional society for unprofessional conduct, incompetence,
15 negligence, or violation of any provision of this section or KRS 311.858 or
16 311.862;
- 17 (p) Violated any applicable provision of administrative regulations relating to
18 physician assistant practice;
- 19 (q) Violated any term of probation or other discipline imposed by the board;
- 20 (r) Failed to complete the required number of hours of approved continuing
21 education; **or**
- 22 (s) Engaged in dishonorable, unethical, or unprofessional conduct of character
23 likely to deceive, defraud, or harm the public or any member thereof, as
24 described in KRS 311.597~~[-or~~
- 25 ~~(t) As provided in KRS 311.824(2), been convicted of a violation of KRS~~
26 ~~311.823(2)].~~
- 27 (2) All disciplinary proceedings against a physician assistant shall be conducted in

1 accordance with the provisions of KRS 311.591, 311.592, 311.593, 311.599, and
2 KRS Chapter 13B and related administrative regulations promulgated under KRS
3 Chapter 311.

4 ➔Section 26. KRS 314.091 is amended to read as follows:

5 (1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend
6 any license or credential to practice nursing issued by the board or applied for in
7 accordance with this chapter or the privilege to practice as a nurse recognized by
8 the board in accordance with this chapter, or to otherwise discipline a licensee,
9 credential holder, privilege holder, or applicant, or to deny admission to the
10 licensure examination, or to require evidence of evaluation and therapy upon proof
11 that the person:

12 (a) Is guilty of fraud or deceit in procuring or attempting to procure a license,
13 credential, or privilege to practice nursing;

14 (b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol,
15 fraud, deceit, falsification of records, a breach of trust, physical harm or
16 endangerment to others, or dishonesty, under the laws of any state or of the
17 United States, if in accordance with KRS Chapter 335B. The record of
18 conviction or a copy thereof, certified by the clerk of the court or by the judge
19 who presided over the conviction, shall be conclusive evidence;

20 (c) Has been convicted of a misdemeanor offense under KRS Chapter 510
21 involving a patient, or a felony offense under KRS Chapter 510,
22 530.064(1)(a), or 531.310, or has been found by the board to have had sexual
23 contact as defined in KRS 510.010(7) with a patient while the patient was
24 under the care of the nurse;

25 (d) Has negligently or willfully acted in a manner inconsistent with the practice of
26 nursing;

27 (e) Is unfit or incompetent to practice nursing by reason of negligence or other

- 1 causes, including but not limited to, being unable to practice nursing with
2 reasonable skill or safety;
- 3 (f) Abuses controlled substances, prescription medications, illegal substances, or
4 alcohol;
- 5 (g) Has misused or misappropriated any drugs placed in the custody of the nurse
6 for administration, or for use of others;
- 7 (h) Has falsified or in a negligent manner made incorrect entries or failed to make
8 essential entries on essential records;
- 9 (i) Has a license, privilege, or credential to practice as a nurse denied, limited,
10 suspended, probated, revoked, or otherwise disciplined in another jurisdiction
11 on grounds sufficient to cause a license or privilege to be denied, limited,
12 suspended, probated, revoked, or otherwise disciplined in this
13 Commonwealth, including action by another jurisdiction for failure to repay a
14 student loan;
- 15 (j) Has violated any of the provisions of this chapter;
- 16 (k) Has violated any lawful order or directive previously entered by the board;
- 17 (l) Has violated any administrative regulation promulgated by the board;
- 18 (m) Has been listed on the nurse aide abuse registry with a substantiated finding of
19 abuse, neglect, or misappropriation of property;
- 20 (n) Has violated the confidentiality of information or knowledge concerning any
21 patient, except as authorized or required by law;
- 22 (o) Used or possessed a Schedule I controlled substance;
- 23 (p) Has used or been impaired as a consequence of the use of alcohol or drugs
24 while practicing as a nurse;
- 25 (q) Has violated KRS 304.39-215; or
- 26 (r) Has engaged in conduct that is subject to the penalties under KRS 304.99-
27 060(4) or (5); ~~or~~

- 1 ~~(s) As provided in KRS 311.824(2), has been convicted of a violation of KRS~~
2 ~~311.823(2)].~~
- 3 (2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended
4 or revoked license, privilege, or credential may be reinstated at the discretion of the
5 board, and in accordance with regulations promulgated by the board.
- 6 (3) The executive director may issue subpoenas to compel the attendance of witnesses
7 and the production of documents in the conduct of an investigation. The subpoenas
8 may be enforced by the Circuit Court as for contempt. Any order or subpoena of the
9 court requiring the attendance and testimony of witnesses and the production of
10 documentary evidence may be enforced and shall be valid anywhere in this state.
- 11 (4) Upon~~[At all hearings on]~~ request of the board, the Attorney General of this state or
12 one (1) of the assistant attorneys general designated by the Attorney General shall
13 appear and represent the board **at a hearing held under this section.**
- 14 (5) A final order of the board shall be by majority vote **of the board**~~[thereof]~~.
- 15 (6) Any person adversely affected by any final order of the board may obtain a review
16 **of the order**~~[thereof]~~ by filing a written petition for review with the Circuit Court of
17 the county in which the board's offices are located in accordance with KRS Chapter
18 13B.
- 19 (7) If the board substantiates that sexual contact occurred between a nurse and a patient
20 while the patient was under the care of or in a professional relationship with the
21 nurse, the nurse's license, privilege, or credential may be revoked or suspended with
22 mandatory treatment of the nurse as prescribed by the board. The board may require
23 the nurse to pay a specified amount for mental health services for the patient which
24 are needed as a result of the sexual contact.
- 25 (8) The board may, by administrative regulation, provide for the recovery of the costs
26 of an administrative hearing.
- 27 ➔Section 27. KRS 314.408 is amended to read as follows:

- 1 (1) It shall be unlawful for any person to provide certified professional midwifery
2 services as defined in KRS 314.400 unless that person is a licensed certified
3 professional midwife currently issued a license by the board in accordance with
4 KRS 314.400 to 314.414 or is an appropriate licensed health care provider
5 providing services that are within his or her scope of practice.
- 6 (2) It shall be unlawful for any person to hold herself or himself out as a licensed
7 certified professional midwife or other skilled birth attendant authorized to provide
8 prenatal care or manually assist in the delivery of an infant, or to provide the
9 services defined in KRS 314.400(2) in Kentucky unless he or she has been issued a
10 license by the board in accordance with KRS 314.400 to 314.414.
- 11 (3) It shall be unlawful for any person to operate or to offer to operate or to represent or
12 advertise the operation of a school or program of certified professional midwifery
13 unless the school or program has been approved by the board to do so.
- 14 (4) It shall be unlawful for any licensed certified professional midwife or employer of a
15 licensed certified professional midwife having knowledge of facts to refrain from
16 reporting to the board a licensed certified professional midwife who violates any
17 provision set forth in administrative regulation for licensed certified professional
18 midwives.
- 19 (5) It shall be unlawful for any person to provide certified professional midwifery
20 services who is listed on the nurse aide abuse registry with a substantiated finding
21 of abuse, neglect, or misappropriation of property.
- 22 (6) Nothing in KRS 314.400 to 314.414 shall prohibit a traditional birth attendant
23 providing midwifery services without a license if the traditional birth attendant has
24 cultural or religious traditions that have historically included the attendance of
25 traditional birth attendants at birth, and the birth attendant serves only women and
26 families in that distinct cultural or religious group.
- 27 (7) Nothing in KRS 314.400 to 314.414 shall prohibit an appropriate licensed health

1 care provider or other person from providing emergency care, including care of a
2 precipitous delivery.

3 ~~(8) In accordance with KRS 311.723, a licensed certified professional midwife issued a~~
4 ~~license by the board in accordance with KRS 314.400 to 314.414 shall not perform~~
5 ~~an abortion.~~

6 ~~(9)~~ Nothing in KRS 314.400 to 314.414 shall prohibit a person from providing self -
7 care, or uncompensated care to a friend or family member, as long as the person
8 does not hold himself or herself out to be a midwife or provider of certified
9 professional midwifery services as defined under KRS 314.400.

10 ~~(9)~~(10) Nothing in KRS 314.400 to 314.414 shall prohibit an employee or other
11 individual who is assisting, and under the direct supervision of, a licensed certified
12 professional midwife from performing activities or functions that are delegated by
13 the licensed certified professional midwife and are within the licensed certified
14 professional midwife's scope of practice as authorized by the board.

