

1 AN ACT relating to health care to provide for an all-payer claims database and
2 making an appropriation therefor.

3 WHEREAS, the Centers for Medicare and Medicaid Services (CMS) found that
4 national health expenditures as a percentage of gross domestic product reached 19.7
5 percent in 2020; and

6 WHEREAS, CMS has projected an increase in national health spending at an
7 average annual rate of 5.4 percent between 2019 and 2028; and

8 WHEREAS, all-payer claims databases collect health care claims, eligibility files,
9 and provider files, which are created at the point of service and detail what was provided,
10 who provided it, how much was charged, and how much was paid; and

11 WHEREAS, more than 30 states, in an attempt to support price transparency efforts
12 and make information more accessible for consumers, employers, researchers, and others,
13 have already established, are developing, or have a strong interest in developing all-payer
14 claims databases; and

15 WHEREAS, a 2018 joint report, entitled "Reforming America's Healthcare System
16 through Choice and Competition," was issued by the United States Department of Health
17 and Human Services, the United States Department of the Treasury, and the United States
18 Department of Labor; and

19 WHEREAS, the report recommended that states "build consumer-friendly websites
20 capable of displaying price information for the most common transactions, . . . coordinate
21 their efforts on maximizing the utility of claims data," and simplify the process for
22 reporting data "using a standard reporting format"; and

23 WHEREAS, the continued increase in health care prices is a burden on Kentucky
24 households and consumers;

25 NOW, THEREFORE,

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

27 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO

1 READ AS FOLLOWS:

2 (1) As used in this section:

3 (a) "APCD common data layout" means the vetted data layout developed and
4 maintained through the All-Payer Claims Database (APCD) Council; and

5 (b) "Executive director" means the executive director of the Office of Data
6 Analytics.

7 (2) Within forty-five (45) days of the effective date of this Act, the executive director
8 shall appoint an advisory committee in accordance with subsection (3) of this
9 section to make recommendations regarding the creation of a framework and
10 implementation plan for a Kentucky all-payer claims database for the purpose of
11 facilitating the reporting of health care and health quality data that results in
12 transparent and public reporting of safety, quality, cost, and efficiency
13 information at all levels of health care.

14 (3) (a) The advisory committee shall be composed of the following members:

15 1. A member of academia with experience in health care data and cost
16 efficiency research;

17 2. A representative from the Kentucky Hospital Association;

18 3. A representative from the Kentucky Medical Association;

19 4. A representative from the Kentucky Pharmacists Association;

20 5. A representative of self-insured employers;

21 6. A representative of an organization that processes health insurance
22 claims or certain aspects of employee benefit plans for a health care
23 payer;

24 7. A person with a demonstrated record of advocating on behalf of
25 health care consumers; and

26 8. Two (2) representatives of health insurers, one (1) of whom shall
27 represent nonprofit insurers and one (1) of whom shall represent for-

1 profit insurers.

2 **(b) In addition to the members described in paragraph (a) of this subsection,**
3 **the following persons, or their designees, shall serve as ex officio members**
4 **of the advisory committee:**

5 **1. The executive director;**

6 **2. The commissioner of the Department of Insurance;**

7 **3. The executive director of the Commonwealth Office of Technology;**

8 **4. The commissioner of the Department of Employee Insurance;**

9 **5. The commissioner of the Department for Medicaid Services; and**

10 **6. The secretary of the Cabinet for Health and Family Services.**

11 **(4) The advisory committee shall make recommendations that:**

12 **(a) Include specific strategies to measure and collect data related to health care**
13 **safety, quality, utilization, health outcomes, and cost;**

14 **(b) Focus on data elements that foster quality improvements and peer group**
15 **comparisons;**

16 **(c) Facilitate value-based, cost-effective purchasing of health care services by**
17 **public and private purchasers and consumers;**

18 **(d) Result in usable and comparable information that allows public and private**
19 **health care purchasers, consumers, and data analysts to identify and**
20 **compare health plans, health insurers, health care facilities, and health**
21 **care providers regarding the provision of safe, cost-effective, and high-**
22 **quality health care services;**

