

1 AN ACT relating to operations of the Cabinet for Health and Family Services.

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

3 ➔Section 1. KRS 42.545 is amended to read as follows:

4 Each agency authorized to issue bonds listed in this section shall make a report according
5 to generally accepted accounting principles of all money received and disbursed during
6 each fiscal year, on or before the fifteenth of July, showing the receipts, expenditures,
7 trustees, depositories, rates of interest paid by depositories, investments, and rates of
8 return on investments by each agency to the Office of the Controller. The agencies
9 required to report under this section are Eastern Kentucky University; Kentucky State
10 University; Morehead State University; Murray State University; Northern Kentucky
11 University; University of Kentucky; University of Louisville; Western Kentucky
12 University; Kentucky Community and Technical College System; Kentucky Housing
13 Corporation; Kentucky Higher Education Student Loan Corporation; Kentucky School
14 Building Authority; the Turnpike Authority of Kentucky; the State Property and
15 Buildings Commission; Churchill Downs Authority; ~~Kentucky Health and Geriatric~~
16 ~~Authority;~~ State Fair Board; Department of Fish and Wildlife Resources; Water
17 Resources Authority of Kentucky; and any other agency or instrumentality authorized to
18 issue bonds.

19 ➔Section 2. KRS 42.720 is amended to read as follows:

20 The General Assembly finds and declares that:

21 (1) The establishment of the position of the executive director of the Commonwealth
22 Office of Technology, appointed by the secretary of the Finance and Administration
23 Cabinet with the approval of the Governor, as the Commonwealth's single point of
24 contact and spokesperson for all matters related to information technology and
25 resources, including policies, standard setting, deployment, strategic and tactical
26 planning, acquisition, management, and operations is necessary and in keeping with
27 the industry trends of the private and public sectors;

- 1 (2) The appropriate use of information technology by the Commonwealth can improve
2 operational productivity, reduce the cost of government, enhance service to
3 customers, and make government more accessible to the public;
- 4 (3) Government-wide planning, investment, protection, and direction for information
5 resources must be enacted to:
- 6 (a) Ensure the effective application of information technology on state business
7 operations;
- 8 (b) Ensure the quality, security, and integrity of state business operations; and
9 (c) Provide privacy to the citizens of the Commonwealth;
- 10 (4) The Commonwealth must provide information technology infrastructure, technical
11 directions, and a proficient organizational management structure to facilitate the
12 productive application of information technology and resources to accomplish
13 programmatic missions and business goals;
- 14 (5) Oversight of large scale and government statewide systems or projects is necessary
15 to protect the Commonwealth's investment and to ensure appropriate integration
16 with existing or planned systems;
- 17 (6) A career development plan and professional development program for information
18 technology staff of the executive branch is needed to provide key competencies and
19 adequate on-going support for the information resources of the Commonwealth and
20 to ensure that the information technology staff will be managed as a
21 Commonwealth resource;
- 22 (7) The Commonwealth is in need of information technology advisory capacities to the
23 Governor and the agencies of the executive cabinet;
- 24 (8) Appropriate public-private partnerships to supplement existing resources must be
25 developed as a strategy for the Commonwealth to comprehensively meet its
26 spectrum of information technology and resource needs;
- 27 (9) Technological and theoretical advances in information use are recent in origin,

1 immense in scope and complexity, and change at a rapid rate, which presents
2 Kentucky with the opportunity to provide higher quality, more timely, and more
3 cost-effective government services to ensure standardization, interoperability, and
4 interconnectivity;

5 (10) The sharing of information resources and technologies among executive branch
6 state agencies is the most cost-effective method of providing the highest quality and
7 most timely government services that would otherwise be cost-prohibitive;

8 (11) The ability to identify, develop, and implement changes in a rapidly moving field
9 demands the development of mechanisms to provide for the research and
10 development of technologies that address systems, uses, and applications; and

11 (12) The exercise by the executive director of the Commonwealth Office of Technology
12 of powers and authority conferred by KRS 42.720 to 42.742, 45.253, 171.420,
13 186A.040, ***and*** 186A.285~~[-, and 194A.146]~~ shall be deemed and held to be the
14 performance of essential governmental functions.

15 ➔Section 3. KRS 42.726 is amended to read as follows:

16 (1) The Commonwealth Office of Technology shall be the lead organizational entity
17 within the executive branch regarding delivery of information technology services,
18 including application development and delivery, and shall serve as the single
19 information technology authority for the Commonwealth.

20 (2) The roles and duties of the Commonwealth Office of Technology shall include but
21 not be limited to:

22 (a) Providing technical support and services to all executive agencies of state
23 government in the application of information technology;

24 (b) Assuring compatibility and connectivity of Kentucky's information systems;

25 (c) Developing strategies and policies to support and promote the effective
26 applications of information technology within state government as a means of
27 saving money, increasing employee productivity, and improving state services

- 1 to the public, including electronic public access to information of the
2 Commonwealth;
- 3 (d) Developing, implementing, and managing strategic information technology
4 directions, standards, and enterprise architecture, including implementing
5 necessary management processes to assure full compliance with those
6 directions, standards, and architecture;
- 7 (e) Promoting effective and efficient design and operation of all major
8 information resources management processes for executive branch agencies,
9 including improvements to work processes;
- 10 (f) Developing, implementing, and maintaining the technology infrastructure of
11 the Commonwealth and all related support staff, planning, administration,
12 asset management, and procurement for all executive branch cabinets and
13 agencies except:
- 14 1. Agencies led by a statewide elected official;
 - 15 2. The nine (9) public institutions of postsecondary education;
 - 16 3. The Department of Education's services provided to local school
17 districts;
 - 18 4. The Kentucky Retirement Systems and the Teachers' Retirement
19 System;
 - 20 5. The Kentucky Housing Corporation;
 - 21 6. The Kentucky Lottery Corporation;
 - 22 7. The Kentucky Higher Education Student Loan Corporation; and
 - 23 8. The Kentucky Higher Education Assistance Authority;
- 24 (g) Facilitating and fostering applied research in emerging technologies that offer
25 the Commonwealth innovative business solutions;
- 26 (h) Reviewing and overseeing large or complex information technology projects
27 and systems for compliance with statewide strategies, policies, and standards,

- 1 including alignment with the Commonwealth's business goals, investment,
2 and other risk management policies. The executive director is authorized to
3 grant or withhold approval to initiate these projects;
- 4 (i) Integrating information technology resources to provide effective and
5 supportable information technology applications in the Commonwealth;
- 6 (j) Establishing a central statewide geographic information clearinghouse to
7 maintain map inventories, information on current and planned geographic
8 information systems applications, information on grants available for the
9 acquisition or enhancement of geographic information resources, and a
10 directory of geographic information resources available within the state or
11 from the federal government;
- 12 (k) Coordinating multiagency information technology projects, including
13 overseeing the development and maintenance of statewide base maps and
14 geographic information systems;
- 15 (l) Providing access to both consulting and technical assistance, and education
16 and training, on the application and use of information technologies to state
17 and local agencies;
- 18 (m) In cooperation with other agencies, evaluating, participating in pilot studies,
19 and making recommendations on information technology hardware and
20 software;
- 21 (n) Providing staff support and technical assistance to the Geographic Information
22 Advisory Council and the Kentucky Information Technology Advisory
23 Council;
- 24 (o) Overseeing the development of a statewide geographic information plan with
25 input from the Geographic Information Advisory Council;
- 26 (p) Developing for state executive branch agencies a coordinated security
27 framework and model governance structure relating to the privacy and

- 1 confidentiality of personal information collected and stored by state executive
2 branch agencies, including but not limited to:
- 3 1. Identification of key infrastructure components and how to secure them;
 - 4 2. Establishment of a common benchmark that measures the effectiveness
5 of security, including continuous monitoring and automation of
6 defenses;
 - 7 3. Implementation of vulnerability scanning and other security
8 assessments;
 - 9 4. Provision of training, orientation programs, and other communications
10 that increase awareness of the importance of security among agency
11 employees responsible for personal information; and
 - 12 5. Development of and making available a cyber security incident response
13 plan and procedure; and
- 14 (q) Preparing proposed legislation and funding proposals for the General
15 Assembly that will further solidify coordination and expedite implementation
16 of information technology systems.
- 17 (3) The Commonwealth Office of Technology may:
- 18 (a) Provide general consulting services, technical training, and support for generic
19 software applications, upon request from a local government, if the executive
20 director finds that the requested services can be rendered within the
21 established terms of the federally approved cost allocation plan;
 - 22 (b) Promulgate administrative regulations in accordance with KRS Chapter 13A
23 necessary for the implementation of KRS 42.720 to 42.742, 45.253, 171.420,
24 186A.040, and 186A.285~~, and 194A.146~~;
 - 25 (c) Solicit, receive, and consider proposals from any state agency, federal agency,
26 local government, university, nonprofit organization, private person, or
27 corporation;