15 ~~(10)~~(11) Nothing in KRS 314.400 to 314.414 shall prohibit an individual from
16 performing activities or functions that are delegated by the licensed certified
17 professional midwife if that individual is a student of midwifery in a training
18 program operating as authorized by the board, and is under the direct supervision of
19 a qualified preceptor as authorized by the board.

20 ➔Section 28. KRS 315.121 is amended to read as follows:

21 (1) The board may refuse to issue or renew a license, permit, or certificate to, or may
22 suspend, temporarily suspend, revoke, fine, place on probation, reprimand,
23 reasonably restrict, or take any combination of these actions against any licensee,
24 permit holder, or certificate holder for the following reasons:

25 (a) Unprofessional or unethical conduct;

26 (b) Mental or physical incapacity that prevents the licensee, permit holder, or
27 certificate holder from engaging or assisting in the practice of pharmacy or the

- 1 wholesale distribution or manufacturing of drugs with reasonable skill,
2 competence, and safety to the public;
- 3 (c) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to,
4 irrespective of an order granting probation or suspending imposition of any
5 sentence imposed following the conviction or entry of such plea, one (1) or
6 more or the following, if in accordance with KRS Chapter 335B:
- 7 1. A crime as defined in KRS 335B.010; or
8 2. A violation of the pharmacy or drug laws, rules, or administrative
9 regulations of this state, any other state, or the federal government;
- 10 (d) Knowing or having reason to know that a pharmacist, pharmacist intern, or
11 pharmacy technician is incapable of engaging or assisting in the practice of
12 pharmacy with reasonable skill, competence, and safety to the public and
13 failing to report any relevant information to the board;
- 14 (e) Knowingly making or causing to be made any false, fraudulent, or forged
15 statement or misrepresentation of a material fact in securing issuance or
16 renewal of a license, permit, or certificate;
- 17 (f) Engaging in fraud in connection with the practice of pharmacy or the
18 wholesale distribution or manufacturing of drugs;
- 19 (g) Engaging in or aiding and abetting an individual to engage or assist in the
20 practice of pharmacy without a license or falsely using the title of
21 "pharmacist," "pharmacist intern," "pharmacy technician," or other term
22 which might imply that the individual is a pharmacist, pharmacist intern, or
23 pharmacy technician;
- 24 (h) Being found by the board to be in violation of any provision of this chapter,
25 KRS Chapter 217, KRS Chapter 218A, or the administrative regulations
26 promulgated pursuant to these chapters;
- 27 (i) Violation of any order issued by the board to comply with any applicable law

1 or administrative regulation;

2 (j) Knowing or having reason to know that a pharmacist, pharmacist intern, or
3 pharmacy technician has engaged in or aided and abetted the unlawful
4 distribution of legend medications, and failing to report any relevant
5 information to the board; or

6 (k) Failure to notify the board within fourteen (14) days of a change in one's
7 home address; ~~or~~

8 ~~(l) As provided in KRS 311.824(2), being convicted of a violation of KRS~~
9 ~~311.823(2)].~~

10 (2) Unprofessional or unethical conduct includes but is not limited to the following acts
11 of a pharmacist, pharmacist intern, or pharmacy technician:

12 (a) Publication or circulation of false, misleading, or deceptive statements
13 concerning the practice of pharmacy;

14 (b) Divulging or revealing to unauthorized persons patient information or the
15 nature of professional services rendered without the patient's express consent
16 or without order or direction of a court. In addition to members, inspectors, or
17 agents of the board, the following are considered authorized persons:

18 1. The patient, patient's agent, or another pharmacist acting on behalf of
19 the patient;

20 2. Certified or licensed health-care personnel who are responsible for care
21 of the patient;

22 3. Designated agents of the Cabinet for Health and Family Services for the
23 purposes of enforcing the provisions of KRS Chapter 218A;

24 4. Any federal, state, or municipal officer whose duty is to enforce the laws
25 of this state or the United States relating to drugs and who is engaged in
26 a specific investigation involving a designated person; or

27 5. An agency of government charged with the responsibility of providing

- 1 medical care for the patient, upon written request by an authorized
2 representative of the agency requesting such information;
- 3 (c) Selling, transferring, or otherwise disposing of accessories, chemicals, drugs,
4 or devices found in illegal traffic when the pharmacist, pharmacy intern, or
5 pharmacy technician knows or should have known of their intended use in
6 illegal activities;
- 7 (d) Engaging in conduct likely to deceive, defraud, or harm the public,
8 demonstrating a willful or careless disregard for the health, welfare, or safety
9 of a patient, or engaging in conduct which substantially departs from accepted
10 standards of pharmacy practice ordinarily exercised by a pharmacist or
11 pharmacy intern, with or without established proof of actual injury;
- 12 (e) Engaging in grossly negligent professional conduct, with or without
13 established proof of actual injury;
- 14 (f) Except as provided in KRS 315.500, selling, transferring, dispensing,
15 ingesting, or administering a drug for which a prescription drug order is
16 required, without having first received a prescription drug order for the drug;
- 17 (g) Willfully or knowingly failing to maintain complete and accurate records of
18 all drugs received, dispensed, or disposed of in compliance with federal and
19 state laws, rules, or administrative regulations;
- 20 (h) Obtaining any remuneration by fraud, misrepresentation, or deception;
- 21 (i) Accessing or attempting to access confidential patient information for persons
22 other than those with whom a pharmacist has a current pharmacist-patient
23 relationship and where such information is necessary to the pharmacist to
24 provide pharmacy care;
- 25 (j) Failing to exercise appropriate professional judgment in determining whether
26 a prescription drug order is lawful;
- 27 (k) Violating KRS 304.39-215; or

- 1 (1) Engaging in conduct that is subject to the penalties under KRS 304.99-060(4)
2 or (5).
- 3 (3) Any licensee, permit holder, or certificate holder entering an "Alford" plea,
4 pleading nolo contendere, or who is found guilty of a violation prescribed in
5 subsection (1)(c) of this section shall within thirty (30) days notify the board of that
6 plea or conviction. Failure to do so shall be grounds for suspension or revocation of
7 the license, certificate, or permit.
- 8 (4) Any person whose license, permit, or certificate has been revoked in accordance
9 with the provisions of this section, may petition the board for reinstatement. The
10 petition shall be made in writing and in a form prescribed by the board. The board
11 shall investigate all reinstatement petitions, and the board may reinstate a license,
12 permit, or certificate upon showing that the former holder has been rehabilitated
13 and is again able to engage in the practice of pharmacy with reasonable skill,
14 competency, and safety to the public. Reinstatement may be on the terms and
15 conditions that the board, based on competent evidence, reasonably believes
16 necessary to protect the health and welfare of the citizens of the Commonwealth.
- 17 (5) Upon exercising the power of revocation provided for in subsection (1) of this
18 section, the board may reasonably prohibit any petition for reinstatement for a
19 period up to and including five (5) years.
- 20 (6) Any licensee, permit holder, or certificate holder who is disciplined under this
21 section for a minor violation may request in writing that the board expunge the
22 minor violation from the licensee's, permit holder's, or certificate holder's
23 permanent record.
- 24 (a) The request for expungement may be filed no sooner than three (3) years after
25 the date on which the licensee, permit holder, or certificate holder has
26 completed disciplinary sanctions imposed and if the licensee, permit holder,
27 or certificate holder has not been disciplined for any subsequent violation of

1 the same nature within this period of time.

2 (b) No person may have his or her record expunged under this section more than
3 once.

4 The board shall promulgate administrative regulations under KRS Chapter 13A to
5 establish violations which are minor violations under this subsection. A violation
6 shall be deemed a minor violation if it does not demonstrate a serious inability to
7 practice the profession; assist in the practice of pharmacy; provide home medical
8 equipment and services; adversely affect the public health, safety, or welfare; or
9 result in economic or physical harm to a person; or create a significant threat of
10 such harm.

11 ➔Section 29. KRS 315.990 is amended to read as follows:

12 (1) Except for the provisions of KRS 315.320, any person violating any provision of
13 KRS Chapter 315 shall be fined for each offense not less than one hundred dollars
14 (\$100) nor more than one thousand dollars (\$1,000) or imprisoned in the county jail
15 for not more than six (6) months, or both. Each week that any provision of KRS
16 315.020, 315.030, or 315.035 is violated shall also constitute a separate offense.

17 (2) Any person convicted of willfully resisting, preventing, impeding, obstructing,
18 threatening, or interfering with the officers, agents, or inspectors of the board in the
19 administration of the provisions of this chapter shall be guilty of a Class A
20 misdemeanor.

21 (3) The board may levy an administrative fine not to exceed five thousand dollars
22 (\$5,000) for each offense, for any violation of KRS 315.121. All such fines shall be
23 deposited to the credit of the licensing board to be used by the board in carrying out
24 the provisions of this chapter.

