

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF INSURANCE
Frankfort, Kentucky

BULLETIN 2015-03

INSURANCE LEGISLATION ADOPTED BY THE
2015 KENTUCKY GENERAL ASSEMBLY (REGULAR SESSION)

May 20, 2015

THIS BULLETIN IS FOR INFORMATION PURPOSES ONLY. IT DOES NOT AMEND OR INTERPRET PROVISIONS OF THE KENTUCKY REVISED STATUTES OR THE KENTUCKY ADMINISTRATIVE REGULATIONS. THE COMPLETE AND ACCURATE TEXT OF THE LAW CAN BE SECURED WHEN THE 2015 ACTS OF THE KENTUCKY GENERAL ASSEMBLY ARE PUBLISHED IN THE SUMMER OF 2015. UNLESS OTHERWISE NOTED, THE EFFECTIVE DATE OF THE LEGISLATION IS JUNE 24, 2015.

*(Bills as enacted are available on the LRC website at
<http://www.lrc.ky.gov/record/15RS/record.htm>)*

Senate Bill 10 – An act relating to strokes

The bill requires the Cabinet for Health and Family Services to maintain a list of certified acute stroke ready hospitals, comprehensive stroke centers, and primary stroke centers on its website. CHFS is required to provide the list to the Kentucky Board of Emergency Medical Services which, in turn, is required to share the list with local emergency medical services providers.

The bill amends the definition of “nationally recognized accreditation organization” in KRS 304.17A-600 to correct the name of the Joint Commission on Accreditation of Health Care Organization (JCAHO) to the Joint Commission.

*Contact: Health and Life Division
502-564-6088*

Senate Bill 44 – An act relating to synchronization of prescription refills

The bill amends KRS 304.17A-165 to require individual and group health benefit plans that provide benefits for prescription drugs to include a prescription synchronization program when it is agreed among the insured, provider, and pharmacist that synchronization of multiple prescriptions for the treatment of a chronic illness is in the best interest of the patient for the management or treatment of a chronic illness if the medications:

- Are covered by the individual or group health benefit plan;
- Are used for treatment and management of chronic conditions that are subject to refills;
- Are not a Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone;
- Meet all prior authorization criteria specific to the medications at the time of the synchronization request;
- Are of a formulation that can be effectively split over required short fill periods required to achieve synchronization; and
- Do not have quantity limits or dose optimization criteria or requirements that would be violated in fulfilling synchronization.

The bill prohibits an individual or group health benefit plan from applying a prorated daily cost-sharing rate to any medication dispensed by a network pharmacy in order to achieve synchronization.

The bill further prohibits prorating any dispensing fee. Rather, any dispensing fee is required to be based on an individual prescription that is filled or refilled.

Section 2 of the bill requires the Department for Medicaid Services and Medicaid MCOs to create a prescription synchronization program in the same manner as required of private health insurance.

The bill takes effect on January 1, 2016.

*Contact: Health and Life Division
502-564-6088*

Senate Bill 61 – An act relating to removing barriers to colorectal cancer screening

This bill amends KRS 304.17A-257 to require health benefit plans to cover complete colorectal cancer screenings, as recommended by the American Cancer Society. Coverage for services received from participating providers must be provided without cost-sharing to the member.

The bill takes effect on January 1, 2016.

*Contact: Health and Life Division
502-564-6088*

Senate Bill 192 – An act relating to controlled substances and declaring an emergency

This is omnibus legislation to address abuse of controlled substances in Kentucky.

In part, Section 4 amends KRS 205.560 to require Medicaid managed care organizations to complete their contracting and credentialing process within forty-five (45) days of receipt of a correct and complete application for credentialing by a behavioral health provider providing substance use disorder services unless the Medicaid managed organization notifies the provider that additional time is needed. Any additional time to render a decision cannot exceed ninety (90) days from receipt of the credentialing application.

Section 4 also amends KRS 205.560 to require Medicaid managed care organizations to adjudicate any clean claims submitted for a substance use disorder service in accordance with KRS 304.17A-700 to 304.17A-730, Kentucky's law regarding prompt payment of claims. The Department of Insurance is permitted to impose a civil penalty of \$100 per violation per day for failure to comply.

Please note: This bill is emergency legislation that became effective on the Governor's signature on March 25, 2015.