- 1 (d) Solicit and accept money by grant, gift, donation, bequest, legislative
2 appropriation, or other conveyance to be held, used, and applied in accordance
3 with KRS 42.720 to 42.742, 45.253, 171.420, 186A.040, and 186A.285~~, and~~
4 ~~194A.146~~];
- 5 (e) Make and enter into memoranda of agreement and contracts necessary or
6 incidental to the performance of duties and execution of its powers, including,
7 but not limited to, agreements or contracts with the United States, other state
8 agencies, and any governmental subdivision of the Commonwealth;
- 9 (f) Accept grants from the United States government and its agencies and
10 instrumentalities, and from any source, other than any person, firm, or
11 corporation, or any director, officer, or agent thereof that manufactures or sells
12 information resources technology equipment, goods, or services. To these
13 ends, the Commonwealth Office of Technology shall have the power to
14 comply with those conditions and execute those agreements that are
15 necessary, convenient, or desirable; and
- 16 (g) Purchase interest in contractual services, rentals of all types, supplies,
17 materials, equipment, and other services to be used in the research and
18 development of beneficial applications of information resources technologies.
19 Competitive bids may not be required for:
- 20 1. New and emerging technologies as approved by the executive director or
21 her or his designee; or
 - 22 2. Related professional, technical, or scientific services, but contracts shall
23 be submitted in accordance with KRS 45A.690 to 45A.725.
- 24 (4) Nothing in this section shall be construed to alter or diminish the provisions of KRS
25 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and
26 Records Commission and the Department for Libraries and Archives.
- 27 (5) The Commonwealth Office of Technology shall, on or before October 1 of each

1 year, submit to the Legislative Research Commission a report in accordance with
2 KRS 57.390 detailing:

- 3 (a) Any security breaches that occurred within organizational units of the
4 executive branch of state government during the prior fiscal year that required
5 notification to the Commonwealth Office of Technology under KRS 61.932;
- 6 (b) Actions taken to resolve the security breach, and to prevent additional security
7 breaches in the future;
- 8 (c) A general description of what actions are taken as a matter of course to protect
9 personal data from security breaches; and
- 10 (d) Any quantifiable financial impact to the agency reporting a security breach.

11 ➔Section 4. KRS 42.728 is amended to read as follows:

12 (1) To accomplish the work of the Commonwealth Office of Technology, all
13 organizational units and administrative bodies, as defined in KRS 12.010, and all
14 members of the state postsecondary education system, as defined in KRS 164.001,
15 shall furnish the Commonwealth Office of Technology necessary assistance,
16 resources, information, records, and advice as required.

17 (2) The provisions of KRS 42.720 to 42.742, 45.253, 171.420, 186A.040, ***and***
18 186A.285~~[, and 194A.146]~~ shall not be construed to grant any authority over the
19 judicial or legislative branches of state government, or agencies thereof, to the
20 Commonwealth Office of Technology.

21 (3) The information, technology, personnel, agency resources, and confidential records
22 of the Kentucky Retirement Systems and the Kentucky Teachers' Retirement
23 System shall be excluded from the provisions of KRS 42.720 to 42.742, 45.253,
24 171.420, 186A.040, ***and*** 186A.285~~[, and 194A.146]~~ and shall not be under the
25 authority of the Commonwealth Office of Technology.

26 ➔Section 5. KRS 61.8715 is amended to read as follows:

27 The General Assembly finds an essential relationship between the intent of this chapter

1 and that of KRS 171.410 to 171.740, dealing with the management of public records, and
2 of KRS 42.720 to 42.742, 45.253, 171.420, 186A.040, and 186A.285, ~~and 194A.146,~~
3 ~~dealing with the coordination of strategic planning for computerized information systems~~
4 in state government; and that to ensure the efficient administration of government and to
5 provide accountability of government activities, public agencies are required to manage
6 and maintain their records according to the requirements of these statutes. The General
7 Assembly further recognizes that while all government agency records are public records
8 for the purpose of their management, not all these records are required to be open to
9 public access, as defined in this chapter, some being exempt under KRS 61.878.

10 ➔Section 6. KRS 154.20-020 is amended to read as follows:

- 11 (1) The secretary shall be authorized to commit the cabinet to any project or proposal,
12 subject to approval of the committee as necessary except that any state incentive
13 agreement requiring the participation of other agencies of state government shall
14 require the concurrence of the board.
- 15 (2) No project shall be funded in whole or part by the authority unless first approved by
16 its committee pursuant to administrative regulations promulgated by the board in
17 accordance with KRS Chapter 13A.
- 18 (3) Lending decisions made by the authority shall be based, if possible, feasible, and
19 not otherwise precluded by federal or state law, on utilizing state funds to leverage
20 private sector investment.
- 21 ~~[(4) The authority shall cooperate with the Cabinet for Health and Family Services in~~
22 ~~facilitation of KRS 194.245(1)(a)].~~

23 ➔Section 7. KRS 194A.050 (Effective until July 1, 2019) is amended to read as
24 follows:

- 25 (1) The secretary shall formulate, promote, establish, and execute policies, plans, and
26 programs and shall adopt, administer, and enforce throughout the Commonwealth
27 all applicable state laws and all administrative regulations necessary under

1 applicable state laws to protect, develop, and maintain the health, personal dignity,
2 integrity, and sufficiency of the individual citizens of the Commonwealth and
3 necessary to operate the programs and fulfill the responsibilities vested in the
4 cabinet. The secretary shall promulgate, administer, and enforce those
5 administrative regulations necessary to implement programs mandated by federal
6 law, or to qualify for the receipt of federal funds and necessary to cooperate with
7 other state and federal agencies for the proper administration of the cabinet and its
8 programs.

9 ~~(2) [The secretary may utilize the Public Health Services Advisory Council to review
10 and make recommendations on contemplated administrative regulations relating to
11 initiatives of the Department for Public Health. No administrative regulations issued
12 under the authority of the cabinet shall be filed with the Legislative Research
13 Commission unless they are issued under the authority of the secretary, and the
14 secretary shall not delegate that authority.]~~

15 ~~(3) [~~Except as otherwise provided by law, the secretary shall have authority to establish
16 by administrative regulation a schedule of reasonable fees, none of which shall
17 exceed one hundred dollars (\$100), to cover the costs of annual inspections of
18 efforts regarding compliance with program standards administered by the cabinet.
19 All fees collected for inspections shall be deposited in the State Treasury and
20 credited to a revolving fund account to be used for administration of those programs
21 of the cabinet. The balance of the account shall lapse to the general fund at the end
22 of each biennium. Fees shall not be charged for investigation of complaints.

23 ➔Section 8. KRS 194A.050 (Effective July 1, 2019) is amended to read as
24 follows:

25 (1) The secretary shall formulate, promote, establish, and execute policies, plans, and
26 comprehensive programs and shall adopt, administer, and enforce throughout the
27 Commonwealth all applicable state laws and all administrative regulations

1 necessary under applicable state laws to protect, develop, and maintain the health,
2 personal dignity, integrity, and sufficiency of the individual citizens of the
3 Commonwealth and necessary to operate the programs and fulfill the
4 responsibilities vested in the cabinet. The secretary shall promulgate, administer,
5 and enforce those administrative regulations necessary to implement programs
6 mandated by federal law, or to qualify for the receipt of federal funds and necessary
7 to cooperate with other state and federal agencies for the proper administration of
8 the cabinet and its programs.

9 (2) ~~{The secretary may utilize the Public Health Services Advisory Council to review~~
10 ~~and make recommendations on contemplated administrative regulations relating to~~
11 ~~initiatives of the Department for Public Health. No administrative regulations issued~~
12 ~~under the authority of the cabinet shall be filed with the Legislative Research~~
13 ~~Commission unless they are issued under the authority of the secretary, and the~~
14 ~~secretary shall not delegate that authority.~~

15 (3) ~~{~~Except as otherwise provided by law, the secretary shall have authority to establish
16 by administrative regulation a schedule of reasonable fees, but in no event shall the
17 total fees for permitting and inspection increase more than five percent (5%) per
18 year, to cover the costs of annual inspections of efforts regarding compliance with
19 program standards administered by the cabinet. All fees collected for inspections
20 shall be deposited in the State Treasury and credited to a revolving fund account to
21 be used for administration of those programs of the cabinet. The balance of the
22 account shall lapse to the general fund at the end of each biennium. Fees shall not
23 be charged for investigation of complaints.

24 ➔Section 9. KRS 194A.180 is amended to read as follows:

25 All administrative regulations, acts, determinations, and decisions of and by the corporate
26 bodies or instrumentalities of the Commonwealth, advisory committees, interstate
27 compacts, or other statutory bodies, transferred in whole or in part to the ~~{Public Health~~

1 ~~Services Advisory Council and the~~ Advisory Council for Medical Assistance, shall
 2 remain in effect as the administrative regulations, acts, determinations, and decisions of
 3 the cabinet unless duly modified or repealed by the secretary.

4 ➔Section 10. KRS 194A.190 is amended to read as follows:

5 The ~~[Public Health Services Advisory Council, the~~ Advisory Council for Medical
 6 Assistance~~, and the Institute for Aging]~~ shall be empowered to accept gifts and grants,
 7 but all of these moneys shall be administered by the cabinet, which shall administer these
 8 funds through appropriate trust and agency accounts.