25 (4) The board may refuse to issue or renew a permit, or may suspend, temporarily
26 suspend, revoke, fine, or reasonably restrict any permit holder for any violation of
27 KRS 315.0351. Any administrative fine levied by the board shall not exceed five

1 thousand dollars (\$5,000) for any violation of KRS 315.0351. All such fines shall
2 be deposited to the credit of the licensing board to be used by the Board of
3 Pharmacy in carrying out the provisions of this chapter.

4 (5) For a violation of KRS 315.320, the Board of Pharmacy may, in addition to any
5 other civil or criminal penalty, levy an administrative fine not exceeding one
6 hundred thousand dollars (\$100,000). All such fines shall be deposited to the credit
7 of the Board of Pharmacy in carrying out the provisions of this chapter.

8 ~~[(6) (a) Any person who intentionally, knowingly, or recklessly violates KRS
9 216B.200 to 216B.210 is guilty of a Class D felony.~~

10 ~~(b) Any person who violates KRS 216B.200 to 216B.210 shall be fined not more
11 than one million dollars (\$1,000,000).~~

12 ~~(c) Notwithstanding KRS 440.200, the Attorney General may demand from the
13 Governor of any other state the surrender of any person found in the other
14 state who is charged in Kentucky with the crime of violating KRS 216B.200
15 to 216B.210. The provisions for extradition under this subsection shall apply
16 to any such demand even if the person whose surrender is demanded was not
17 in Kentucky at the time of the commission of the crime. Neither the demand,
18 the oath, nor any proceedings for extradition pursuant to this section need
19 state or show that the person whose surrender is demanded has fled from
20 justice, or at the time of the commission of the crime was in Kentucky or the
21 other state.]~~

22 ➔Section 30. KRS 367.97501 is amended to read as follows:

23 As used in KRS 367.97501 to 367.97537, unless the context requires otherwise:

24 (1) "Authorizing agent" means the person legally entitled to order the cremation of the
25 human remains.

26 (2) "Casket" means a rigid container which is designed for the encasement of human
27 remains constructed of wood, metal, or other material.

- 1 (3) "Closed container" means a sealed container or urn in which cremated remains are
2 placed and enclosed in a manner that prevents leakage or spillage of cremated
3 remains or the entrance of foreign material.
- 4 (4) "Cremated remains" means the fragments remaining after the cremation process has
5 been completed.
- 6 (5) "Cremation" means the heating process that reduces human remains to bone
7 fragments through combustion and evaporation.
- 8 (6) "Cremation authorization form" means a form promulgated by administrative
9 regulation of the Attorney General that expresses consent to the decedent's
10 cremation. The form shall include information concerning the parties' rights and
11 responsibilities.
- 12 (7) "Cremation chamber" means an enclosed space designed and manufactured for the
13 purpose of cremating human remains.
- 14 (8) "Cremation container" means a container in which human remains may be
15 delivered to a crematory for cremation that is:
- 16 (a) Rigid enough to support the weight of the corpse, closed, and leakproof;
17 (b) Composed of a combustible material or other material approved by the
18 crematory authority; and
19 (c) A proper and dignified covering for the human remains.
- 20 (9) "Crematory authority" means the legal entity which is licensed by the Attorney
21 General to operate a crematory and conduct cremations. Crematory authority does
22 not include state university health science centers.
- 23 (10) "Crematory" means a fixed building or structure that contains one (1) or more
24 cremation chambers for the reduction of bodies of deceased persons to cremated
25 remains. "Crematory" includes crematorium.
- 26 (11) "Crematory operator" means the person in charge of a licensed crematory authority.
- 27 (12) "Declaration" has the same meaning as in KRS 367.93101.

1 (13) "Holding facility" means an area designated for the retention of human remains
2 prior to cremation.

3 (14) "Human remains" means the body of a deceased person or part of a body or limb
4 that has been removed from a living person, in any state of decomposition, prior to
5 cremation.

6 (15) "Pathological waste" means human tissues, organs, and blood or body fluids, in
7 liquid or semiliquid form that are removed from a person for medical purposes.
8 "Pathological waste" does not include amputations~~[or fetal remains as defined in~~
9 ~~KRS 213.098]~~.

10 (16) "Processed remains" means the end result of pulverization, by which the residual
11 from the cremation process is reduced and cleaned leaving only fragments reduced
12 to unidentified dimensions.

13 (17) "Retort operator" means a person operating a cremation chamber.

14 (18) "Scattering area or garden" means an area which may be designated by a cemetery
15 and located on a dedicated cemetery property where cremated remains which have
16 been removed from their container can be mixed with or placed on top of the soil or
17 ground cover.

18 (19) "Temporary container" means a receptacle for cremated remains, usually made of
19 plastic, cardboard, ceramics, plastic film, wood, or metal, designed to prevent the
20 leakage of processed remains or the entrance of foreign materials which will hold
21 the cremated remains until an urn or other permanent container is acquired.

22 ➔Section 31. KRS 387.660 is amended to read as follows:

23 A guardian of a disabled person shall have the following powers and duties, except as
24 modified by order of the court:

25 (1) To establish the ward's place of abode within the state, except that, if at any time a
26 guardian places a ward in a licensed residential facility for developmentally
27 disabled persons, the guardian shall, within thirty (30) days of such placement, file

1 with the court notice of the placement, stating with specificity the reasons for such
2 placement, and an interdisciplinary evaluation report detailing the social,
3 psychological, medical or other considerations on which such placement is
4 predicated, a description of the treatment or habilitation programs which will
5 benefit the ward as a result of such placement, and a determination that such
6 placement will provide appropriate treatment in the least restrictive available
7 treatment and residential program. For purposes of this subsection, the
8 interdisciplinary evaluation report may be one performed within two (2) months
9 prior to the placement for purposes of determining whether such placement is
10 necessary and appropriate, or may be an evaluation and assessment provided by the
11 residential facility immediately after placement. Notice to the court shall not be
12 required where the ward is transferred from one licensed residential facility to
13 another;

14 (2) To make provision for the ward's care, comfort, and maintenance and arrange for
15 such educational, social, vocational, and rehabilitation services as are appropriate
16 and as will assist the ward in the development of maximum self-reliance and
17 independence;

18 (3) To give any necessary consent or approval to enable the ward to receive medical or
19 other professional care, counsel, treatment or service, except that a guardian may
20 not consent on behalf of a ward to ~~an abortion,~~ sterilization, psychosurgery,
21 removal of a bodily organ, or amputation of a limb unless the procedure is first
22 approved by order of the court or is necessary, in an emergency situation, to
23 preserve the life or prevent serious impairment of the physical health of the ward;

24 (4) To act with respect to the ward in a manner which limits the deprivation of civil
25 rights and restricts the ward's~~his~~ personal freedom only to the extent necessary to
26 provide needed care and services to the ward~~him~~; and

27 (5) To expend sums from the financial resources of the ward reasonable and necessary

1 to carry out the powers and duties assigned to him or her by the court.

2 If a separate limited conservator or conservator has been appointed for the ward, the
3 expenditure of funds by the limited guardian shall be consistent with the duties assigned
4 to and procedures and policies established by such limited conservator or conservator.
5 Conflicts arising between a limited guardian and a limited conservator or conservator
6 regarding the expenditure of funds which are unable to be otherwise resolved shall be
7 submitted to the court for resolution.

