

1 AN ACT relating to charitable health care providers.

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

3 ➔Section 1. KRS 216.940 is amended to read as follows:

4 As used in KRS 216.940 to 216.945:

5 (1) "Charitable health care provider" means any person, agency, clinic, or facility,  
6 licensed or certified by the Commonwealth or under a comparable provision of law  
7 of another state, territory, district, or possession of the United States, engaged in the  
8 rendering of medical care or dentistry:

9 **(a) Within the scope of practice for which the person, agency, clinic, or facility**  
10 **is licensed or certified; and**

11 **(b)** Without compensation or charge, and without expectation of compensation or  
12 charge, to the individual, without payment or reimbursement by any  
13 governmental agency or insurer; ~~]. "Charitable health care provider" means~~  
14 ~~those persons, agencies, clinics, or facilities providing primary medical care~~  
15 ~~and performing no invasive or surgical procedures, and those persons,~~  
16 ~~agencies, clinics, or facilities providing services within the dentist's scope of~~  
17 ~~practice under KRS Chapter 313.]~~

18 (2) "Regularly practice" means to practice for more than sixty (60) days within any  
19 ninety (90) day period; **and** ~~].~~

20 (3) "Sponsoring organization" means any organization, with an established relationship  
21 with a practicing entity, that organizes or arranges for the voluntary provision of  
22 health care services in the state.

23 ➔Section 2. KRS 304.40-075 is amended to read as follows:

24 (1) As used in this section, unless the context requires otherwise:

25 (a) "Charitable health care provider" **has the same meaning as in Section 1 of**  
26 **this Act** ~~means any person, agency, clinic, or facility licensed or certified by~~  
27 ~~the Commonwealth, or under a comparable provision of law of another state,~~

1           ~~territory, district, or possession of the United States, engaged in the rendering~~  
2           ~~of medical care or dentistry without compensation or charge, and without~~  
3           ~~expectation of compensation or charge, to the individual, without payment or~~  
4           ~~reimbursement by any governmental agency or insurer. "Charitable health care~~  
5           ~~provider" means those persons, agencies, clinics, or facilities providing~~  
6           ~~primary care medicine and performing no invasive or surgical procedures, and~~  
7           ~~those persons, agencies, clinics, or facilities providing services within the~~  
8           ~~dentist's scope of practice under KRS Chapter 313];~~

9           (b) "Medical malpractice insurer" means every person or entity engaged as  
10           principal and as indemnitor, surety, or contractor in the business of entering  
11           into contracts to provide medical professional liability insurance, except an  
12           entity in the business of providing such medical professional liability  
13           insurance only to itself or its affiliated subsidiary, or parent corporation, or  
14           subsidiaries of its parent corporations; and

15           (c) "Medical professional liability insurance" means insurance to cover liability  
16           incurred as a result of the hands-on providing of medical professional services  
17           directly to patients by an insured in the treatment, diagnosis, or prevention of  
18           patient illness, disease, or injury.

19           (2) Insurers offering medical professional liability insurance in the Commonwealth  
20           shall make available, as a condition of doing business in the Commonwealth  
21           pursuant to this chapter, medical professional liability insurance for charitable  
22           health care providers and persons volunteering to perform medical services for  
23           charitable health care providers, with the same coverage limits made available to its  
24           other insureds.

25           (3) (a) Premiums for policies issued under subsection (2) of this section shall be paid  
26           by the Commonwealth from the general fund upon written application for  
27           payment of the premium by the health care provider wishing to offer

1 charitable services. A health care provider shall submit an application for  
2 payment of premium to the Department of Insurance no later than one (1) year  
3 from the expiration of the policy for which payment is being requested.

4 (b) The Department of Insurance shall, through promulgation of administrative  
5 regulations pursuant to KRS Chapter 13A, establish reasonable guidelines for  
6 the registration of charitable health care providers. The guidelines shall  
7 require the provider to supply, at a minimum, the following information:

- 8 1. Name and address of the charitable health care provider;
- 9 2. Number of employees of the charitable health care provider who will be:
  - 10 a. Rendering medical care without compensation or charge and  
11 without expectation of compensation or charge; ~~and~~ ~~who will~~  
12 ~~be~~
  - 13 b. Covered under the policy issued under subsection (2) of this  
14 section;
- 15 3. The expected number of patients to be provided charitable health care  
16 services in the year for which the insurer will offer malpractice  
17 coverage;
- 18 4. The charitable health care provider's acknowledgment that the insurer's  
19 risk management and loss prevention policies shall be followed;
- 20 5. A copy of the registration filed with the Cabinet for Health and Family  
21 Services under KRS 216.941; and
- 22 6. A copy of the medical malpractice policy, declaration page, and any  
23 other documentation the commissioner may deem necessary to  
24 determine the proper amount of premiums and taxes to be reimbursed.

25 (c) Persons insured under this section shall be required to comply with the same  
26 risk management and loss prevention policies which the insurer imposes upon  
27 its other insureds.

- 1 (d) Any premium refund for medical professional liability insurance issued under  
2 subsection (2) of this section received for any reason by the charitable health  
3 care provider shall be promptly remitted to the department for transmittal to  
4 the general fund.
- 5 (4) This section shall only apply to charitable health care providers, and persons  
6 volunteering to perform medical services for charitable health care providers;  
7 (a) Who are not otherwise covered by any policy of medical professional liability  
8 insurance for the charitable health care services provided; ~~and~~  
9 (b) That meet the terms for eligibility established pursuant to this section.
- 10 (5) Coverage offered to charitable health care providers, and persons volunteering at  
11 charitable health care providers, shall be at least as broad as the coverage offered by  
12 the insurer to other noncharitable health care providers or facilities and to medical  
13 professionals working at noncharitable health care facilities.
- 14 (6) The Department of Insurance shall retrospectively review on an annual basis the  
15 premiums paid pursuant to this section as opposed to the expenses incurred by the  
16 insurers covering risks under this section to determine if the profits made for those  
17 risks were consistent with reasonable loss ratio guidelines. If the determination is  
18 made that the profits were not consistent with reasonable loss ratio guidelines, the  
19 Department of Insurance shall determine the amount of the premiums to be  
20 refunded to the Commonwealth.
- 21 (7) The Cabinet for Health and Family Services shall make available to the Department  
22 of Insurance information on its registration of charitable health care providers for  
23 the purpose of obtaining medical malpractice insurance.
- 24 (8) The Department of Insurance shall not provide medical malpractice insurance as  
25 specified in subsection (3)(a) of this section to a charitable health care provider who  
26 has not registered with the Cabinet for Health and Family Services under KRS  
27 216.941.