9 ➔Section 11. KRS 199.894 is amended to read as follows:

10 As used in KRS 199.892 to 199.896, unless the context otherwise requires:

- 11 (1) "Cabinet" means the Cabinet for Health and Family Services;
- 12 (2) "Secretary" means secretary for health and family services;
- 13 (3) "Child-care center" means any child-care center ~~that~~~~which~~ provides full or part-
 14 time care, day or night, to four (4) or more~~at least seven (7)]~~ children in a
 15 nonresidential setting who are not the children, grandchildren, nieces, nephews, or
 16 children in legal custody of the operator. "Child-care center" shall not include any
 17 child-care facility operated by a religious organization while religious services are
 18 being conducted, or a youth development agency. For the purposes of this section,
 19 "youth development agency" means a program with tax-exempt status under 26
 20 U.S.C. sec. 501(c)(3), which operates continuously throughout the year as an
 21 outside-school-hours center for youth who are six (6) years of age or older, and for
 22 which there are no fee or scheduled-care arrangements with the parent or guardian
 23 of the youth served;
- 24 (4) "Department" means the Department for Community Based Services; and
- 25 (5) "Family child-care home" means a private home that is the primary residence of an
 26 individual who provides full or part-time care day or night for six (6) or fewer
 27 children who are not the children, siblings, stepchildren, grandchildren, nieces,

1 nephews, or children in legal custody of the provider.

2 ➔Section 12. KRS 199.896 (Effective until July 1, 2019) is amended to read as
3 follows:

- 4 (1) No person, association, or organization shall conduct, operate, maintain, or
5 advertise any child-care center without obtaining a license as provided in KRS
6 199.892 to 199.896.
- 7 (2) The secretary may promulgate administrative regulations pursuant to KRS Chapter
8 13A relating to license fees and may establish standards of care and service for a
9 child-care center, criteria for the denial of a license if criminal records indicate
10 convictions that may impact the safety and security of children in care, and
11 procedures for enforcement of penalties.
- 12 (3) Each initial application for a license shall be made to the cabinet and shall be
13 accompanied by a fee of not more than fifty dollars (\$50) and shall be renewable
14 annually upon expiration and reapplication when accompanied by a fee of twenty-
15 five dollars (\$25). Regular licenses and renewals thereof shall expire one (1) year
16 from their effective date.
- 17 (4) No child-care center shall be refused a license or have its license revoked for failure
18 to meet standards set by the secretary until after the expiration of a period not to
19 exceed six (6) months from the date of the first official notice that the standards
20 have not been met. If, however, the cabinet has probable cause to believe that an
21 immediate threat to the public health, safety, or welfare exists, the cabinet may take
22 emergency action pursuant to KRS 13B.125. All administrative hearings conducted
23 under authority of KRS 199.892 to 199.896 shall be conducted in accordance with
24 KRS Chapter 13B.
- 25 (5) If, upon inspection or investigation, the inspector general finds that a child-care
26 center licensed under this section has violated the administrative regulations,
27 standards, or requirements of the cabinet, the inspector general shall issue a

1 statement of deficiency to the center containing:

2 (a) A statement of fact;

3 (b) A statement of how an administrative regulation, standard, or requirement of
4 the cabinet was violated; and

5 (c) The timeframe, negotiated with the child-care center, within which a violation
6 is to be corrected, except that a violation that poses an immediate threat to the
7 health, safety, or welfare of children in the center shall be corrected in no
8 event later than five (5) working days from the date of the statement of
9 deficiency.

10 (6) The Cabinet for Health and Family Services, in consultation with the Office of the
11 Inspector General, shall establish by administrative regulations promulgated in
12 accordance with KRS Chapter 13A an informal dispute resolution process
13 ~~[containing at least two (2) separate levels of review]~~ through which a child-care
14 provider may dispute licensure deficiencies that have an adverse effect on the child-
15 care provider's license.

16 (7) A child-care center shall have the right to appeal to the Cabinet for Health and
17 Family Services under KRS Chapter 13B any action adverse to its license or the
18 assessment of a civil penalty issued by the inspector general as the result of a
19 violation contained in a statement of deficiency within twenty (20) days of the
20 issuance of the action or assessment of the civil penalty. An appeal shall not act to
21 stay the correction of a violation.

22 (8) In assessing the civil penalty to be levied against a child-care center for a violation
23 contained in a statement of deficiency issued under this section, the inspector
24 general or the inspector general's designee shall take into consideration the
25 following factors:

26 (a) The gravity of the threat to the health, safety, or welfare of children posed by
27 the violation;

- 1 (b) The number and type of previous violations of the child-care center;
- 2 (c) The reasonable diligence exercised by the child-care center and efforts to
3 correct the violation; and
- 4 (d) The amount of assessment necessary to assure immediate and continued
5 compliance.
- 6 (9) Upon a child-care center's failure to take action to correct a violation of the
7 administrative regulations, standards, or requirements of the cabinet contained in a
8 statement of deficiency, or at any time when the operation of a child-care center
9 poses an immediate threat to the health, safety, or welfare of children in the center,
10 and the child-care center continues to operate after the cabinet has taken emergency
11 action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee
12 shall take at least one (1) of the following actions against the center:
- 13 (a) Institute proceedings to obtain an order compelling compliance with the
14 administrative regulations, standards, and requirements of the cabinet;
- 15 (b) Institute injunctive proceedings in Circuit Court to terminate the operation of
16 the center;
- 17 (c) Institute action to discontinue payment of child-care subsidies; or
- 18 (d) Suspend or revoke the license or impose other penalties provided by law.
- 19 (10) Upon request of any person, the cabinet shall provide information regarding the
20 denial, revocation, suspension, or violation of any type of child-care center license
21 of the operator. Identifying information regarding children and their families shall
22 remain confidential.
- 23 (11) The cabinet shall provide, upon request, public information regarding the
24 inspections of and the plans of correction for the child-care center within the past
25 year. All information distributed by the cabinet under this subsection shall include a
26 statement indicating that the reports as provided under this subsection from the past
27 five (5) years are available from the child-care center upon the parent's, custodian's,

1 guardian's, or other interested person's request.

2 (12) All fees collected under the provisions of KRS 199.892 to 199.896 for license and
3 certification applications shall be paid into the State Treasury and credited to a
4 special fund for the purpose of administering KRS 199.892 to 199.896 including the
5 payment of expenses of and to the participants in child-care workshops. The funds
6 collected are hereby appropriated for the use of the cabinet. The balance of the
7 special fund shall lapse to the general fund at the end of each biennium.

8 (13) Any advertisement for child-care services shall include the address of where the
9 service is being provided.

10 (14) All inspections of licensed and unlicensed child-care centers by the Cabinet for
11 Health and Family Services shall be unannounced.

12 (15) All employees and owners of a child-care center who provide care to children shall
13 demonstrate within the first three (3) months of employment completion of at least
14 a total of six (6) hours of orientation in the following areas:

- 15 (a) Basic health, safety, and sanitation;
- 16 (b) Recognizing and reporting child abuse; and
- 17 (c) Developmentally appropriate child-care practice.

18 (16) All employees and owners of a child-care center who provide care to children shall
19 annually demonstrate to the department completion of at least six (6) hours of
20 training in child development. These hours shall include but are not limited to one
21 and one-half (1.5) hours one (1) time every five (5) years of continuing education in
22 the recognition and prevention of pediatric abusive head trauma, as defined in KRS
23 620.020. Training in recognizing pediatric abusive head trauma may be designed in
24 collaboration with organizations and agencies that specialize in the prevention and
25 recognition of pediatric head trauma approved by the secretary of the Cabinet for
26 Health and Family Services The one and one-half (1.5) hours required under this
27 section shall be included in the current number of required continuing education

1 hours.

2 (17) The Cabinet for Health and Family Services shall make available either through the
3 development or approval of a model training curriculum and training materials,
4 including video instructional materials, to cover the areas specified in subsection
5 (15) of this section. The cabinet shall develop or approve the model training
6 curriculum and training materials to cover the areas specified in subsection (15) of
7 this section.

8 (18) Child-care centers licensed pursuant to this section and family child-care homes
9 certified pursuant to KRS 199.8982 shall not use corporal physical discipline,
10 including the use of spanking, shaking, or paddling, as a means of punishment,
11 discipline, behavior modification, or for any other reason. For the purposes of this
12 section, "corporal physical discipline" means the deliberate infliction of physical
13 pain and does not include spontaneous physical contact ~~that~~^{which} is intended to
14 protect a child from immediate danger.

15 (19) Child-care centers that provide instructional and educational programs for
16 preschool-aged children that operate for a maximum of twenty (20) hours per week
17 and ~~that~~^{which} a child attends for no more than fifteen (15) hours per week shall:

18 (a) Notify the cabinet in writing that the center is operating;

19 (b) Meet all child-care center licensure requirements and administrative
20 regulations related to employee background checks;

21 (c) Meet all child-care center licensure requirements and administrative
22 regulations related to tuberculosis screenings; and

23 (d) Be exempt from all other child-care center licensure requirements and
24 administrative regulations.

25 (20) Child-care centers that provide instructional and educational programs for
26 preschool-aged children that operate for a maximum of twenty (20) hours per week
27 and which a child attends for no more than ten (10) hours per week shall be exempt

1 from all child-care licensure requirements and administrative regulations.