8 ➔Section 32. KRS 413.140 is amended to read as follows:

9 (1) The following actions shall be commenced within one (1) year after the cause of
10 action accrued:

11 (a) An action for an injury to the person of the plaintiff, or of her husband, his
12 wife, child, ward, apprentice, or servant;

13 (b) An action for injuries to persons, cattle, or other livestock by railroads or
14 other corporations, with the exception of hospitals licensed pursuant to KRS
15 Chapter 216;

16 (c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal
17 conversation, or breach of promise of marriage;

18 (d) An action for libel or slander;

19 (e) An action against a physician, surgeon, dentist, or hospital licensed pursuant
20 to KRS Chapter 216, for negligence or malpractice;

21 (f) A civil action, arising out of any act or omission in rendering, or failing to
22 render, professional services for others, whether brought in tort or contract,
23 against a real estate appraiser holding a certificate or license issued under
24 KRS Chapter 324A or a real estate broker or sales associate holding a license
25 issued under KRS Chapter 324;

26 (g) An action for the escape of a prisoner, arrested or imprisoned on civil process;

27 (h) An action for the recovery of usury paid for the loan or forbearance of money

- 1 or other thing, against the loaner or forbearer or assignee of either;
- 2 (i) An action for the recovery of stolen property, by the owner thereof against
- 3 any person having the same in his possession;
- 4 (j) An action for the recovery of damages or the value of stolen property, against
- 5 the thief or any accessory;
- 6 (k) An action arising out of a detention facility disciplinary proceeding, whether
- 7 based upon state or federal law; and
- 8 (l) An action for damages arising out of a deficiency, defect, omission, error, or
- 9 miscalculation in any survey or plat, whether brought in tort or contract,
- 10 against a licensed professional land surveyor holding a license under KRS
- 11 Chapter 322;
- 12 ~~(m) An action for violating KRS 311.782; and~~
- 13 ~~(n) An action for violating KRS 311.731.~~
- 14 (2) In respect to the action referred to in paragraph (e) of subsection (1) of this section,
- 15 the cause of action shall be deemed to accrue at the time the injury is first
- 16 discovered or in the exercise of reasonable care should have been discovered;
- 17 provided that such action shall be commenced within five (5) years from the date on
- 18 which the alleged negligent act or omission is said to have occurred.
- 19 (3) In respect to the action referred to in paragraph (f) or (l) of subsection (1) of this
- 20 section, the cause of action shall be deemed to accrue within one (1) year from the
- 21 date of the occurrence or from the date when the cause of action was, or reasonably
- 22 should have been, discovered by the party injured.
- 23 (4) In respect to the action referred to in paragraph (h) of subsection (1) of this section,
- 24 the cause of action shall be deemed to accrue at the time of payment. This limitation
- 25 shall apply to all payments made on all demands, whether evidenced by writing or
- 26 existing only in parol.
- 27 (5) In respect to the action referred to in paragraph (i) of subsection (1) of this section,

1 the cause of action shall be deemed to accrue at the time the property is found by its
2 owner.

3 (6) In respect to the action referred to in paragraph (j) of subsection (1) of this section,
4 the cause of action shall be deemed to accrue at the time of discovery of the
5 liability.

6 (7) In respect to the action referred to in paragraph (k) of subsection (1) of this section,
7 the cause of action shall be deemed to accrue on the date an appeal of the
8 disciplinary proceeding is decided by the institutional warden.

9 ~~[(8) In respect to the action referred to in subsection (1)(m) and (n) of this section, the
10 cause of action shall be deemed to accrue after the performance or inducement or
11 attempt to perform or induce the abortion.]~~

12 ➔Section 33. KRS 507A.010 is amended to read as follows:

13 (1) As used in this chapter:

14 (a) "Abortion" has the same meaning as in ***Section 2 of this Act***~~[KRS 311.720]~~;

15 (b) "Health care provider" has the same meaning as in KRS 304.17A-005; and

16 (c) "Unborn child" means a member of the species homo sapiens in utero from
17 conception onward, without regard to age, health, or condition of dependency.

18 (2) In a prosecution for the death of an unborn child, nothing in this chapter shall apply
19 to acts performed by or at the direction of a health care provider that cause the death
20 of an unborn child if those acts were committed:

21 (a) During any abortion for which the consent of the pregnant ***person***~~[woman]~~
22 has been obtained or for which the consent is implied by law in a medical
23 emergency; or

24 (b) As part of or incident to diagnostic testing or therapeutic medical or fertility
25 treatment, provided that the acts were performed with that degree of care and
26 skill which an ordinarily careful, skilled, and prudent health care provider or a
27 person acting under the provider's direction would exercise under the same or

1 similar circumstances.

2 (3) Nothing in this chapter shall apply to any acts of a pregnant person~~[woman]~~ that
3 caused the death of her unborn child.

4 ➔Section 34. KRS 605.110 is amended to read as follows:

5 (1) (a) Any child committed to or in the custody of the cabinet or the Department of
6 Juvenile Justice who is not placed in a location where smoking cessation
7 services are provided may participate in smoking cessation services offered by
8 local health departments or their contracted agents at no cost.

9 (b) Unless provided otherwise, when any child committed to or in the custody of
10 the Department of Juvenile Justice or the cabinet requires medical or surgical
11 care or treatment, the Department of Juvenile Justice or the cabinet may
12 provide the same or arrange for the furnishing thereof by other public or
13 private agencies, and may give consent to the medical or surgical treatment.
14 For this purpose, the services and facilities of local health officers and
15 departments shall be made available, at a cost not to exceed the Medicaid
16 reimbursement rate, to the Department of Juvenile Justice or the cabinet, and
17 as far as practicable, any publicly owned hospital shall provide hospitalization
18 without charge for any such child who is a resident of the political subdivision
19 by which the hospital is owned or operated. This section does not authorize
20 nor shall permission be granted for abortion or sterilization, except as
21 provided in Section 31 or 35 of this Act.

22 (2) Any child placed in a foster home by an agency duly authorized in KRS Chapter
23 620 to place a child in a foster home shall receive a complete medical, visual, and
24 dental examination by a professional authorized by the Kentucky Revised Statutes
25 to conduct such examinations. Arrangements for a child placed in a foster home to
26 receive such examinations shall be made within two (2) weeks of his placement in a
27 foster home and not less than every twelve (12) months thereafter.

1 (3) Children maintained in any of the facilities and programs operated or contracted by
2 the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a
3 common school education.

4 (a) The Kentucky Educational Collaborative for State Agency Children shall be
5 established to serve children in facilities and programs operated or contracted
6 by the Department of Juvenile Justice or the Cabinet for Health and Family
7 Services, residential, day treatment, clinical, and group home programs. All
8 policies and procedures necessary to educate state agency children shall be
9 approved by the Kentucky Board of Education. All duties, responsibilities,
10 rights, and privileges specifically imposed on or granted to the local education
11 administration units shall be imposed on or granted to the Department of
12 Juvenile Justice or the Cabinet for Health and Family Services and contracted
13 agencies with regard to educating agency children. Classrooms for the
14 Kentucky Educational Collaborative for State Agency Children shall be
15 within or near the facilities and programs operated or contracted by the
16 Department of Juvenile Justice or the cabinet. The Kentucky Department of
17 Education, the Department of Juvenile Justice, and the Cabinet for Health and
18 Family Services, Department for Community Based Services, shall develop a
19 biennial plan regarding the educational needs and provisions of educational
20 programs, with emphasis on the coordination of all treatment services and
21 funds available to provide for the education of state agency children. The
22 biennial plan shall include strategies to assure that teacher preparation
23 programs include content related to working with state agency children and
24 that adequate professional development opportunities for better meeting the
25 needs of these students are available for teachers and schools.

26 (b) Teachers and other staff shall be hired on contract through a local school
27 district or if a local school district is not willing to participate, teachers may

1 be hired by the Kentucky Educational Collaborative for State Agency
2 Children or a contract may be entered into with a private provider of
3 educational services. All certified educational staff hired by the Kentucky
4 Educational Collaborative for State Agency Children shall be members of the
5 Kentucky Teachers' Retirement System.

6 (c) Beginning July 1, 1993, the Kentucky Education Collaborative for State
7 Agency Children shall be financed through:

- 8 1. The amount generated by state agency children under the Support
9 Education Excellence in Kentucky program as provided in KRS 157.360
10 for the guaranteed base and adjustments for the number of at-risk
11 students, exceptional students, and transportation costs;
- 12 2. A per-pupil distribution of professional development funds with the
13 collaborative serving as a consortium for state agency children;
- 14 3. A per-pupil distribution of technology funds in accordance with the state
15 education technology plan pursuant to KRS 156.670 and the formula for
16 the distribution of funds to local school districts;
- 17 4. A per-pupil distribution of textbook funds pursuant to KRS 157.100 and
18 157.190;
- 19 5. The funding for school services for state agency children authorized by
20 KRS 158.135; and
- 21 6. Other grants and entitlements, including federal funds, identified in the
22 implementation plan developed pursuant to paragraph (f) of this
23 subsection for the education of Kentucky's children.