23 **(e) Use and build upon existing data collection standards and methods that**
24 **establish and maintain the database in a cost-effective and efficient**
25 **manner;**

26 **(f) Incorporate and utilize claims, eligibility, and other publicly available data**
27 **to the extent it is the most cost-effective method of collecting data to**

- 1 minimize the cost and administrative burden on data sources;
- 2 (g) Promote the inclusion of data on the uninsured;
- 3 (h) Address the use of:
- 4 1. A master person identification process to enable matching members
- 5 across health plans; and
- 6 2. The APCD common data layout;
- 7 (i) Ensure the privacy and security of personal health information and other
- 8 proprietary information related to the collection and release of data as
- 9 required by state and federal law, including but not limited to the Health
- 10 Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191,
- 11 as amended;
- 12 (j) Address ongoing oversight of the operations of an all-payer claims
- 13 database, including where the database should be housed; and
- 14 (k) Address the feasibility and advisability of working with all-payer claims
- 15 databases in other states to establish a single application for access to data
- 16 by authorized users across multiple states.
- 17 (5) (a) The executive director shall seek and accept grants, or raise funds, from
- 18 any available source, public or private, that the executive director
- 19 determines will support the development, implementation, operation, and
- 20 maintenance of a Kentucky all-payer claims database in accordance with
- 21 this section.
- 22 (b) The Kentucky all-payer claims database fund is hereby created in the State
- 23 Treasury. All funds raised by the executive director pursuant to this
- 24 subsection and any fees or fines collected under this section or Section 4 of
- 25 this Act shall be deposited into the fund. Notwithstanding KRS 45.229,
- 26 moneys in the fund not expended at the close of the fiscal year shall not
- 27 lapse but shall be carried forward to the next fiscal year. Any interest

1 earnings of the fund shall become part of the fund and shall not lapse.

2 (c) Moneys in the fund established in paragraph (b) of this subsection are
3 hereby appropriated by the General Assembly for the purposes provided in
4 paragraph (a) of this subsection, subject to the requirements of subsections
5 (6) and (7) of this section.

6 (6) (a) If sufficient funding for the development, implementation, operation, and
7 maintenance of a Kentucky all-payer claims database, as determined by the
8 executive director, is not received within two (2) years from the date on
9 which the first funds were deposited into the fund established in subsection
10 (5)(b) of this section:

11 1. Any moneys in the fund shall be returned to the individual or entity
12 that provided the funds; and

13 2. Any interest earnings of the fund shall revert to the general fund of
14 the Commonwealth.

15 (b) The Office of Data Analytics shall maintain records necessary to facilitate
16 the return of funds described in this subsection.

17 (7) (a) If sufficient funding for the development, implementation, operation, and
18 maintenance of a Kentucky all-payer claims database, as determined by the
19 executive director, is received:

20 1. The executive director shall develop, implement, operate, and
21 maintain a Kentucky all-payer claims database in accordance with
22 this section; and

23 2. The fund established in subsection (5)(b) of this section shall be
24 available to the executive director to carry out subparagraph 1. of this
25 paragraph.

26 (b) The executive director shall:

27 1. Promulgate administrative regulations necessary to carry out this

- 1 subsection, including but not limited to designating the:
2 a. Health care payers that shall be required to report health care
3 claims data;
4 b. Data elements to be collected by the database;
5 c. Reporting format and frequency of data submissions; and
6 d. Process for making data and reports available to the public,
7 including the establishment of any related data access fees which
8 shall be deposited into the fund established in subsection (5)(b)
9 of this section; and

10 2. Seek to establish agreements:

- 11 a. For voluntary reporting of health care claims data from health
12 care payers that are not subject to mandatory reporting
13 requirements. If feasible, the executive director shall implement
14 the reporting format for self-insured group health plans
15 described in 29 U.S.C. 1191d, as amended;
16 b. With the federal Centers for Medicare and Medicaid Services to
17 obtain Medicare health care claims data; and
18 c. With all-payer claims databases in other states to establish a
19 single application for access to data by authorized users across
20 multiple states, if the executive director determines that the
21 agreements are feasible and beneficial for the operation of the
22 Kentucky all-payer claims database.