2 (21) Instructional programs for school-age children shall be exempt from all child-
 3 care licensure administrative regulations if the following criteria are met:

4 (a) The program provides direct instruction in a single skill, talent, ability,
 5 expertise, or proficiency;

6 (b) The program does not provide services or offerings that are not directly
 7 related to the single talent, ability, expertise, or proficiency;

8 (c) The program operates outside the time period when school is in session,
 9 including before or after school hours, holidays, school breaks, teaching
 10 planning days, or summer vacation;

11 (d) The program does not advertise or otherwise represent that the program is a
 12 licensed child-care center or that the program offers child-care services;

13 (e) The program informs the parent or guardian:

14 1. That the program is not licensed by the cabinet; and

15 2. About the physical risks a child may face while participating in the
 16 program; and

17 (f) The program conducts the following background checks for all program
 18 employees and volunteers who work with children:

19 1. Check of the child abuse and neglect records maintained by the
 20 cabinet; and

21 2. In-state criminal background information check from the Justice and
 22 Public Safety Cabinet or Administrative Office of the Courts.

23 (22) Directors and employees of child-care centers in a position that involves
 24 supervisory or disciplinary power over a minor, or direct contact with a minor, shall
 25 submit to a criminal record check in accordance with KRS 199.8965.

26 (23)~~(22)~~ A director or employee of a child-care center may be employed on a
 27 probationary status pending receipt of the criminal background check. Application

1 for the criminal record of a probationary employee shall be made no later than the
2 date probationary employment begins.

3 ➔Section 13. KRS 199.896 (Effective July 1, 2019) is amended to read as
4 follows:

- 5 (1) No person, association, or organization shall conduct, operate, maintain, or
6 advertise any child-care center without obtaining a license as provided in KRS
7 199.892 to 199.896.
- 8 (2) The cabinet may promulgate administrative regulations pursuant to KRS Chapter
9 13A relating to license fees and may establish standards of care and service for a
10 child-care center, criteria for the denial of a license if criminal records indicate
11 convictions that may impact the safety and security of children in care, and
12 procedures for enforcement of penalties.
- 13 (3) Each initial application for a license shall be made to the cabinet and shall be
14 accompanied by a fee that shall not exceed administrative costs of the program to
15 the cabinet and shall be renewable annually upon expiration and reapplication when
16 accompanied by a renewal fee that shall not exceed administrative costs of the
17 program to the cabinet. Regular licenses and renewals thereof shall expire one (1)
18 year from their effective date.
- 19 (4) No child-care center shall be refused a license or have its license revoked for failure
20 to meet standards set by the secretary until after the expiration of a period not to
21 exceed six (6) months from the date of the first official notice that the standards
22 have not been met. If, however, the cabinet has probable cause to believe that an
23 immediate threat to the public health, safety, or welfare exists, the cabinet may take
24 emergency action pursuant to KRS 13B.125. All administrative hearings conducted
25 under authority of KRS 199.892 to 199.896 shall be conducted in accordance with
26 KRS Chapter 13B.
- 27 (5) If, upon inspection or investigation, the inspector general finds that a child-care

1 center licensed under this section has violated the administrative regulations,
2 standards, or requirements of the cabinet, the inspector general shall issue a
3 statement of deficiency to the center containing:

- 4 (a) A statement of fact;
- 5 (b) A statement of how an administrative regulation, standard, or requirement of
6 the cabinet was violated; and
- 7 (c) The timeframe, negotiated with the child-care center, within which a violation
8 is to be corrected, except that a violation that poses an immediate threat to the
9 health, safety, or welfare of children in the center shall be corrected in no
10 event later than five (5) working days from the date of the statement of
11 deficiency.

12 (6) The Cabinet for Health and Family Services, in consultation with the Office of the
13 Inspector General, shall establish by administrative regulations promulgated in
14 accordance with KRS Chapter 13A an informal dispute resolution process
15 ~~[containing at least two (2) separate levels of review]~~ through which a child-care
16 provider may dispute licensure deficiencies that have an adverse effect on the child-
17 care provider's license.

18 (7) A child-care center shall have the right to appeal to the Cabinet for Health and
19 Family Services under KRS Chapter 13B any action adverse to its license or the
20 assessment of a civil penalty issued by the inspector general as the result of a
21 violation contained in a statement of deficiency within twenty (20) days of the
22 issuance of the action or assessment of the civil penalty. An appeal shall not act to
23 stay the correction of a violation.

24 (8) In assessing the civil penalty to be levied against a child-care center for a violation
25 contained in a statement of deficiency issued under this section, the inspector
26 general or the inspector general's designee shall take into consideration the
27 following factors:

- 1 (a) The gravity of the threat to the health, safety, or welfare of children posed by
2 the violation;
- 3 (b) The number and type of previous violations of the child-care center;
- 4 (c) The reasonable diligence exercised by the child-care center and efforts to
5 correct the violation; and
- 6 (d) The amount of assessment necessary to assure immediate and continued
7 compliance.
- 8 (9) Upon a child-care center's failure to take action to correct a violation of the
9 administrative regulations, standards, or requirements of the cabinet contained in a
10 statement of deficiency, or at any time when the operation of a child-care center
11 poses an immediate threat to the health, safety, or welfare of children in the center,
12 and the child-care center continues to operate after the cabinet has taken emergency
13 action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee
14 shall take at least one (1) of the following actions against the center:
- 15 (a) Institute proceedings to obtain an order compelling compliance with the
16 administrative regulations, standards, and requirements of the cabinet;
- 17 (b) Institute injunctive proceedings in Circuit Court to terminate the operation of
18 the center;
- 19 (c) Institute action to discontinue payment of child-care subsidies; or
- 20 (d) Suspend or revoke the license or impose other penalties provided by law.
- 21 (10) Upon request of any person, the cabinet shall provide information regarding the
22 denial, revocation, suspension, or violation of any type of child-care center license
23 of the operator. Identifying information regarding children and their families shall
24 remain confidential.
- 25 (11) The cabinet shall provide, upon request, public information regarding the
26 inspections of and the plans of correction for the child-care center within the past
27 year. All information distributed by the cabinet under this subsection shall include a

1 statement indicating that the reports as provided under this subsection from the past
2 five (5) years are available from the child-care center upon the parent's, custodian's,
3 guardian's, or other interested person's request.

4 (12) All fees collected under the provisions of KRS 199.892 to 199.896 for license and
5 certification applications shall be paid into the State Treasury and credited to a
6 special fund for the purpose of administering KRS 199.892 to 199.896 including the
7 payment of expenses of and to the participants in child-care workshops. The funds
8 collected are hereby appropriated for the use of the cabinet. The balance of the
9 special fund shall lapse to the general fund at the end of each biennium.

10 (13) Any advertisement for child-care services shall include the address of where the
11 service is being provided.

12 (14) All inspections of licensed and unlicensed child-care centers by the Cabinet for
13 Health and Family Services shall be unannounced.

14 (15) All employees and owners of a child-care center who provide care to children shall
15 demonstrate within the first three (3) months of employment completion of at least
16 a total of six (6) hours of orientation in the following areas:

- 17 (a) Basic health, safety, and sanitation;
- 18 (b) Recognizing and reporting child abuse; and
- 19 (c) Developmentally appropriate child-care practice.

20 (16) All employees and owners of a child-care center who provide care to children shall
21 annually demonstrate to the department completion of at least six (6) hours of
22 training in child development. These hours shall include but are not limited to one
23 and one-half (1.5) hours one (1) time every five (5) years of continuing education in
24 the recognition and prevention of pediatric abusive head trauma, as defined in KRS
25 620.020. Training in recognizing pediatric abusive head trauma may be designed in
26 collaboration with organizations and agencies that specialize in the prevention and
27 recognition of pediatric head trauma approved by the secretary of the Cabinet for

1 Health and Family Services The one and one-half (1.5) hours required under this
2 section shall be included in the current number of required continuing education
3 hours.

4 (17) The Cabinet for Health and Family Services shall make available either through the
5 development or approval of a model training curriculum and training materials,
6 including video instructional materials, to cover the areas specified in subsection
7 (15) of this section. The cabinet shall develop or approve the model training
8 curriculum and training materials to cover the areas specified in subsection (15) of
9 this section.

10 (18) Child-care centers licensed pursuant to this section and family child-care homes
11 certified pursuant to KRS 199.8982 shall not use corporal physical discipline,
12 including the use of spanking, shaking, or paddling, as a means of punishment,
13 discipline, behavior modification, or for any other reason. For the purposes of this
14 section, "corporal physical discipline" means the deliberate infliction of physical
15 pain and does not include spontaneous physical contact ~~that~~^{which} is intended to
16 protect a child from immediate danger.

17 (19) Child-care centers that provide instructional and educational programs for
18 preschool-aged children that operate for a maximum of twenty (20) hours per week
19 and ~~that~~^{which} a child attends for no more than fifteen (15) hours per week shall:

20 (a) Notify the cabinet in writing that the center is operating;

21 (b) Meet all child-care center licensure requirements and administrative
22 regulations related to employee background checks;

23 (c) Meet all child-care center licensure requirements and administrative
24 regulations related to tuberculosis screenings; and

25 (d) Be exempt from all other child-care center licensure requirements and
26 administrative regulations.

27 (20) Child-care centers that provide instructional and educational programs for

1 preschool-aged children that operate for a maximum of twenty (20) hours per week
2 and ~~that~~^{which} a child attends for no more than ten (10) hours per week shall be
3 exempt from all child-care licensure requirements and administrative regulations.

