

1 AN ACT relating to traumatic brain injury treatment for veterans.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 7 of this Act:*

6 *(1) "Eligible patient" means a veteran who meets the requirements of Section 3 of*
7 *this Act;*

8 *(2) "Health care provider" means a licensed physician, a licensed advanced practice*
9 *registered nurse, or a licensed physician assistant;*

10 *(3) "Health facility" has the same meaning as in KRS 216B.015;*

11 *(4) "Hyperbaric oxygen therapy" or "HBOT" means inhalation of one hundred*
12 *percent (100%) oxygen in a total body chamber, where atmospheric pressure is*
13 *increased and controlled, applicable to the prevention, treatment, or cure of a*
14 *disease or condition of human beings;*

15 *(5) "Traumatic brain injury" has the same meaning as in KRS 211.470;*

16 *(6) "Veteran" has the same meaning as in KRS 40.010; and*

17 *(7) "Written informed consent" means a written document that meets the*
18 *requirements of Section 4 of this Act.*

19 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO
20 READ AS FOLLOWS:

21 *(1) A health care provider or health facility shall make hyperbaric oxygen therapy*
22 *available to an eligible patient who has requested it pursuant to Sections 1 to 7 of*
23 *this Act.*

24 *(2) The health care provider or health facility may:*

25 *(a) Provide hyperbaric oxygen therapy without receiving compensation; or*

26 *(b) Require an eligible patient to pay the costs of or the costs associated with*
27 *hyperbaric oxygen therapy.*

1 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO
2 READ AS FOLLOWS:

3 *A veteran shall be an eligible patient for hyperbaric oxygen therapy if he or she has:*

4 *(1) A diagnosis of traumatic brain injury that is attested to by the patient's treating*
5 *health care provider;*

6 *(2) A prescription for hyperbaric oxygen therapy written by his or her treating health*
7 *care provider; and*

8 *(3) Given written informed consent for the use of HBOT in accordance with Section*
9 *4 of this Act.*

10 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO
11 READ AS FOLLOWS:

12 *(1) A veteran or a veteran's legal guardian shall provide written informed consent*
13 *for treatment with hyperbaric oxygen therapy in order to receive HBOT to treat*
14 *traumatic brain injury.*

15 *(2) At a minimum, the written informed consent shall include:*

16 *(a) An explanation of the currently approved products and treatments for the*
17 *traumatic brain injury from which the veteran suffers;*

18 *(b) A description of the potentially best and worst outcomes of using hyperbaric*
19 *oxygen therapy and a realistic description of the most likely outcome;*

20 *(c) A statement that the veteran's health plan or third-party administrator and*
21 *provider shall not be obligated to pay for any care or treatments consequent*
22 *to the use of hyperbaric oxygen therapy unless they are specifically required*
23 *to do so by law or contract; and*

24 *(d) A statement that the veteran understands that the patient shall be liable for*
25 *all expenses related to the use of hyperbaric oxygen therapy.*

26 *(3) The description of potential outcomes required under subsection (2)(b) of this*
27 *section shall:*

1 (a) Include the possibility that new, unanticipated, different, or worse
 2 symptoms may result and that the proposed treatment may hasten death;

3 and

4 (b) Be based on the treating health care provider's knowledge of the proposed
 5 treatment in conjunction with an awareness of the veteran's condition.

6 (4) The written informed consent shall be:

7 (a) Signed by:

8 1. The veteran; or

9 2. A legal guardian, if a guardian has been appointed for the veteran;

10 and

11 (b) Attested to by the veteran's treating health care provider and a witness.

12 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO
 13 READ AS FOLLOWS:

14 (1) Sections 1 to 7 of this Act shall not:

15 (a) Expand the coverage required of an insurer;

16 (b) Affect the requirements for insurance coverage of routine patient costs for
 17 veterans involved in hyperbaric oxygen therapy;

18 (c) Require a health plan, third-party administrator, or governmental agency to
 19 pay costs associated with the use of hyperbaric oxygen therapy; or

20 (d) Require a hospital or health facility to provide new or additional services.

21 (2) A health plan, third-party administrator, or governmental agency may provide
 22 coverage for the cost of hyperbaric oxygen therapy under Sections 1 to 7 of this
 23 Act.

24 (3) A hospital or health facility may approve the use of hyperbaric oxygen therapy in
 25 the hospital or health facility.

26 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO
 27 READ AS FOLLOWS:

1 *(1) A licensing board shall not revoke, fail to renew, suspend, or take any action*
2 *against a licensed health care provider based solely on the health care provider's*
3 *recommendations to an eligible patient regarding access to or treatment with*
4 *hyperbaric oxygen therapy;*

5 *(2) The Cabinet for Health and Family Services shall not take action against a*
6 *health care provider's Medicare or Medicaid certification based solely on the*
7 *health care provider's recommendation that an eligible patient have access to*
8 *hyperbaric oxygen therapy.*

9 →SECTION 7. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO
10 READ AS FOLLOWS:

11 *(1) An official, employee, or agent of the Commonwealth of Kentucky shall not block*
12 *or attempt to block an eligible patient's access to hyperbaric oxygen therapy.*

13 *(2) Counseling, advice, or a recommendation consistent with medical standards of*
14 *care from a licensed health care provider shall not be considered a violation of*
15 *subsection (1) of this section.*

16 →Section 8. This Act may be known as the Colonel Ron Ray Veterans Traumatic
17 Brain Injury Treatment Act.