24 (d) The commissioner of Juvenile Justice and the secretary of the Cabinet for
25 Health and Family Services shall promulgate administrative regulations,
26 pursuant to KRS Chapter 13A, with the assistance of the Kentucky
27 Department of Education and upon recommendation of the Kentucky Board

- 1 of Education regarding the governance, curriculum, and other topics
2 necessary to educate state agency children. The regulations shall:
- 3 1. Provide for the development and implementation of interagency
4 agreements that:
 - 5 a. Define the financial responsibility of each state and local agency
6 for providing services to state agency children;
 - 7 b. Establish procedures for resolving interagency disputes among
8 agencies that are parties to the agreements; and
 - 9 2. Provide procedures for the implementation of the Kentucky statutes
10 regarding school-based decision making, student outcomes,
11 accountability, assessment, rewards and sanctions, technology, staff
12 development, salaries, and the development of coordinated individual
13 treatment, education, and transition plans to ensure compliance with
14 present education and treatment laws and regulations specific to the
15 needs of children in the programs of the Cabinet for Health and Family
16 Services.
- 17 (e) When the placement of a state agency child is changed so that the state agency
18 child must transfer from one school or educational facility to a different
19 school or educational facility, the school or educational facility that the state
20 agency child is leaving shall, within two (2) days of the state agency child
21 leaving, prepare an educational passport for the child, which shall be
22 delivered to the cabinet or the Department of Juvenile Justice. The cabinet or
23 the Department of Juvenile Justice shall, within two (2) days of enrolling a
24 state agency child in a new school or educational facility, present the
25 educational passport to the receiving school or educational facility.
- 26 (f) The commissioner of Juvenile Justice and the secretary of the Cabinet for
27 Health and Family Services and the commissioner of the state Department of

1 Education shall initiate development of a plan for implementation of the
2 Kentucky Educational Collaborative for State Agency Children.

3 ➔Section 35. KRS 610.310 is amended to read as follows:

4 (1) When the mental or physical health of any child before the juvenile court requires
5 it, the court may order the child to be placed in a public or private hospital or
6 institution for examination, evaluation, treatment, or care by a health officer,
7 comprehensive care center, children's clinic, or any reputable physician or
8 psychologist who will conduct the examination. The cabinet and the Department of
9 Juvenile Justice may furnish services under agreements with the individual juvenile
10 courts. For this purpose, any county judge/executive or chief executive officer of an
11 urban-county or charter county government may enter into a contract on behalf of
12 his or her county with the cabinet or the Department of Juvenile Justice for the
13 furnishings of these services.

14 (2) The court may order or consent to necessary medical treatment, including surgical
15 procedures **and abortion**, except for~~[the purpose of abortion,]~~ electroshock therapy
16 or psychosurgery as provided in KRS Chapter 645, or sterilization, after a hearing
17 conducted to determine the necessity of such treatment or procedure **and the wishes**
18 **of the child**. In making the order, the court may take into consideration the religious
19 beliefs and practices of the child and his parents or guardian. Reasonable notice,
20 taking into account any emergency circumstances, shall be provided to the parents,
21 guardian or person exercising custodial control or supervision of the child to enable
22 them to attend the hearing.

23 ➔Section 36. KRS 311.550 is amended to read as follows:

24 As used in KRS 311.530 to 311.620 and 311.990(4) to (6):

- 25 (1) "Board" means the State Board of Medical Licensure;
26 (2) "President" means the president of the State Board of Medical Licensure;
27 (3) "Secretary" means the secretary of the State Board of Medical Licensure;

- 1 (4) "Executive director" means the executive director of the State Board of Medical
2 Licensure or any assistant executive directors appointed by the board;
- 3 (5) "General counsel" means the general counsel of the State Board of Medical
4 Licensure or any assistant general counsel appointed by the board;
- 5 (6) "Regular license" means a license to practice medicine or osteopathy at any place in
6 this state;
- 7 (7) "Limited license" means a license to practice medicine or osteopathy in a specific
8 institution or locale to the extent indicated in the license;
- 9 (8) "Temporary permit" means a permit issued to a person who has applied for a
10 regular license, and who appears from verifiable information in the application to
11 the executive director to be qualified and eligible therefor;
- 12 (9) "Emergency permit" means a permit issued to a physician currently licensed in
13 another state, authorizing the physician to practice in this state for the duration of a
14 specific medical emergency, not to exceed thirty (30) days;
- 15 (10) Except as provided in subsection (11) of this section, the "practice of medicine or
16 osteopathy" means the diagnosis, treatment, or correction of any and all human
17 conditions, ailments, diseases, injuries, or infirmities by any and all means,
18 methods, devices, or instrumentalities;
- 19 (11) The "practice of medicine or osteopathy" does not include the practice of Christian
20 Science, the domestic administration of family remedies, the rendering of first aid
21 or medical assistance in an emergency in the absence of a person licensed to
22 practice medicine or osteopathy under the provisions of this chapter, the use of
23 automatic external defibrillators in accordance with the provisions of KRS 311.665
24 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of
25 dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS
26 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015,
27 the practice as a nurse as defined in KRS 314.011, the practice of physical therapy

1 as defined in KRS 327.010, the practice of genetic counseling as defined in KRS
2 311.690, the performance of duties for which they have been trained by paramedics
3 licensed under KRS Chapter 311A, emergency medical responders, advanced
4 emergency medical technicians, or emergency medical technicians certified under
5 Chapter 311A, the practice of pharmacy by persons licensed and registered under
6 KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines,
7 trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or
8 mechanisms that are intended, advertised, or represented as being for the treatment,
9 correction, cure, or relief of any human ailment, disease, injury, infirmity, or
10 condition, in regular mercantile establishments, or the practice of midwifery, or the
11 provision of certified professional midwifery services by a licensed certified
12 professional midwife as defined in KRS 314.400;

13 (12) "Physician" means a doctor of medicine or a doctor of osteopathy;

14 (13) "Grievance" means any allegation in whatever form alleging misconduct by a
15 physician;

16 (14) "Charge" means a specific allegation alleging a violation of a specified provision of
17 this chapter;

18 (15) "Complaint" means a formal administrative pleading that sets forth charges against
19 a physician and commences a formal disciplinary proceeding;

20 (16) ~~[As used in KRS 311.595(4)], "crimes involving moral turpitude" shall mean those~~
21 ~~crimes which have dishonesty as a fundamental and necessary element, including~~
22 ~~but not limited to crimes involving theft, embezzlement, false swearing, perjury,~~
23 ~~fraud, or misrepresentation;~~

24 ~~(17)~~ "Telehealth" means the use of interactive audio, video, or other electronic media to
25 deliver health care. It includes the use of electronic media for diagnosis,
26 consultation, treatment, transfer of medical data, and medical education;

27 (17)~~(18)~~ "Order" means a direction of the board or its panels made or entered in

1 writing that determines some point or directs some step in the proceeding and is not
2 included in the final order;

3 ~~(18)~~~~(19)~~ "Agreed order" means a written document that includes but is not limited to
4 stipulations of fact or stipulated conclusions of law that finally resolves a grievance,
5 a complaint, or a show cause order issued informally without expectation of further
6 formal proceedings in accordance with KRS 311.591(6);

7 ~~(19)~~~~(20)~~ "Final order" means an order issued by the hearing panel that imposes one (1)
8 or more disciplinary sanctions authorized by this chapter;

9 ~~(20)~~~~(21)~~ "Letter of agreement" means a written document that informally resolves a
10 grievance, a complaint, or a show cause order and is confidential in accordance
11 with KRS 311.619;

12 ~~(21)~~~~(22)~~ "Letter of concern" means an advisory letter to notify a physician that,
13 although there is insufficient evidence to support disciplinary action, the board
14 believes the physician should modify or eliminate certain practices and that the
15 continuation of those practices may result in action against the physician's license;

16 ~~(22)~~~~(23)~~ "Motion to revoke probation" means a pleading filed by the board alleging
17 that the licensee has violated a term or condition of probation and that fixes a date
18 and time for a revocation hearing;

19 ~~(23)~~~~(24)~~ "Revocation hearing" means a hearing conducted in accordance with KRS
20 Chapter 13B to determine whether the licensee has violated a term or condition of
21 probation;

22 ~~(24)~~~~(25)~~ "Chronic or persistent alcoholic" means an individual who is suffering from a
23 medically diagnosable disease characterized by chronic, habitual, or periodic
24 consumption of alcoholic beverages resulting in the interference with the
25 individual's social or economic functions in the community or the loss of powers of
26 self-control regarding the use of alcoholic beverages;

27 ~~(25)~~~~(26)~~ "Addicted to a controlled substance" means an individual who is suffering

1 from a medically diagnosable disease characterized by chronic, habitual, or periodic
2 use of any narcotic drug or controlled substance resulting in the interference with
3 the individual's social or economic functions in the community or the loss of
4 powers of self-control regarding the use of any narcotic drug or controlled
5 substance;

6 ~~(26)~~~~(27)~~ "Provisional permit" means a temporary permit issued to a licensee engaged
7 in the active practice of medicine within this Commonwealth who has admitted to
8 violating any provision of KRS 311.595 that permits the licensee to continue the
9 practice of medicine until the board issues a final order on the registration or
10 reregistration of the licensee;

11 ~~(27)~~~~(28)~~ "Fellowship training license" means a license to practice medicine or
12 osteopathy in a fellowship training program as specified by the license; and

13 ~~(28)~~~~(29)~~ "Special faculty license" means a license to practice medicine that is limited
14 to the extent that this practice is incidental to a necessary part of the practitioner's
15 academic appointment at an accredited medical school program or osteopathic
16 school program and any affiliated institution for which the medical school or
17 osteopathic school has assumed direct responsibility.

