

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 find 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 (APCDs) collect healthcare claims,
9 eligibility files, and provider files which are created at the point of service and details
10 what was provided, who provided it, how much was charged, and how much was paid;
11 and

12 WHEREAS, 25 states, in an attempt to support price transparency efforts and make
13 information more accessible for consumers, employers, researchers and others, have
14 already established APCDs; 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, 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 healthcare 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 SUBTITLE 17A OF KRS CHAPTER 304

1 IS CREATED TO READ AS FOLLOWS:

2 (1) As used in this section:

3 (a) "Commissioner" means the commissioner of the Department of Insurance;

4 and

5 (b) "Department" means the Department of Insurance.

6 (2) Within forty-five (45) days of the effective date of this Act, the commissioner shall
7 appoint an advisory committee in accordance with subsection (3) of this section to
8 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 from the Kentucky Dental Association;

20 6. A representative of small employers who employ less than fifty (50)
21 employees and who purchase group health insurance for employees;

22 7. A representative of large employers who employ more than one
23 hundred (100) employees and who purchase group health insurance
24 for employees;

25 8. A representative of self-insured employers;

26 9. A representative of an organization that processes insurance claims or
27 certain aspects of employee benefit plans for a separate entity;

- 1 10. A person with a demonstrated record of advocating for health care
- 2 privacy issues on behalf of consumers;
- 3 11. A person with a demonstrated record of advocating for health care
- 4 affordability issues on behalf of consumers;
- 5 12. Two (2) representatives of health insurers, one (1) of whom shall
- 6 represent nonprofit insurers and one (1) of whom shall represent a
- 7 for-profit insurers;
- 8 13. A representative of a managed care organization;
- 9 14. A representative of dental insurers;
- 10 15. A representative from a community mental health center who has
- 11 experience in behavioral health data collection; and
- 12 16. A representative of pharmacy benefit managers.
- 13 (b) In addition to the members described in paragraph (a) of this subsection,
- 14 the following persons shall serve as ex officio members of the advisory
- 15 committee:
- 16 1. The commissioner or his or her designee;
- 17 2. The executive director of the Commonwealth Office of Technology or
- 18 his or her designee;
- 19 3. The commissioner of the Department of Employee Insurance or his or
- 20 her designee;
- 21 4. The executive director of the Office of Health Data and Analytics or
- 22 his or her designee;
- 23 5. The commissioner of the Department for Public health or his or her
- 24 designee;
- 25 6. The commissioner of the Department for Medicaid Services or his or
- 26 her designee; and
- 27 7. The commissioner of the Department for Behavioral Health,

Developmental and Intellectual Disabilities.

(4) The advisory committee shall make recommendations that:

- (a) Include specific strategies to measure and collect data related to health care safety, quality, utilization, health outcomes, and cost;*
- (b) Focus on data elements that foster quality improvements and peer group comparisons;*
- (c) Facilitate value-based, cost-effective purchasing of health care services by public and private purchasers and consumers;*
- (d) Result in usable and comparable information that allows public and private health care purchasers, consumers, and data analysts to identify and compare health plans, health insurers, health care facilities, and health care providers regarding the provision of safe, cost-effective, high-quality health care services;*
- (e) Use and build upon existing data collection standards and methods that establish and maintain the database in a cost-effective and efficient manner;*
- (f) Incorporate and utilize claims, eligibility, and other publicly available data to the extent it is the most cost-effective method of collecting data to minimize the cost and administrative burden on data sources;*
- (g) Promote the inclusion of data on the uninsured;*
- (h) Address the use of:*
 - 1. A master person identification process to enable matching members across health plans; and*
 - 2. The All-Payer Claims Database Council's Common Data Layout;*
- (i) Ensure the privacy and security of personal health information and other proprietary information related to the collection and release of data as required by state and federal law, including but not limited to the Health*

1 Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191,
2 as amended; and

3 (j) Address the ongoing oversight of the operations of the all-payer claims
4 database, including where the database should be housed.

5 (5) (a) The commissioner shall seek and accept grants or raise funds from any
6 available source, public or private, to support the development,
7 implementation, operation, and maintenance of a Kentucky all-payer claim
8 database.

9 (b) The Kentucky all-payer claims database fund is hereby created in the State
10 Treasury, and all funds raised by the commissioner pursuant to this
11 subsection and any fines collected pursuant to subsection (7)(d)3. of this
12 section shall be deposited into the fund. Notwithstanding KRS 45.229,
13 moneys in the fund not expended at the close of the fiscal year shall not
14 lapse but shall be carried forward to the next fiscal year. Any interest
15 earnings of the trust fund shall become part of the fund and shall not lapse.

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

21 1. Any moneys in that fund shall be returned to the entity that provided
22 the funds; and

23 2. Any interest earnings of the fund shall revert to the general fund of
24 the Commonwealth.

25 (b) The department shall maintain records necessary to facilitate the return of
26 funds described in this subsection.

27 (7) If sufficient funding for the development, implementation, operation, and

1 maintenance of a Kentucky all-payer claims database, as determined by the
2 commissioner, is received, the commissioner shall:

3 (a) Establish the Kentucky all-payer claims database;

4 (b) Seek to establish agreements for voluntary reporting of health care claims
5 data from health care payers that are not subject to mandatory reporting
6 requirements;

7 (c) Seek to establish agreements or requests with the federal Centers for
8 Medicare and Medicaid Services to obtain Medicare health care claims
9 data; and

10 (d) Promulgate administrative regulations necessary to carry out this section,
11 including but not limited to:

12 1. The data elements to be collected, the reporting format, and the
13 frequency of data submissions;

14 2. The process for making data and reports available to the public,
15 including any related data access fees which shall be deposited into
16 the Kentucky all-payer claims database fund established in subsection
17 (5)(b) of this section; and

18 3. The assessment of a fine for a payer required to submit data that does
19 not comply with submission requirements established by
20 administrative regulations promulgated under this subsection. Any
21 finest collected by the department shall be deposited into the Kentucky
22 all-payer claims database fund established in subsection (5)(b) of this
23 section.

24 (8) The Kentucky all-payer claim database shall:

25 (a) Be available to the public in a form and manner that ensures the privacy
26 and security of personal health information as required by state and federal
27 law, as a resource to insurers, consumers, employers, providers, purchasers

- 1 of health care, and state agencies to allow for continuous review of health
2 care utilization, expenditures, quality, and safety;
3 (b) Be available to state agencies and private entities in Kentucky engaged in
4 efforts to improve health care, subject to administrative regulations
5 promulgated by the commissioner;
6 (c) Be presented to allow for comparisons of geographic, demographic, and
7 economic factors and institutional size; and
8 (d) Present data in a consumer-friendly manner.