23 (8) The Kentucky all-payer claims database shall:

24 (a) Be available to:

- 25 1. The public, in a form and manner that ensures the privacy and
26 security of personal health information as required by state and
27 federal law, as a resource to insurers, consumers, employers,

1 providers, purchasers of health care, and state agencies to allow for
 2 continuous review of health care utilization, expenditures, quality, and
 3 safety; and

4 2. Entities engaged in efforts to improve or benefit the health care system
 5 through research and analysis, subject to administrative regulations
 6 promulgated by the executive director; and

7 **(b) Present data in a manner that:**

8 1. Allows for comparisons of:

9 a. Geographic, demographic, and economic factors; and

10 b. Institutional size; and

11 2. Is consumer-friendly.

12 ➔Section 2. KRS 194A.101 is amended to read as follows:

13 (1) The Office of Data Analytics is hereby created in the Office of the Secretary. The
 14 office shall:

15 **(a)** Provide oversight and strategic direction **for,** and be responsible for **the**
 16 coordinating **of,** the data analysis initiatives ~~**of**~~**for** the various departments
 17 that regulate health care and social services to ensure that policy is consistent
 18 with the long-term goals across the Commonwealth; **and**

19 **(b) Administer and implement Section 1 of this Act.**

20 (2) The office shall have the authority to review all data requests received by the
 21 cabinet from the public, review the requests for content to determine the cabinet's
 22 response, and approve the release of the requested information. The office shall
 23 review data analyses conducted by the departments within the cabinet to ensure the
 24 consistency, quality, and validity of the analysis prior to its use in operational and
 25 policy decisions. The office shall facilitate the process of data integration by
 26 initiating and maintaining data-sharing agreements in order to improve inter-agency
 27 and cross-cabinet collaboration.

1 (3) The Office of Data Analytics shall promulgate administrative regulations in
2 accordance with KRS Chapter 13A to implement this section.

3 ➔Section 3. KRS 304.2-100 is amended to read as follows:

4 (1) The commissioner shall personally supervise the operations of the department.

5 (2) The commissioner shall examine and inquire into violations of this code, shall
6 enforce the provisions of this code with impartiality and shall execute the duties
7 imposed upon him or her by this code.

8 (3) The commissioner shall have the powers and authority expressly conferred upon
9 him or her by or reasonably implied from the provisions of this code.

10 (4) The commissioner may conduct such examinations and investigations of insurance
11 matters, in addition to examinations and investigations expressly authorized, as the
12 commissioner may deem proper upon reasonable and probable cause to determine
13 whether any person has violated any provisions of this code or to secure information
14 useful in the lawful administration of any such provision. The cost of such
15 additional examinations and investigations shall be borne by the state.

16 (5) The commissioner may establish and maintain such branch offices in this state as
17 may be reasonably required for the efficient administration of this code.

18 (6) The commissioner shall have such additional powers and duties as may be provided
19 by other laws of this state.

20 (7) The commissioner shall assist any other state agencies~~[the Office of Health Data~~
21 ~~and Analytics]~~ in carrying out Subtitle 17B of this chapter,~~[and]~~ KRS 194A.099,
22 and Section 1 of this Act.

23 ➔SECTION 4. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304
24 IS CREATED TO READ AS FOLLOWS:

25 The commissioner shall promulgate administrative regulations designating the
26 assessment of a fine for any person that fails to comply with the reporting
27 requirements established for that person by administrative regulations promulgated

1 *under Section 1 of this Act. Any fines collected by the department under this section*
2 *shall be deposited into the Kentucky all-payer claims database fund established in*
3 *Section 1 of this Act.*

4 ➔Section 5. In accordance with his or her authority under subsection (5) of
5 Section 1 of this Act, the executive director may make an application for a grant under 42
6 U.S.C. sec. 247d-11, as amended, in a manner and under the conditions described in that
7 section.

8 ➔Section 6. This Act may be cited as the Kentucky Transparency and Health Care
9 Pricing Act of 2023.