18 ➔Section 37. KRS 311.597 is amended to read as follows:

19 As used in KRS 311.595~~(8)~~~~(9)~~, "dishonorable, unethical, or unprofessional conduct of a
20 character likely to deceive, defraud, or harm the public or any member thereof" shall
21 include but not be limited to the following acts by a licensee:

22 (1) Prescribes or dispenses any medication:

23 (a) With the intent or knowledge that a medication will be used or is likely to be
24 used other than medicinally or for an accepted therapeutic purpose;

25 (b) With the intent to evade any law with respect to sale, use, or disposition of the
26 medication;

27 (c) For the licensee's personal use or for the use of the licensee's~~his~~ immediate

1 family when the licensee knows or has reason to know that an abuse of a
2 controlled substance is occurring, or may result from such a practice;

3 (d) In such amounts that the licensee knows or has reason to know, under the
4 attendant circumstances, that said amounts so prescribed or dispensed are
5 excessive under accepted and prevailing medical practice standards; or

6 (e) In response to any communication transmitted or received by computer or
7 other electronic means, when the licensee fails to take the following actions to
8 establish and maintain a proper physician-patient relationship:

- 9 1. Verification that the person requesting medication is in fact who the
10 patient claims to be;
- 11 2. Establishment of a documented diagnosis through the use of accepted
12 medical practices; and
- 13 3. Maintenance of a current medical record.

14 For the purposes of this paragraph, an electronic, on-line, or telephonic
15 evaluation by questionnaire is inadequate for the initial evaluation of the
16 patient or for any follow-up evaluation.

17 (2) Issues, publishes, or makes oral or written representations in which grossly
18 improbable or extravagant statements are made which have a tendency to deceive or
19 defraud the public, or a member thereof, including but not limited to:

20 (a) Any representation in which the licensee claims that he or she can cure or
21 treat diseases, ailments, or infirmities by any method, procedure, treatment, or
22 medicine which the licensee knows or has reason to know has little or no
23 therapeutic value;

24 (b) Represents, ~~or~~ professes, or holds himself or herself out as being able and
25 willing to treat diseases, ailments, or infirmities under a system or school of
26 practice:

27 1. Other than that for which the licensee ~~he~~ holds a certificate or license

- 1 granted by the board, or
- 2 2. Other than that for which the licensee~~he~~ holds a degree or diploma
- 3 from a school otherwise recognized as accredited by the board, or
- 4 3. Under a school or system which the licensee~~he~~ professes to be self-
- 5 taught.

6 For purposes of this subsection, actual injury to a patient need not be established.

- 7 (3) A serious act, or a pattern of acts committed during the course of the licensee's~~his~~
- 8 medical practice which, under the attendant circumstances, would be deemed to be
- 9 gross incompetence, gross ignorance, gross negligence, or malpractice.
- 10 (4) Conduct which is calculated or has the effect of bringing the medical profession
- 11 into disrepute, including but not limited to any departure from, or failure to conform
- 12 to the standards of acceptable and prevailing medical practice within the
- 13 Commonwealth of Kentucky, and any departure from, or failure to conform to the
- 14 principles of medical ethics of the American Medical Association or the code of
- 15 ethics of the American Osteopathic Association. For the purposes of this
- 16 subsection, actual injury to a patient need not be established.
- 17 (5) Failure by a licensee to report a known or observed violation of KRS Chapter 311
- 18 by another licensee as described in KRS 311.606.
- 19 (6) Violation by a licensee of KRS 304.39-215 or 311.373.
- 20 (7) Conduct by a licensee that is subject to the penalties under KRS 304.99-060(4) or
- 21 (5).

22 ➔Section 38. KRS 311.599 is amended to read as follows:

- 23 (1) When a hearing or inquiry panel has probable cause to believe a physician is
- 24 suffering from a physical or mental condition that might impede the
- 25 physician's~~his~~ ability to practice competently, the panel may order the physician
- 26 to undergo a physical or mental examination by persons designated by the panel.
- 27 (2) Failure of a physician to submit to such an examination when directed, unless the

1 failure was due to circumstances beyond his or her control, shall constitute an
2 admission that the concerned physician has developed such a physical or mental
3 disability, or other conditions, that continued practice is dangerous to patients or to
4 the public; said failure shall constitute a default and a final order may be entered
5 without the taking of testimony or presentation of evidence.

6 (3) A physician whose license has been suspended, limited, restricted or revoked under
7 this section and KRS 311.595~~(7)~~~~(8)~~, shall at reasonable intervals be afforded an
8 opportunity to demonstrate that he or she can resume the competent practice of
9 medicine with reasonable skill and safety to patients.

10 ➔Section 39. KRS 311.604 is amended to read as follows:

11 (1) When a hearing or inquiry panel receives information that a physician has not been
12 engaged in the active practice of medicine for at least two (2) years, the panel may
13 order the physician to successfully complete a board-approved clinical competency
14 examination or a board-approved clinical skills assessment program at the expense
15 of the physician. The panel shall review the results of the examination or
16 assessment and determine whether the physician may resume the practice of
17 medicine without undue risk or danger to patients or the public.

18 (2) Failure of a physician to successfully complete the clinical competency examination
19 or the clinical skills assessment when directed shall constitute an admission that the
20 physician is unable to practice medicine according to accepted and prevailing
21 standards, unless the failure was due to circumstances beyond the control of the
22 physician. The failure shall constitute a default and a final order may be entered
23 without additional testimony or without presentation of additional evidence.

24 (3) A physician whose license has been suspended, limited, restricted, or revoked under
25 this section or KRS 311.595~~(7)~~~~(8)~~ shall be afforded an opportunity at reasonable
26 intervals to demonstrate that he or she has the competency and skill to resume the
27 practice of medicine.

1 ➔Section 40. KRS 311.606 is amended to read as follows:

2 (1) In order to assist the board in the enforcement of KRS 311.595~~(19)~~~~(20)~~ and
3 ~~(20)~~~~(21)~~, any professional medical association or society operating in the
4 Commonwealth of Kentucky, or any hospital or medical staff of said hospital
5 located in the Commonwealth of Kentucky, shall report all actions taken against a
6 licensed physician as described in KRS 311.595~~(19)~~~~(20)~~ and ~~(20)~~~~(21)~~ to the
7 board within thirty (30) days of the final adjudication of said action together with
8 all pertinent documents to include but not limited to transcripts, pleadings and
9 certified copy of the final order.

10 (2) In order to assist the board in the enforcement of the provisions of KRS Chapter
11 311, any licensed physician who observes another licensed physician violating a
12 provision of KRS Chapter 311 shall submit a written report to the board, or to the
13 board and the concerned medical association or society, or to the board and the
14 concerned hospital or medical staff of the hospital within ten (10) days of observing
15 such a violation or obtaining other direct knowledge of such a violation; the report
16 shall contain the name of the licensed physician believed to be in violation of a
17 provision of KRS Chapter 311, a detailed account of the concerned actions, a list of
18 all other witnesses to said actions, and the name of the physician submitting the
19 report.

20 (3) All clerks of the Circuit and District Courts in the Commonwealth of Kentucky
21 shall report to the secretary of the board all criminal convictions of licensees that
22 may occur in their respective courts. The report shall contain the name of the
23 licensee, the sentence imposed against the licensee, and whether the sentence
24 imposed upon the licensee has been appealed.

25 ➔Section 41. KRS 311.607 is amended to read as follows:

26 (1) Except for disciplinary actions taken pursuant to KRS 311.595~~(7)~~~~(8)~~ and KRS
27 311.599, a licensee who has had his *or her* license revoked may, after two (2) years

1 from the effective date of the revocation order, petition the board for a license to
2 again practice in the Commonwealth of Kentucky.

3 (2) The board shall not be required to issue a new license as described in subsection
4 (1). No new license shall be issued to such former licensee unless the applicant
5 satisfies the board that he *or she* is presently of good moral character and qualified
6 both physically and mentally to resume the practice of medicine without undue risk
7 or danger to his *or her* patients or the public.