*Contact: Consumer Protection Division, Medicaid Prompt Payment Compliance Branch
502-564-6106*

House Bill 69 – An act relating to removing barriers to colorectal cancer screening

In pertinent part, this bill amends KRS 304.17A-257 to require health benefit plans to cover complete colorectal cancer screenings, as recommended by the American Cancer Society. Coverage for services received from participating providers must be provided without cost-sharing to the member.

The bill takes effect on January 1, 2016.

*Contact: Health and Life Division
502-564-6088*

House Bill 117 – An act relating to insurance

Section 1 amends KRS 304.3-400 to clarify that risk retention groups are subject to the producer-controlled insurer requirements located in KRS 304.3-400 through 304.3-430.

Section 2 amends KRS 304.37-050 to adopt the confidentiality provisions of the Model Holding Company Act.

Sections 3 through 16 amend Kentucky's Standard Valuation Law and Nonforfeiture Law to adopt the principle-based reserving requirements in accordance with the model developed by the National Association of Insurance Commissioners.

Section 9 includes specific exemptions regarding principle-based reserving requirements.

- Subsection (1) specifically exempts product forms or product lines of a domestic company licensed and doing business only in Kentucky if the Commissioner has issued an exemption in writing to the company and the company computes reserves using assumptions and methods used prior to the operative date of the valuation manual and any requirements established by the Commissioner and promulgated by regulation.
- Subsection (2) creates an exemption for a domestic company that has less than \$300,000,000 of ordinary life premiums or a company that is a member of a group of life insurers that has combined ordinary life insurance premiums of less than \$600,000,000 and that is licensed and doing business in Kentucky if:
 - The company reported total adjusted capital of at least four hundred fifty percent (450%) of authorized control level risk-based capital in the risk-based capital report for the prior calendar year;
 - The appointed actuary has provided an unqualified opinion on the reserves in accordance with KRS 304.6-171 for the prior calendar year; and
 - The company has provided a certification by a qualified actuary that any universal life policy with a secondary guarantee, issued or assumed by the company after the operative date of the valuation manual, meets the definition of a nonmaterial secondary guarantee universal life product as defined in the valuation manual.

Domestic companies meeting the requirements for this exemption are required to file a statement with the Commissioner certifying that these requirements have been met for the current calendar year based on premiums and other values from the prior calendar year's financial statements. The statement must be filed prior to July 1 of the current calendar year.

Note: Section 17 of the bill, which amends KRS 160.310 to address minimum requirements for basic reparation benefits purchased for school vehicles by boards of education, was reversed by legislation enacted subsequent to HB 117.

*Contact: Financial Standards and Examination Division
502-564-6082*

*Health and Life Division
502-564-6088*

House Bill 440 – An act relating to business entities

This bill makes numerous statutory changes regarding business entities.

With regard to insurance specifically:

- Section 5 of this bill amends KRS 14A.9-010 to exempt a foreigner insurer with a certificate of authority from the Commissioner of the Department of Insurance from the requirement to obtain a certificate of authority from the Secretary of State.
- Section 35(4) permits an unincorporated nonprofit association to purchase insurance on behalf of a member or manager for liability asserted against or incurred by the member or manager in the capacity of a member or manager, whether or not the association has authority to reimburse, indemnify, or advance expenses to the member or manager against the liability.

*Contact: Financial Standards and Examination Division
502-564-6082*

House Bill 465 – An act relating to insurance contracting standards for eye health care

The bill amends KRS 304.17A-173 to prohibit an insurer from:

- Requiring an optometrist to meet terms and conditions for participation in a provider network that are not required of a physician or osteopath; and
- Requiring an optometrist, physician or osteopath from contracting with a vision care plan as a condition for participation in the provider network.

*Contact: Health and Life Division
502-564-6088*

For Informational Purposes Only

Senate Bill 75 – An act relating to newborn screening for krabbe disease

This bill amends KRS 214.155 to include krabbe disease to the listing of required tests for heritable disorders for newborns.

Senate Bill 78 – An act relating to the towing and storage of vehicles

This bill amends KRS 376.275 to require a towing or storage company to allow an owner or an insurance company representative the right to a physical inspection of a towed vehicle prior to paying any fees for release of a vehicle. Release of a vehicle is required to occur to the owner or insurance company representative upon payment and consent of the release from the owner or the owner's authorized representative. An explanation and exact charge for each additional service is required to be individually listed in the bill.