4 (21) *Instructional programs for school-age children shall be exempt from all child-*
5 *care licensure administrative regulations if the following criteria are met:*

6 *(a) The program provides direct instruction in a single skill, talent, ability,*
7 *expertise, or proficiency;*

8 *(b) The program does not provide services or offerings that are not directly*
9 *related to the single talent, ability, expertise, or proficiency;*

10 *(c) The program operates outside the time period when school is in session,*
11 *including before or after school hours, holidays, school breaks, teaching*
12 *planning days, or summer vacation;*

13 *(d) The program does not advertise or otherwise represent that the program is a*
14 *licensed child-care center or that the program offers child-care services;*

15 *(e) The program informs the parent or guardian:*

16 *1. That the program is not licensed by the cabinet; and*

17 *2. About the physical risks a child may face while participating in the*
18 *program; and*

19 *(f) The program conducts the following background checks for all program*
20 *employees and volunteers who work with children:*

21 *1. Check of the child abuse and neglect records maintained by the*
22 *cabinet; and*

23 *2. In-state criminal background information check from the Justice and*
24 *Public Safety Cabinet or Administrative Office of the Courts.*

25 (22) Directors and employees of child-care centers in a position that involves
26 supervisory or disciplinary power over a minor, or direct contact with a minor, shall
27 submit to a criminal record check in accordance with KRS 199.8965.

1 (22) A director or employee of a child-care center may be employed on a probationary
2 status pending receipt of the criminal background check. Application for the
3 criminal record of a probationary employee shall be made no later than the date
4 probationary employment begins.

5 ➔Section 14. KRS 200.550 is amended to read as follows:

6 (1) The Office for Children with Special Health Care Needs shall establish a
7 Hemophilia Treatment Program ~~[within the commission]~~for the detection,
8 diagnosis and treatment of persons suffering from hemophilia. The Hemophilia
9 Treatment Program shall assist those persons who require continuing treatment with
10 blood, blood derivatives, or a manufactured pharmaceutical product to avoid
11 crippling, hospitalization, or other effects associated with hemophilia, but who are
12 unable to pay for the entire cost of such services on a continuing basis.

13 (2) The office~~[commission]~~ shall also initiate activities with the advice of the
14 Hemophilia Advisory Committee to:

15 (a) Develop standards for determining eligibility for the care and treatment of
16 persons suffering from hemophilia;

17 (b) Assist in the development and expansion of programs for the diagnosis and
18 treatment of hemophilia and related diseases including but not limited to home
19 care and medical and dental procedures designed to provide maximum control
20 over bleeding;

21 (c) Provide financial assistance either directly or indirectly to persons suffering
22 from hemophilia for the purpose of obtaining blood, blood derivatives and
23 concentrates, and other efficacious agents for use in hospital, medical and
24 dental facilities as well as in the home;

25 (d) Provide for community educational programs for the detection of hemophilia
26 and for the counseling of individuals and families suffering from hemophilia;
27 and

1 (e) Conduct educational programs for physicians, dentists, hospitals, health
2 departments, and the public concerning the methods of detection, diagnosis
3 and treatment of persons who have hemophilia.

4 ➔Section 15. KRS 205.178 is amended to read as follows:

5 (1) At a regularly scheduled interval, each enrollment or benefit tracking agency
6 associated with the Medicaid program or the food stamps program of the cabinet
7 shall receive and review information from the Kentucky Lottery Corporation
8 concerning individuals enrolled as recipients in the Medicaid program or the food
9 stamps program that indicates a change in circumstances that may affect eligibility,
10 including but not limited to changes in income or resources.

11 (2) On at least a monthly basis, each enrollment or benefit tracking agency associated
12 with the Medicaid program or the food stamps program of the cabinet shall receive
13 and review information from the Vital Statistics Branch concerning individuals
14 enrolled in the Medicaid program or the food stamps program that indicates a
15 change in circumstances that may affect eligibility.

16 (3) On at least a quarterly basis, each enrollment or benefit tracking agency associated
17 with the Medicaid program or the food stamps program of the cabinet shall receive
18 and review information from the Kentucky Division of Unemployment Insurance
19 concerning individuals enrolled in the Medicaid program or the food stamps
20 program that indicates a change in circumstances that may affect eligibility,
21 including but not limited to changes in employment or wages.

22 (4) On at least a quarterly basis, each enrollment or benefit tracking agency associated
23 with the Medicaid program or the food stamps program of the cabinet shall receive
24 and review information concerning individuals enrolled in the Medicaid program or
25 the food stamps program that indicates a change in circumstances that may affect
26 eligibility, including but not limited to potential changes in residency as identified
27 by out-of-state electronic benefit transfer transactions.

- 1 (5) (a) Notwithstanding any other provision of law to the contrary, each enrollment or
2 benefit tracking agency associated with the Medicaid program or the food
3 stamps program of the cabinet shall enter into a memorandum of
4 understanding with any department, agency, or division for information
5 detailed in this section.
- 6 (b) Notwithstanding any other provision of law to the contrary, any department,
7 agency, or division for information detailed in this section, including but not
8 limited to the Kentucky Lottery Corporation, the Vital Statistics Branch, the
9 Division of Unemployment Insurance, and the Department for Community
10 Based Services, shall enter into any necessary memoranda of understanding
11 with the enrollment or benefit tracking agency associated with the Medicaid
12 program or the food stamps program requesting an agreement pursuant to
13 paragraph (a) of this subsection.
- 14 (6) Each enrollment or benefit tracking agency associated with the Medicaid program
15 or the food stamps program of the cabinet may contract with one (1) or more
16 independent vendors to provide additional data or information ~~that~~^{which} may
17 indicate a change in circumstances that may affect eligibility.
- 18 (7) Each enrollment or benefit tracking agency associated with the Medicaid program
19 or the food stamps program of the cabinet shall explore joining any multistate
20 cooperative to identify individuals who are also enrolled in public assistance
21 programs outside of this state.
- 22 (8) If an enrollment or benefit tracking agency associated with the Medicaid program or
23 the food stamps program of the cabinet receives information concerning an
24 individual enrolled in the Medicaid program or the food stamps program that
25 indicates a change in circumstances that may affect eligibility, the enrollment or
26 benefit tracking agency or other appropriate agency shall review the individual's
27 case.

1 (9) The food stamps program of the cabinet shall not seek, apply for, accept, or renew
2 any waiver of requirements established under 7 U.S.C. sec. 2015(o) unless there is
3 an economic downturn resulting in an unemployment rate of ten percent (10%) or
4 more or the Cabinet for Health and Family Services determines an increase in the
5 unemployment rate in any particular county is severe enough to necessitate a
6 waiver.

7 (10) The cabinet shall promulgate all rules and regulations necessary for the purposes of
8 carrying out this section.

9 (11) On or before December 1, 2019, and upon request each year thereafter~~[of each~~
10 ~~year]~~, the Cabinet for Health and Family Services shall submit a report relating to
11 the number of individuals discovered utilizing services inappropriately, the number
12 of individuals who were removed from one (1) or more public assistance programs
13 as a result of a review pursuant to this section, and the amount of public funds
14 preserved in total and by public assistance program and aggregated by prior years.
15 This report shall be forwarded to the Interim Joint Committees on Health and
16 Welfare and Family Services and Appropriations and Revenue of the Legislative
17 Research Commission.

18 ➔Section 16. KRS 209.032 is amended to read as follows:

19 (1) As used in this section:

20 (a) "Employee" means a person who:

21 1. Is hired directly or through a contract by a vulnerable adult services
22 provider who has duties that involve or may involve one-on-one contact
23 with a patient, resident, or client; or

24 2. Is a volunteer who has duties that are equivalent to the duties of an
25 employee providing direct services and the duties involve, or may
26 involve, one-on-one contact with a patient, resident, or client;

27 (b) "Validated substantiated finding of adult abuse, neglect, or exploitation"

1 means that the cabinet has:

- 2 1. Entered a final order concluding by a preponderance of the evidence that
- 3 an individual has committed adult abuse, neglect, or exploitation against
- 4 a different adult for whom the individual was providing care or services
- 5 as an employee or otherwise with the expectation of compensation;
- 6 2. The individual has been afforded an opportunity for an administrative
- 7 hearing under procedures compliant with KRS Chapter 13B, and an
- 8 appeal to the Circuit Court of the county where the abuse, neglect, or
- 9 exploitation is alleged to have occurred or, if the individual consents, to
- 10 the Franklin Circuit Court; and
- 11 3. That any appeal, including the time allowed for filing an appeal, has
- 12 concluded or expired; and

13 (c) "Vulnerable adult service provider" means:

- 14 1. Adult day health care program centers as defined in KRS 216B.0441;
- 15 2. Adult day training facilities;
- 16 3. Assisted-living communities as defined in KRS 194A.700;
- 17 4. ~~Boarding homes as defined in KRS 216B.300;~~
- 18 5. ~~Group homes for individuals with an intellectual disability and~~
- 19 ~~developmentally disabled (ID/DD);~~
- 20 5.~~6.~~ Home health agencies as defined in KRS 216.935;
- 21 6.~~7.~~ Hospice programs or residential hospice facilities licensed under KRS
- 22 Chapter 216B;
- 23 7.~~8.~~ Long-term-care hospitals as defined in 42 U.S.C. sec.
- 24 1395ww(d)(1)(B)(iv);
- 25 8.~~9.~~ Long-term-care facilities as defined in KRS 216.510;
- 26 9.~~10.~~ Personal services agencies as defined in KRS 216.710;
- 27 10.~~11.~~ Providers of home and community-based services authorized

1 under KRS Chapter 205, including home and community based waiver
2 services and supports for community living services; and

3 ~~11.112.1~~ State-owned and operated psychiatric hospitals.