8 (3) In the event that the board should issue a new license under the circumstances as
9 described in this section, the new license shall be under probation for a period of
10 not less than two (2) years nor more than five (5) years, and any subsequent
11 violation during the probation period shall result in automatic revocation of license.

12 ➔Section 42. KRS 311.572 is amended to read as follows:

13 (1) The board may issue an order directing an applicant for a license or the holder of a
14 license to show cause why the applicant should be granted a license or the licensee
15 should not be disciplined, respectively, when:

16 (a) An applicant admits or is otherwise found to have committed an act which
17 constitutes a violation of the provisions of this chapter; or

18 (b) A licensee admits or is otherwise found to have committed an act in violation
19 of the provisions of this chapter in any document relating to the registration or
20 reregistration of a license.

21 (2) The order shall be signed by an officer of the board and shall state those violations
22 which the board believes to have been committed. The matter shall be assigned to a
23 hearing panel and shall proceed in accordance with KRS 311.591. The burden of
24 proof shall lie with the charged physician.

25 (3) The board may issue a provisional permit to practice medicine as provided in KRS
26 311.550~~(26)~~~~(27)~~ and the board shall not approve any application for licensure or
27 application for reregistration of an inactive license or provisional permit until a final

1 order on the matter has been issued.

2 ➔Section 43. KRS 311.591 is amended to read as follows:

- 3 (1) The president of the board shall divide the membership of the board, excluding
4 himself, into two (2) panels of seven (7) members, each panel to include at least one
5 (1) consumer member. Each panel shall have the power to act as an inquiry or a
6 hearing panel. The president shall not be a permanent member of either panel, but
7 shall have the power to render the deciding vote whenever a tie vote is rendered by
8 either panel and shall have the power to serve as a member of either panel when
9 necessary to achieve a quorum by majority.
- 10 (2) Grievances may be submitted by an individual (including board members),
11 organization, or entity. Each grievance shall be investigated as necessary and the
12 executive director shall assign each grievance to an inquiry panel. All inquiry
13 panels and the executive director shall have the power to issue investigatory
14 subpoenas for the appearance of any person or production of any record, document,
15 or other item within the jurisdiction of the Commonwealth. The panel or executive
16 director may seek enforcement of investigatory subpoenas and search warrants in
17 the courts of the Commonwealth as may be necessary.
- 18 (3) Upon completion of its inquiry, the inquiry panel shall make a finding that:
- 19 (a) There is no evidence of a violation of any medical practice act and no further
20 action is necessary;
- 21 (b) There is insufficient evidence of a violation to warrant the issuance of a
22 complaint, but that there is evidence of a practice or activity that requires
23 modification and the panel may issue a letter of concern under KRS
24 311.550(21)~~[(22)]~~. The letter of concern shall be a public document and may
25 be used in future disciplinary actions against the physician;
- 26 (c) The grievance discloses an instance of misconduct which does not warrant the
27 issuance of a complaint; in these instances, the panel may admonish the

- 1 physician for his misconduct; or
- 2 (d) The grievance discloses one (1) or more violations of the provisions of this
- 3 chapter which warrant the issuance of a complaint; in these instances, the
- 4 panel shall cause a complaint to be prepared, signed by the presiding officer,
- 5 which shall contain sufficient information to apprise the named physician of
- 6 the general nature of the charges.
- 7 (4) The inquiry panel shall cause a complaint to be served on the charged physician by
- 8 personal delivery or by certified mail to the physician's last address of which the
- 9 board has record. The physician shall submit a response within thirty (30) days after
- 10 service. Failure to submit a timely response or willful avoidance of service may be
- 11 taken by the board as an admission of the charges.
- 12 (5) Upon the issuance of the complaint, the executive director shall assign the matter
- 13 for an administrative hearing by a hearing panel. No member who served on the
- 14 inquiry panel may also serve as a member of the hearing panel. The hearing panel
- 15 or the hearing officer on behalf of the panel shall preside over all proceedings
- 16 pursuant to the issuance of a complaint.
- 17 (6) The board may promulgate administrative regulations regarding the informal
- 18 disposition of any complaint, and an informal disposition may be made at any stage
- 19 of the proceeding.
- 20 (7) Upon completion of an administrative hearing, the hearing panel shall issue a final
- 21 order that:
- 22 (a) Dismisses the complaint upon a conclusion that the provisions of this chapter
- 23 have not been violated;
- 24 (b) Finds a violation of the provisions of this chapter, but does not impose
- 25 discipline because the panel does not believe discipline to be necessary under
- 26 the circumstances; or
- 27 (c) Imposes discipline upon the licensee; in these instances, the panel may

1 revoke, suspend, restrict, deny, or limit a license, or may reprimand a licensee
2 or place a licensee on probation under terms the panel may establish to protect
3 the licensee, his patients, or the general public. The hearing panel may impose
4 a fine whenever it finds that a violation of this chapter has occurred. If the
5 board substantiates that sexual contact occurred between the physician and the
6 patient while the patient was under the care of or in a professional relationship
7 with the physician, the physician's license may be revoked or suspended with
8 mandatory treatment of the physician as prescribed by the board. The board
9 may require the physician to pay a specified amount for mental health services
10 for the patient which are needed as a result of the sexual contact. The hearing
11 panel's order shall be considered the final order of the board regarding the
12 matter.

13 (8) Regardless of the restrictions on public disclosure of information established in
14 subsection (9) of this section, the board may order information derived from any
15 investigation or inquiry be released to the physician licensure authority of another
16 state or to any health care or mental health care facility licensed and regulated by
17 the Commonwealth of Kentucky upon a showing that the information is necessary
18 to determine the propriety of a physician practicing in a particular state or facility.

19 (9) The presiding officer at any proceeding held pursuant to a complaint or show cause
20 order shall take whatever measures are necessary to protect the privacy interests of
21 individuals other than the charged physician upon a showing that evidence is to be
22 introduced, the public disclosure of which would constitute a clear invasion of
23 personal privacy. It is the general policy of the Commonwealth that administrative
24 proceedings should be open to the public. Therefore, in applying this subsection,
25 the presiding officer shall balance the competing interests and employ the least
26 restrictive measures available to protect the privacy interests involved.

27 ➔Section 44. KRS 311.686 is amended to read as follows:

- 1 (1) At any time when an inquiry panel established under KRS 311.591 has probable
2 cause to believe that an acupuncturist has violated the terms of an agreed order as
3 defined in KRS 311.550~~(18)~~~~(19)~~, or violated the terms of a disciplinary order, or
4 that an acupuncturist's practice constitutes a danger to the health, welfare, or safety
5 of patients or the general public, the inquiry panel may issue an emergency order in
6 accordance with KRS 13B.125 suspending, limiting, or restricting the
7 acupuncturist's license.
- 8 (2) For the purposes of a hearing conducted under KRS 311.592 on an emergency order
9 issued under this section, the findings of fact in the emergency order shall constitute
10 a rebuttable presumption of substantial evidence of a violation of law that
11 constitutes immediate danger to the health, welfare, or safety of patients or the
12 general public. For the purposes of this hearing only, hearsay shall be admissible
13 and may serve as a basis of the board's findings.
- 14 (3) An emergency order as described in subsection (1) of this section shall not be
15 issued unless grounds exist for the issuance of a complaint. The inquiry panel shall
16 issue a complaint prior to the date of the emergency hearing or the emergency order
17 shall become void.
- 18 (4) An emergency order suspending, limiting, or restricting a license shall not be
19 maintained after a final order as defined in KRS 311.550~~(19)~~~~(20)~~ is served on the
20 charged acupuncturist pursuant to the proceeding on the complaint. An appeal of an
21 emergency order shall not prejudice the board from proceeding with the complaint.
- 22 ➔Section 45. KRS 311.852 is amended to read as follows:
- 23 (1) At any time when an inquiry panel established under KRS 311.591 has probable
24 cause to believe that a physician assistant has violated the terms of an agreed order
25 as defined in KRS 311.550~~(18)~~~~(19)~~, or violated the terms of a disciplinary order,
26 or that a physician assistant's practice constitutes a danger to the health, welfare, or
27 safety of his or her patients or the general public, the inquiry panel may issue an

1 emergency order in accordance with KRS 13B.125 suspending, limiting, or
2 restricting the physician assistant's license.

3 (2) For the purposes of a hearing conducted under KRS 13B.125 on an emergency
4 order issued under this section, the findings of fact in the emergency order shall
5 constitute a rebuttable presumption of substantial evidence of a violation of law that
6 constitutes immediate danger to the health, welfare, or safety of patients or the
7 general public. For the purposes of this hearing only, hearsay shall be admissible
8 and may serve as a basis of the board's findings.

