

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 finds that national
4 health expenditures as a percentage of gross domestic product reached 17.9 percent in
5 2017; and

6 WHEREAS, one study estimated that health expenditures are expected to increase
7 at an average annual rate of 5.8 percent between 2014 and 2024; 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, 30 states, in an attempt to support price transparency efforts and make
12 information more accessible for consumers, employers, researchers, and others, have
13 already established, or are developing, all-payer claims databases; and

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

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

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

24 NOW, THEREFORE,

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

26 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO
27 READ AS FOLLOWS:

1 (1) As used in this section:

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

4 (b) "Executive director" means the executive director of the Office of Health
5 Data and Analytics.

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

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

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

16 2. A representative from the Kentucky Hospital Association;

17 3. A representative from the Kentucky Medical Association;

18 4. A representative from the Kentucky Pharmacists Association;

19 5. A representative of self-insured employers;

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

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

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

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

- 4 1. The executive director;
- 5 2. The commissioner of the Department of Insurance;
- 6 3. The executive director of the Commonwealth Office of Technology;
- 7 4. The commissioner of the Department for Employee Insurance;
- 8 5. The commissioner of the Department for Medicaid Services; and
- 9 6. The secretary of the Cabinet for Health and Family Services.

10 (4) The advisory committee shall make recommendations that:

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

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

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

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

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

25 (f) Incorporate and utilize claims, eligibility, and other publicly available data
26 to the extent it is the most cost-effective method of collecting data to
27 minimize the cost and administrative burden on data sources;

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

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

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

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

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

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

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

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

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

25 (b) The executive director shall:

26 1. Promulgate administrative regulations necessary to carry out this
27 subsection, including but not limited to designating:

- 1 a. The health care payers that shall be required to report health
2 care claims data;
3 b. The data elements to be collected, the reporting format, and the
4 frequency of data submissions; and
5 c. The process for making data and reports available to the public,
6 including the establishment of any related data access fees which
7 shall be deposited into the fund established in subsection (5)(b)
8 of this section; and

9 2. Seek to establish:

- 10 a. Agreements for voluntary reporting of health care claims data
11 from health care payers that are not subject to mandatory
12 reporting requirements. If feasible, the executive director shall
13 implement the reporting format for self-insured group health
14 plans described in 29 U.S.C. 1191d, as amended;
15 b. Agreements or requests with the federal Centers for Medicare
16 and Medicaid Services to obtain Medicare health care claims
17 data; and
18 c. Agreements with all-payer claims databases in other states to
19 establish a single application for access to data by authorized
20 users across multiple states, if the executive director determines
21 that the agreements are feasible and beneficial for the operation
22 of the 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 304.2-100 is amended to read as follows:

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

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

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

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

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

27 (6) The commissioner shall have such additional powers and duties as may be provided

1 by other laws of this state.

2 (7) The commissioner shall assist the Office of Health Data and Analytics in carrying
3 out Subtitle 17B of this chapter, ~~and~~ KRS 194A.099, **and Section 1 of this Act.**

4 ➔SECTION 3. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304
5 IS CREATED TO READ AS FOLLOWS:

6 **The commissioner shall promulgate administrative regulations designating the**
7 **assessment of a fine for any person that fails to comply with the reporting**
8 **requirements established for that person by administrative regulations promulgated**
9 **under Section 1 of this Act. Any fines collected by the department under this section**
10 **shall be deposited into the Kentucky all-payer claims database fund established in**
11 **Section 1 of this Act.**

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

16 ➔Section 5. This Act may be cited as the Kentucky Transparency and Health Care
17 Pricing Act of 2022.