4 (2) A vulnerable adult services provider shall query the cabinet as to whether a
5 validated substantiated finding of adult abuse, neglect, or exploitation has been
6 entered against an individual who is a bona fide prospective employee of the
7 provider. The provider may periodically submit similar queries as to its current
8 employees and volunteers. The cabinet shall reply to either type of query only that it
9 has or has not entered such a finding against the named individual.

10 (3) An individual may query the cabinet as to whether the cabinet's records indicate that
11 a validated substantiated finding of adult abuse, neglect, or exploitation has been
12 entered against him or her. The cabinet shall reply only that it has or has not entered
13 such a finding against the named individual, although this limitation shall not be
14 construed to prevent the individual who is the subject of the investigation from
15 obtaining cabinet records under other law, including the Kentucky Open Records
16 Act. An individual making a query under this subsection may direct that the results
17 of the query be provided to an alternative recipient seeking to utilize the care or
18 services of the querying individual.

19 (4) Every cabinet investigation of adult abuse, neglect, or exploitation committed by an
20 employee or a person otherwise acting with the expectation of compensation shall
21 be conducted in a manner affording the individual being investigated the level of
22 due process required to qualify any substantiated finding as a validated
23 substantiated finding of adult abuse, neglect, or exploitation.

24 (5) The cabinet shall promulgate administrative regulations to implement the provisions
25 of this section. Included in these administrative regulations shall be:

26 (a) An error resolution process allowing an individual whose name is erroneously
27 reported to have been the subject of a validated substantiated finding of adult

1 abuse, neglect, or exploitation to request the correction of the cabinet's
2 records; and

3 (b) A designation of the process by which queries may be submitted in
4 accordance with this section, which shall require that the queries be made
5 using a secure methodology and only by providers and persons authorized to
6 submit a query under this section.

7 (6) If the cabinet does not respond to a query under subsection (2) of this section within
8 twenty-four (24) hours and a vulnerable adult services provider hires or utilizes an
9 employee provisionally, the provider shall not be subject to liability solely on the
10 basis of hiring or utilizing the employee before having received the cabinet's
11 response.

12 (7) This section shall only apply to instances of abuse, neglect, or exploitation
13 substantiated on or after July 15, 2014, which shall be compiled into a central
14 registry for the purpose of queries submitted under this section.

15 ➔Section 17. KRS 209.552 is amended to read as follows:

16 (1) Every long-term care facility shall require residents to be immunized against
17 pneumococcal disease and influenza. Upon admission, the long-term care facility
18 shall:

19 (a) Notify the resident of the requirements of this section and request that the
20 resident agree to be immunized against pneumococcal disease and influenza
21 virus;

22 (b) Assess the resident's immunization status for influenza virus and
23 pneumococcal disease;

24 (c) Counsel each resident on the risks of influenza and pneumococcal disease; the
25 efficacy, side effects, and contraindications of these immunizations; and the
26 recommendations of the Centers for Disease Control prior to administration of
27 the vaccines; and

- 1 (d) Provide or arrange for immunizations against pneumococcal and influenza in
2 accordance with the recommendations of the Advisory Committee on
3 Immunization Practices of the Centers for Disease Control, unless medically
4 contraindicated, if the resident or long-term care facility does not have
5 documentation of the immunization.
- 6 (2) Every long-term care facility shall document prior to the start of flu season or
7 upon admission, whichever comes later, the annual immunization against influenza
8 virus and pneumococcal immunization for each resident. Upon finding that a
9 resident lacks either of these immunizations, the facility shall provide or arrange for
10 the immunization in accordance with the recommendations of the Advisory
11 Committee on Immunization Practices of the Centers for Disease Control, unless
12 medically contraindicated.
- 13 (3) Every long-term care facility shall require each employee, regardless of
14 employment status, to be immunized against pneumococcal and influenza virus.
15 Upon employment, the long-term care facility shall:
- 16 (a) Notify the employee of the requirements of this section and request that the
17 employee agree to be immunized against pneumococcal disease and influenza
18 virus;
- 19 (b) Assess the employee's immunization status for influenza virus and
20 pneumococcal disease;
- 21 (c) Counsel each employee on the risks of influenza and pneumococcal disease;
22 the efficacy, side effects, and contraindications of these immunizations; and
23 the recommendations of the Centers for Disease Control prior to
24 administration of the vaccines; and
- 25 (d) Provide or arrange for immunizations against pneumococcal and influenza in
26 accordance with the recommendations of the Advisory Committee on
27 Immunization Practices of the Centers for Disease Control, unless medically

1 contraindicated, if the employee or the long-term care facility does not have
2 documentation of the appropriate immunizations.

3 (4) Every long-term care facility shall document *prior to the start of flu season or*
4 *upon employment, whichever comes later,* the annual immunization against
5 influenza virus and pneumococcal immunization for each employee. Upon finding
6 that an employee lacks either of these immunizations, the facility shall provide or
7 arrange for immunization in accordance with the recommendations of the Advisory
8 Committee on Immunization Practices of the Centers for Disease Control, unless
9 medically contraindicated.

10 (5) The provisions of this section shall not apply if:

11 (a) The vaccine is medically contraindicated;

12 (b) The employee, resident, or resident's legal guardian objects to the
13 immunizations due to religious beliefs; or

14 (c) The employee or resident refuses the vaccine after being fully informed of the
15 health risks.

16 ➔Section 18. KRS 209.554 is amended to read as follows:

17 (1) The commissioner of the department shall implement the provisions of KRS
18 209.550 to 209.554 through the promulgation of administrative regulations under
19 KRS Chapter 13A.

20 (2) The department shall make educational literature that describes the risks of
21 influenza and pneumococcal disease; the efficacy, side effects, and
22 contraindications of these immunizations; and the recommendations from the
23 Centers for Disease Control available to every long-term care facility.

24 ~~(3) The department, on behalf of long-term care facilities, shall negotiate with any~~
25 ~~appropriate manufacturer of the vaccines for adult pneumococcal disease and~~
26 ~~influenza for a purchase price of the vaccines. Long-term care facilities shall be~~
27 ~~entitled to purchase the vaccines at the negotiated price for the purposes specified~~

1 ~~under KRS 209.552.~~

2 ~~(4)]The commissioner of the department shall make available upon request the number~~
 3 ~~of outbreaks in long-term care facilities for each year due to influenza virus and~~
 4 ~~pneumococcal disease[and the number of hospitalizations of long-term care facility~~
 5 ~~residents due to influenza virus, pneumococcal disease, and associated~~
 6 ~~complications].~~

7 ➔Section 19. KRS 211.1752 is amended to read as follows:

8 (1) The Local Health Department Employment Personnel Council is hereby created.
 9 The council shall be composed of five (5) members appointed by the secretary for
 10 health and family services.

11 (2) Members of the council shall serve for a term of three (3) years or until successors
 12 are appointed, except that for members of the initially appointed council, two (2)
 13 members shall be appointed for one (1) year, two (2) members shall be appointed
 14 for two (2) years, and one (1) member shall be appointed for three (3) years. A
 15 member appointed to fill a vacancy occurring prior to the expiration of the term
 16 shall be appointed for the remainder of the term.

17 (3) The council shall elect a chairperson from its membership. Regular meetings of the
 18 council shall be held at least semiannually. Special meetings of the council may be
 19 held upon call of the chairperson or the department.

20 (4) The council shall be attached to the department for administrative purposes.

21 (5) The council shall:

22 (a) Advise the cabinet on administration of the local health department personnel
 23 program pursuant to KRS Chapter 212;

24 (b) ~~[Hear appeals from:~~

25 ~~1. Applicants for positions for which examinations are being or have been~~
 26 ~~conducted;~~

27 ~~2. Eligible applicants on examination registers; and~~

1 3. ~~Classified employees who have been dismissed, demoted, or suspended~~
2 ~~for cause;~~

3 ~~(c) Hear appeals regarding discrimination in a personnel action involving an~~
4 ~~agency employee or an applicant for employment;~~

5 ~~(d)]~~Make an annual report to the department and agency; and

6 ~~(c)~~~~(e)~~ Consider and act upon matters that may be referred to the council by the
7 department.

8 ➔Section 20. KRS 211.990 is amended to read as follows:

9 (1) Any owner or occupant who fails to comply with an order made under the
10 provisions of KRS 211.210 shall be guilty of a violation, and each day's continuance
11 of the nuisance, source of filth, or cause of sickness, after the owner or occupant has
12 been notified to remove it, shall be a separate offense.

13 (2) Except as otherwise provided by law, anyone who fails to comply with the
14 provisions of the rules and regulations adopted pursuant to this chapter or who fails
15 to comply with an order of the cabinet issued pursuant thereto shall be guilty of a
16 violation. Each day of such violation or noncompliance shall constitute a separate
17 offense.

18 (3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be
19 guilty of a Class A misdemeanor. Each subsequent violation of any provision of
20 KRS 211.182 shall constitute a Class D felony.