9 (3) An emergency order as described in subsection (1) of this section shall not be
10 issued unless grounds exist for the issuance of a complaint. The inquiry panel shall
11 issue a complaint prior to the date of the emergency hearing or the emergency order
12 shall become void.

13 (4) An order of temporary suspension, restriction, or limitation shall not be maintained
14 after a final order as defined in KRS 311.550~~(19)~~~~(20)~~ is served on the charged
15 physician assistant pursuant to the proceeding on the complaint. An appeal of an
16 emergency order shall not prejudice the board from proceeding with the complaint.

17 ➔Section 46. The following KRS sections are repealed:

18 15.241 Attorney General's powers to prevent, penalize, and remedy violations of laws
19 relating to elective medical procedures, including abortions.

20 213.098 Disclosure regarding fetal remains -- Forms -- Prohibited activities.

21 213.172 Report on prescriptions for abortion-inducing drugs -- Failure to comply --
22 Administrative regulations.

23 213.174 Report forms -- Annual statistical report -- Public records -- Confidentiality of
24 identity -- Communication of reporting requirements.

25 213.176 Information and statement.

26 216B.0435 Requirement of written agreements between abortion facility and acute-care
27 hospital and ambulance service.

- 1 216B.200 Definitions for KRS 216B.200 to 216B.210.
- 2 216B.202 Kentucky Abortion-Inducing Drug Certification Program -- Administrative
3 regulations.
- 4 216B.204 Duties of cabinet -- Eligibility for certification.
- 5 216B.206 Eligibility to register as nonsurgical abortion provider -- Requirements for
6 registered physicians.
- 7 216B.208 Plan to enforce program -- Private right of action.
- 8 216B.210 Complaint portal.
- 9 304.5-160 Health insurance and health care contracts not to cover elective abortions
10 except by optional rider.
- 11 311.710 Legislative findings.
- 12 311.715 Use of public agency funds for abortion prohibited -- Use of public medical
13 facilities for in-vitro fertilization permitted -- Distribution of public agency funds to
14 entity that performs or counsels for abortion or family planning prohibited -- Order
15 of priority for awarding federal family planning funds upon repeal of federal
16 regulations that bar prioritizing recipients.
- 17 311.720 Definitions for KRS 311.710 to 311.820 and other laws.
- 18 311.723 When physician may perform abortion -- Guidelines.
- 19 311.724 Informed consent given in "individual, private setting."
- 20 311.725 Requirement of voluntary and informed written consent for abortion --
21 Cabinet's duty to produce and make available informational materials -- Abortions
22 in medical emergencies.
- 23 311.727 Requirement for performance and explanation of obstetric ultrasound and
24 auscultation of fetal heartbeat prior to abortion -- Exception for medical emergency
25 or necessity.
- 26 311.728 Physician must be physically present with patient to perform or induce abortion
27 -- Use of telehealth prohibited.

- 1 311.731 Prohibition against sex-, race-, color-, national origin-, or disability-based
2 abortion -- Certification to Vital Statistics Branch -- Revocation of license -- Action
3 for damages -- Severability.
- 4 311.732 Performance of abortion upon a minor -- Definitions -- Notice -- Consent
5 requirement -- Petition in District or Circuit Court -- Hearing -- Report -- Medical
6 emergencies.
- 7 311.733 Severability.
- 8 311.735 Notice to spouse -- Exceptions -- Civil remedies.
- 9 311.750 Performance by other than licensed physician prohibited.
- 10 311.760 Minimum standards for performance of abortion.
- 11 311.765 Prohibition against partial-birth abortion.
- 12 311.770 Restriction on use of saline method.
- 13 311.7701 Definitions for KRS 311.7701 to 311.7711.
- 14 311.7702 Findings and declarations.
- 15 311.7703 Application of KRS 311.7704, 311.7705, and 311.7706.
- 16 311.7704 Determination of fetal heartbeat -- Medical records -- Option to view or hear
17 heartbeat -- Administrative regulations -- Persons not in violation.
- 18 311.7705 Prohibition against performing or inducing abortion before determining
19 whether fetal heartbeat exists -- Exceptions -- Written notation -- Persons not in
20 violation.
- 21 311.7706 Prohibition against performing or inducing abortion if fetal heartbeat detected
22 -- Exceptions -- Written declaration -- Persons not in violation.
- 23 311.7707 Written document regarding purpose of abortion -- Retention of records.
- 24 311.7708 Drugs, devices, and chemicals designed for contraceptive purposes.
- 25 311.7709 Civil action for wrongful death of unborn child -- Damages, costs, fees --
26 Defense.
- 27 311.7711 Effect of court order suspending enforcement -- Application to court

- 1 concerning constitutionality or injunction -- Severability.
- 2 311.772 Prohibition against intentional termination of life of an unborn human being --
- 3 Definitions -- When section takes effect -- Penalties not to apply to pregnant
- 4 woman -- Contraception -- Appropriation of Medicaid funds.
- 5 311.7731 Definitions for KRS 311.7731 to 311.7739.
- 6 311.7733 Abortion-inducing drugs to be provided only by qualified physician --
- 7 Distribution prohibited.
- 8 311.7734 Requirements for physician providing abortion-inducing drug -- Examination
- 9 and follow-up visit.
- 10 311.7735 Informed consent of patient receiving abortion-inducing drug -- Form.
- 11 311.7736 Reports to cabinet -- Complication or adverse event.
- 12 311.7737 Construction of KRS 311.7731 to 311.7739 -- Drugs not to be provided in
- 13 school facility or on state grounds.
- 14 311.7739 Legal actions upon failure to comply with KRS 311.7731 to 311.7739.
- 15 311.774 Report on prescriptions for abortion-inducing drugs -- Information on potential
- 16 reversal of effect of drugs to be included with prescription -- Complications and
- 17 adverse events to be reported to Vital Statistics Branch.
- 18 311.7741 Report of complication, adverse event, medical treatment, or death following
- 19 abortion.
- 20 311.7743 Action and intervention by Attorney General -- Penalties -- Extradition.
- 21 311.781 Definitions for KRS 311.781 to 311.786.
- 22 311.7811 Legislative findings and declarations.
- 23 311.782 Prohibition against performing or inducing abortion when probable gestational
- 24 age of unborn child is 15 weeks or more -- Affirmative defenses -- Penalties for
- 25 violation.
- 26 311.784 Authorized civil action for violation of KRS 311.782.
- 27 311.7841 Actions to enforce KRS 311.781 to 311.786.

- 1 311.785 Kentucky pain-capable unborn child protection litigation fund.
- 2 311.786 Construction of KRS 213.101, 311.595, 311.781 to 311.786, 311.990, and
3 413.140.
- 4 311.787 Prohibition of certain abortion procedures when the probable gestational age of
5 the unborn child is 11 weeks or greater, except in the case of a medical emergency -
6 - Penalty not to apply to pregnant woman.
- 7 311.790 Issuance of birth and death certificates for live-born child after attempted
8 abortion.
- 9 311.800 Abortions in publicly owned hospital or health care facility prohibited --
10 Exception -- Injunction to enforce compliance -- Abortions in private hospital or
11 health care facility -- Unlawful discriminatory practices.
- 12 311.821 Definitions for KRS 311.821 to 311.827.
- 13 311.822 Legislative findings -- Purposes of KRS 311.821 to 311.827.
- 14 311.823 Denying or depriving a born-alive infant of care or treatment -- Duty of
15 physician performing abortion -- Born-alive infant to be treated as legal person --
16 Born-alive infant to become ward of the state if parent seeks to terminate parental
17 rights -- Construction of section's requirements -- Limitation of parent's criminal
18 and civil liability.
- 19 311.824 Additional remedies for failure to comply with KRS 311.823.
- 20 311.825 Construction of KRS 311.821 to 311.827.
- 21 311.826 Provision of KRS 311.821 to 311.827 held to be invalid or unenforceable to be
22 given maximum effect permitted by law -- Severability.
- 23 311.827 Appointment of legislative sponsors to intervene in constitutional challenge --
24 No waiver or diminishment of rights of legislative branch personnel.
- 25 311.830 Severability.
- 26 311.992 Penalty for violation of KRS 311.715.
- 27 315.315 Presumption regarding prescription or medical order.

1 ➔Section 47. If any provision of this Act or the application of any provision to
2 any person or circumstance is held invalid or unconstitutional, the declaration of such
3 invalidity shall not affect other provisions or applications of this Act that can be given
4 effect without the invalid provision or application, and to this end the provisions of this
5 Act are severable.