A lien holder having a prior recorded lien on the title must be notified by certified mail within the first fifteen (15) days of impoundment. Only fifteen (15) days of storage may be charged if this letter is not sent. The lien holder has the right to take possession of the motor vehicle after showing proof of the lien and paying the reasonable or agreed towing and storage charges on the motor vehicle.

The bill excludes the following from the contents of a motor vehicle that may be sold to pay charges or legally disposed of by the storage or towing company. These items must be released to the vehicle owner or the owner's designated agent upon request if the request is made within forty-five (45) days of the date the vehicle was towed:

- Prescription medication in its proper container;
- Personal medical supplies and equipment or records;
- Educational materials including, but not limited to, calculators, books, papers, and school supplies;
- Documents, files, electronic devices, or equipment which may be able to store personal information or information relating to a person's employment or business;
- Firearms and ammunition;
- Cargo in the possession of persons engaged in transportation in interstate commerce as registered under KRS 186.020;
- Cargo in the possession of an integrated intermodal small package carrier as defined by KRS 281.605(12);
- Child restraint systems or child booster seats; and
- Checks, checkbooks, debit or credit cards, money orders, stocks, or bonds.

SB 153 – An act relating to motor carriers

This is an omnibus revision of the motor carrier statutes. Included within the bill are various requirements for the licensing of transportation network companies.

Section 15 amends KRS 281.655 to provide the Transportation Cabinet with specific authority to promulgate administrative regulations for pre-trip acceptance liability policies and prearranged ride liability insurance policies for transportation network company vehicles.

The minimum amount of insurance for pre-trip acceptance liability policies is required to be \$50,000 for death and personal injury to one (1) person, \$100,000 for death and personal injury resulting from one (1) incident, and \$25,000 for property damage.

The minimum amount of insurance for prearranged ride liability policies is required to be the same as for motor vehicles for the transportation of persons set forth in KRS 391.655(4).

The bill permits pre-trip acceptance liability policies and prearranged ride liability policies to be issued by an eligible surplus lines insurer.

House Bill 24 – An act relating to dextromethorphan abuse

This bill creates new sections of KRS Chapter 218A to prohibit the sale of any product containing dextromethorphan to individuals under eighteen (18).

House Bill 92 – An act relating to alcohol and drug counseling

This bill creates a license process for alcohol and drug counselors and clinical alcohol and drug counselor associates and a registration process for alcohol and drug peer support specialists under the Kentucky Board of Alcohol and Drug Counselors.

HB 153 – An act relating to solicitation of a person involved in a motor vehicle accident for healthcare services

This bill creates new statutes in KRS Chapter 367 to prohibit a healthcare provider or an intermediary, at the request of a healthcare provider, from soliciting or knowingly permitting another individual to solicit a person involved in a motor vehicle accident for the provision of reparation benefits during the first thirty (30) days following an accident.

The bill defines “solicit” to mean the initiation of communication with a person involved in a motor vehicle accident, including but not limited to any face-to-face contact with the person, in writing, electronically, or by any form of telephonic communication, in anticipation of financial gain or remuneration for the communication itself or for prospective charges for healthcare services. Further, the bill specifically excludes from the definition of “solicit”:

- Advertising directed to the general public;
- Telemarketing, which is;
 - Taken from a general list of phone numbers;
 - Not targeted at motor vehicle accident victims; and
 - Not in violation of the state's prohibition on telephone solicitation under KRS 367.46951 to 367.46999 and 367.990; or
- Contact between a healthcare provider and an individual with whom the healthcare provider had a preexisting provider-patient relationship.

The bill further prohibits a healthcare provider from:

- Paying or receiving compensation for the referral or solicitation of reparation benefits for a person involved in a motor vehicle accident;
- Providing monetary compensation or other consideration to any individual for the purpose of inducing, enticing, or directing the provision of reparation benefits for a person involved in a motor vehicle accident; or
- Contacting, requesting or directing an intermediary to contact, for the purpose of solicitation, a person involved in a motor vehicle accident during the first thirty (30) days following a motor vehicle accident.

Healthcare providers are required to report any suspect violation to the appropriate licensure board. Any healthcare provider that violates the provisions of this bill will be subject to the disciplinary process of their licensure board and any charges for health services rendered by a healthcare provider in violation of this bill shall be void and returned to the reparations obligor or other payor if previously paid.

/s/ Sharon P. Clark
 Sharon P. Clark
 Commissioner
 Kentucky Department of Insurance

May 20, 2015
 Date