21 (4) Any person who violates any provision of KRS 211.842 to 211.852 or any
22 administrative regulation adopted hereunder or any order issued by the Cabinet for
23 Health and Family Services, or any term, condition, or limitation of any license or
24 certification issued ~~[to comply with any provision of KRS 211.842 to 211.852 or~~
25 ~~the regulations adopted]~~thereunder shall be assessed a civil penalty of not more
26 than one hundred thousand dollars (\$100,000) or be found guilty of a Class D
27 felony or both ~~[guilty of a Class A misdemeanor]~~. Each day of violation or

1 noncompliance shall constitute a separate offense. *The Cabinet for Health and*
2 *Family Services may compromise, mitigate, or remit penalties in this subsection.*

3 (5) A person who performs or offers to perform lead-hazard detection or lead-hazard
4 abatement services in target housing or child-occupied facilities who is not certified
5 as required by KRS 211.9063 or 211.9069 shall be guilty of a Class A
6 misdemeanor.

7 (6) Any person who performs lead-hazard detection or lead-hazard abatement services
8 in target housing or child-occupied facilities, who willfully violates the standards
9 for performing lead-hazard detection or lead-hazard abatement procedures included
10 in the administrative regulations promulgated pursuant to KRS 211.9075 shall be
11 guilty of a Class D felony.

12 (7) The penalties provided in subsections (5) and (6) of this section are cumulative and
13 are in addition to any other penalties, claims, damages, or remedies available at law
14 or in equity.

15 (8) Any person who violates any provisions of KRS 211.760 shall be fined not less than
16 ten dollars (\$10) nor more than one hundred dollars (\$100). Each day of violation or
17 noncompliance shall constitute a separate offense.

18 ➔Section 21. KRS 216.2920 is amended to read as follows:

19 As used in KRS 216.2920 to 216.2929, unless the context requires otherwise:

20 (1) "Ambulatory facility" means a facility that ~~[, including an ambulatory surgical~~
21 ~~facility, ambulatory care clinic, alternative birth center, mobile health service, or a~~
22 ~~specialized medical technology service, which is not part of a hospital, and which is~~
23 ~~licensed pursuant to KRS Chapter 216B, and which]~~ provides one (1) or more
24 major ambulatory procedures to patients not requiring hospitalization;

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

26 (3) "Charge" means all amounts billed by a hospital or ambulatory facility, including
27 charges for all ancillary and support services or procedures, prior to any adjustment

- 1 for bad debts, charity contractual allowances, administrative or courtesy discounts,
2 or similar deductions from revenue. However, if necessary to achieve comparability
3 of information between providers, charges for the professional services of hospital-
4 based or ambulatory-facility-based physicians shall be excluded from the
5 calculation of charge;
- 6 (4) "Facility" means any hospital, health-care service, or other health care facility,
7 whether operated for profit or not, ~~required to be licensed pursuant to KRS Chapter~~
8 ~~216B~~;
- 9 (5) "Health-care provider" or "provider" means any ~~facility and service required to be~~
10 ~~licensed pursuant to KRS Chapter 216B,~~ pharmacist as defined pursuant to KRS
11 Chapter 315, and any of the following independent practicing practitioners:
- 12 (a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;
13 (b) Chiropractors licensed pursuant to KRS Chapter 312;
14 (c) Dentists licensed pursuant to KRS Chapter 313;
15 (d) Optometrists licensed pursuant to KRS Chapter 320;
16 (e) Physician assistants regulated pursuant to KRS Chapter 311;
17 (f) Nurse practitioners licensed pursuant to KRS Chapter 314; and
18 (g) Other health-care practitioners as determined by the Cabinet for Health and
19 Family Services by administrative regulation promulgated pursuant to KRS
20 Chapter 13A;
- 21 (6) "Hospital" means a facility licensed pursuant to KRS Chapter 216B as either an
22 acute-care hospital, psychiatric hospital, rehabilitation hospital, or chemical
23 dependency treatment facility;
- 24 (7) "Procedures" means those surgical, medical, radiological, diagnostic, or therapeutic
25 procedures performed by a provider, as periodically determined by the cabinet in
26 administrative regulations promulgated pursuant to KRS Chapter 13A as those for
27 which reports to the cabinet shall be required. "Procedures" also includes

1 procedures that are provided in hospitals or other ~~licensed~~ ambulatory facilities, or
 2 those ~~that~~^{which} require the use of special equipment, including fluoroscopic
 3 equipment, computer tomographic scanners, magnetic resonance imagers,
 4 mammography, ultrasound equipment, or any other new technology as periodically
 5 determined by the cabinet;

6 (8) "Quality" means the extent to ~~that~~^{which} a provider renders care which obtains for
 7 patients optimal health outcomes; and

8 (9) "Secretary" means the secretary of the Cabinet for Health and Family Services.

9 ➔Section 22. KRS 216.2925 is amended to read as follows:

10 (1) The Cabinet for Health and Family Services shall establish by promulgation of
 11 administrative regulations pursuant to KRS Chapter 13A~~[-no later than January 1,~~
 12 ~~1995,]~~ those data elements required to be submitted to the cabinet by all **health care**
 13 **providers and facilities**~~[licensed hospitals and ambulatory facilities],~~ including a
 14 timetable for submission and acceptable data forms. **Each health-care provider**
 15 **and**~~[Thereafter, every hospital and ambulatory]~~ facility shall be required to report
 16 on a quarterly basis information regarding the charge for and quality of the
 17 procedures and health-care services performed therein, and as stipulated by
 18 administrative regulations promulgated pursuant to KRS Chapter 13A. The cabinet
 19 shall accept data ~~that~~^{which}, at the option of the provider, is submitted through a
 20 third party, including but not limited to organizations involved in the processing of
 21 claims for payment, so long as the data elements conform to the requirements
 22 established by the cabinet. The cabinet may conduct statistical surveys of a sample
 23 of **health-care providers and facilities**~~[hospitals, ambulatory facilities, or other~~
 24 ~~providers]~~ in lieu of requiring the submission of information by all **health-care**
 25 **providers and facilities**~~[hospitals, ambulatory facilities, or providers].~~ On at least a
 26 biennial basis, the cabinet shall conduct a statistical survey that addresses the status
 27 of women's health, specifically including data on patient age, ethnicity, geographic

1 region, and payor sources. The cabinet shall rely on data from readily available
2 reports and statistics whenever possible.

3 (2) The cabinet shall require for submission to the cabinet by any group of providers,
4 except for physicians providing services or dispensaries, first aid stations, or clinics
5 located within business or industrial establishments maintained solely for the use of
6 their employees, including those categories within the definition of provider
7 contained in KRS 216.2920 and any further categories determined by the cabinet, at
8 the beginning of each fiscal year after January 1, 1995, and within the limits of the
9 state, federal, and other funds made available to the cabinet for that year, and as
10 provided by cabinet promulgation of administrative regulations pursuant to KRS
11 Chapter 13A, the following:

12 (a) A list of medical conditions, health services, and procedures for which data on
13 charge, quality, and outcome shall be collected and published;

14 (b) A timetable for filing information provided for under paragraph (a) of this
15 subsection on a quarterly basis;

16 (c) A list of data elements that are necessary to enable the cabinet to analyze and
17 disseminate risk-adjusted charge, quality, and outcome information, including
18 mortality and morbidity data;

19 (d) An acceptable format for data submission ~~that~~^{which} shall include use of the
20 uniform:

21 1. Health claim form pursuant to KRS 304.14-135 or any other universal
22 health claim form to be determined by the cabinet if in the form of hard
23 copy; or

24 2. Electronic submission formats as required under the federal Health
25 Insurance Portability and Accountability Act of 1996, 42 U.S.C. sec.
26 300gg et seq., in the form of magnetic computer tape, computer
27 diskettes, or other electronic media through an electronic network;

- 1 (e) Procedures to allow health-care providers at least thirty (30) days to review
2 information generated from any data required to be submitted by them, with
3 any reports generated by the cabinet to reflect valid corrections by the provider
4 before the information is released to the public; and
- 5 (f) Procedures pertaining to the confidentiality of data collected.
- 6 (3) The cabinet shall coordinate but not duplicate its data-gathering activities with other
7 data-collection activities conducted by the Department of Insurance, as well as other
8 state and national agencies ~~that~~^{which} collect health-related service, utilization,
9 quality, outcome, financial, and health-care personnel data, and shall review all
10 administrative regulations promulgated pursuant to KRS 216.2920 to 216.2929 to
11 prevent duplicate filing requirements. The cabinet shall periodically review the use
12 of all data collected under KRS 216.2920 to 216.2929 to assure its use is consistent
13 with legislative intent.
- 14 (4) The cabinet shall conduct outcome analyses and effectiveness studies and prepare
15 other reports pertaining to issues involving health-care charges and quality.
- 16 (5) The cabinet may independently audit any data required to be submitted by providers
17 as needed to corroborate the accuracy of the submitted data. Any audit may be at the
18 expense of the cabinet and shall, to the extent practicable, be coordinated with other
19 audits performed by state agencies.
- 20 (6) The cabinet may initiate activities set forth in subsection (1) or (2) of this section at
21 any time after July 15, 1996.
- 22 (7) The Cabinet for Health and Family Services shall collect all data elements under
23 this section using only the uniform health insurance claim form pursuant to KRS
24 304.14-135, the Professional 837 (ASC X12N 837) format, the Institutional 837
25 (ASC X12N 837) format, or its successor as adopted by the Centers for Medicare
26 and Medicaid Services.
- 27 ➔Section 23. KRS 216.2980 is amended to read as follows:

- 1 (1) Any provider of hospice, palliative care, or end-of-life services shall have written
2 policies and procedures for the deactivation or sequestration and disposal of
3 Schedule II, III, IV, or V controlled substances prescribed to a patient when a
4 prescription is discontinued or upon the patient's death by the entity or person
5 pronouncing the death.
- 6 (2) Any provider of hospice, palliative care, or end-of-life services shall provide a copy
7 of the written policy and procedures for the management and the deactivation or
8 sequestration and disposal of Schedule II, III, IV, or V controlled substances
9 prescribed to a patient when a prescription is discontinued or upon the patient's
10 death, to the patient or the patient's legal representative, and the provider shall
11 discuss the policy and procedures with the patient or the patient's legal
12 representative. The patient or the patient's legal representative shall be requested to
13 sign an agreement to this policy.
- 14 (3) In an effort to reduce illegal diversion of Schedule II, III, IV, or V controlled
15 substances, the agreement to the written policy and procedures required under
16 subsection (2) of this section shall inform the patient or the patient's legal
17 representative that if the patient or the patient's legal representative refuses to agree
18 to the deactivation or sequestration and disposal when a prescription is discontinued
19 or upon the death of the patient, local law enforcement ~~for the Department for~~
20 ~~Public Health~~ shall be notified of the refusal by the hospice, palliative care, or end-
21 of-life services provider or the entity or person pronouncing death.
- 22 (4) The deactivation or sequestration and disposal of Schedule II, III, IV, or V
23 controlled substances prescribed to a patient when a prescription is discontinued or
24 upon the patient's death shall be completed by the entity or person pronouncing
25 death and witnessed by an adult. The witness shall sign a statement that he or she
26 witnessed the deactivation or sequestration and disposal.
- 27 (5) The deactivation or sequestration and disposal methods of Schedule II, III, IV, or V

1 controlled substances used by the entity or person pronouncing death shall comply
2 with the United States Food and Drug Administration's recommendations for the
3 safe disposal of unused medicines or shall be another safe deactivation or
4 sequestration and disposal method.

5 ➔Section 24. KRS 216B.990 is amended to read as follows:

6 (1) Any person who, in willful violation of this chapter, operates a health facility or
7 abortion facility without first obtaining a license or continues to operate a health
8 facility or abortion facility after a final decision suspending or revoking a license
9 shall be fined not less than five hundred dollars (\$500) nor more than ten thousand
10 dollars (\$10,000) for each violation.

11 (2) Any person who, in willful violation of this chapter, acquires major medical
12 equipment, establishes a health facility, or obligates a capital expenditure without
13 first obtaining a certificate of need, or after the applicable certificate of need has
14 been withdrawn, shall be fined one percent (1%) of the capital expenditure involved
15 but not less than five hundred dollars (\$500) for each violation.

16 (3) Any hospital acting by or through its agents or employees ~~that~~^{which} violates any
17 provision of KRS 216B.400 shall be punished by a fine of not less than one hundred
18 dollars (\$100) nor more than five hundred dollars (\$500).

19 (4) Any health facility ~~that~~^{which} willfully violates KRS 216B.250 shall be fined one
20 hundred dollars (\$100) per day for failure to post required notices and one hundred
21 dollars (\$100) per instance for willfully failing to provide an itemized statement
22 within the required time frames.

23 ~~(5) In addition to the civil penalties established under KRS 216B.306(1) and (4), any~~
24 ~~person who advertises, solicits boarders, or operates a boarding home without first~~
25 ~~obtaining a registration as required by KRS 216B.305 and any person who aids or~~
26 ~~abets the operation of a boarding home that is not registered shall be imprisoned for~~
27 ~~no more than twelve (12) months.~~

1 ~~(6)~~—]Any person or entity establishing, managing, or operating an abortion facility or
2 conducting the business of an abortion facility that~~[which]~~ otherwise violates any
3 provision of this chapter or any administrative regulation promulgated thereunder
4 regarding abortion facilities shall be subject to revocation or suspension of the
5 license of the abortion facility. In addition, any violation of any provision of this
6 chapter regarding abortion facilities or any administrative regulation related thereto
7 by intent, fraud, deceit, unlawful design, willful and deliberate misrepresentation, or
8 by careless, negligent, or incautious disregard for the statute or administrative
9 regulation, either by persons acting individually or in concert with others, shall
10 constitute a violation and shall be punishable by a fine not to exceed one thousand
11 dollars (\$1,000) for each offense. Each day of continuing violation shall be
12 considered a separate offense. The venue for prosecution of the violation shall be in
13 any county of the state in which the violation, or any portion thereof, occurred.

14 ~~(6)~~~~(7)~~ Any hospital acting by or through its agents or employees that violates any
15 provision of KRS 216B.150 shall be punished by a fine of not less than one hundred
16 dollars (\$100) nor more than five hundred dollars (\$500) for each violation.

17 ➔Section 25. KRS 342.375 is amended to read as follows:

18 Every policy or contract of workers' compensation insurance under this chapter, issued or
19 delivered in this state, shall cover the entire liability of the employer for compensation to
20 each employee subject to this chapter, except as otherwise provided in KRS ~~[216.2960,~~
21 ~~]342.020, 342.345, or 342.352.~~ However, if specifically authorized by the commissioner,
22 a separate insurance policy may be issued for a specified plant or work location if the
23 liability of the employer under this chapter to each employee subject to this chapter is
24 otherwise secured and provided that no employee transferred from one plant or work
25 location to another within the employment of the same employer shall thereby lose any
26 benefit rights accumulated under the average weekly wage concept.

27 ➔Section 26. The following KRS sections are repealed:

- 1 194.245 Construction and operation of new facilities, beginning August 1, 1990 --
2 Transfer of ownership and administration.
- 3 194A.140 Special subcommittees of the Public Health Services Advisory Council or of
4 the Institute for Aging.
- 5 194A.145 Legislative findings and declarations.
- 6 194A.146 Statewide Strategic Planning Committee for Children in Placement --
7 Membership -- Plans -- Review -- Information Systems -- Study of changes in child
8 welfare delivery -- Annual report.
- 9 194A.200 Compensation and expenses of members of the Public Health Services
10 Advisory Council and the Institute for Aging -- Members of citizens' councils not
11 public officers.
- 12 199.8992 Development of statewide network of community-based child-care resource
13 and referral services -- Awarding of contracts.
- 14 200.662 District early intervention committee -- Membership -- Duties.
- 15 205.179 Annual review of sites where residents receive state supplemental benefits to
16 determine registration status of boarding home.
- 17 210.271 State hospital patients to be discharged to registered boarding homes only --
18 Quarterly follow-up visits by cabinet.
- 19 211.215 Program for decontamination of bird roosts.
- 20 216.2960 Pilot projects for twenty-four hour health coverage -- Authority for
21 administrative regulations.
- 22 216.750 Definitions for KRS 216.750 to 216.780.
- 23 216.760 Functions of cabinet.
- 24 216.770 Nursing home and personal care home loan fund.
- 25 216.780 Regulations.
- 26 216.800 Definitions for KRS 216.800 to 216.853.
- 27 216.803 Kentucky Health and Geriatric Authority.

- 1 216.805 Powers of authority.
- 2 216.807 Agreements by authority for financing of projects.
- 3 216.810 Leases by authority, contents.
- 4 216.813 Revenue bonds -- Issuance by authority -- Sale -- Use of proceeds -- Temporary
5 bonds.
- 6 216.815 Bonds not debt of Commonwealth.
- 7 216.817 Bonds may be secured by trust indenture.
- 8 216.820 Enforcement of rights under bonds.
- 9 216.823 Bonds as legal investments.
- 10 216.825 Revenue refunding bonds, issuance.
- 11 216.827 Proceeds of bonds are trust funds.
- 12 216.830 Property, income and bonds exempt from taxation.
- 13 216.833 Acquisition of property by purchase or eminent domain -- Title -- Possession,
14 how obtained.
- 15 216.835 Lessee to maintain project.
- 16 216.837 Political subdivisions may lease or convey to authority without formality.
- 17 216.840 Conveyance of project to lessee, when authorized.
- 18 216.843 Compensation for damage to private property.
- 19 216.845 Kentucky Health and Geriatric Authority revenue bond guarantee fund -- How
20 made up -- Use of -- Payments on default.
- 21 216.847 Annual report of authority.
- 22 216.850 Officers or agents of authority not to have conflicting interest -- Penalty.
- 23 216.853 Applicability of other laws.
- 24 216B.300 Definitions for KRS 216B.300 to 216B.320 and KRS 216B.990(5).
- 25 216B.303 Rights of residents of boarding homes.
- 26 216B.305 Registration of boarding home -- Standards for operation -- Unannounced
27 inspection -- Denial of registration -- Access by cabinet employees and agents -- No

- 1 preemption of local authority for stricter requirements.
- 2 216B.306 Procedures, remedies, and penalties for operation of boarding home without
- 3 registration.
- 4 216B.310 Listing of boarding homes to be maintained.
- 5 216B.315 Student housing not included in KRS 216B.300 to 216B.320.
- 6 216B.320 KRS 216B.300 to 216B.320 not applicable to boarding home regulated by
- 7 federal government.
- 8 216B.459 Medicaid reimbursement.