

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF INSURANCE  
Frankfort, Kentucky

BULLETIN 2013 - 03

INSURANCE LEGISLATION ADOPTED BY THE  
2013 KENTUCKY GENERAL ASSEMBLY (REGULAR SESSION)

May 31, 2013

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 2013 ACTS OF THE KENTUCKY GENERAL ASSEMBLY ARE PUBLISHED IN THE SUMMER OF 2013. UNLESS OTHERWISE NOTED, THE EFFECTIVE DATE OF THE LEGISLATION IS JUNE 25, 2013.

*(Bills as enacted are available on the LRC website at [www.lrc.ky.gov/record/13rs/record.htm](http://www.lrc.ky.gov/record/13rs/record.htm))*

**Senate Bill 3 - Exemption of Religious Organizations from the Insurance Code**

This bill amends an existing exemption in KRS 304.1-120 to change the criteria for religious organizations to be exempt from the provisions of Kentucky's Insurance Code. The bill:

- Removes the requirement that the religious organization pays for the subscribers' financial or medical needs by payments directly from one subscriber to another;
- Requires a specific written notice with all applications, guidelines, materials or similar documents and further requires a participant acknowledge receipt of the notice by signing below the notice on the application; and
- Replaces the requirement that a religious organization act as an organizational clearinghouse for information between subscribers who have needs and those who have the present ability to pay with a requirement that the religious organization match its participants who have financial, physical or medical needs with participants who choose to assist with those needs.

Contact:      *Legal Division*  
                  (502) 564-6032

### **Senate Bill 107 – Pharmacy Benefit Managers**

This bill creates a new section in KRS 304, Subtitle 17A to require contracts between a pharmacy benefit manager and a contracted pharmacy located in Kentucky to include:

- The sources used by the pharmacy benefit manager to calculate the reimbursement paid for covered drugs;
- A dispute resolution process regarding the maximum allowable cost pricing; and
- A process to provide for retroactive reimbursements.
  - This process must be established within one (1) year from the effective date of the Act.

The process to appeal, investigate and resolve disputes regarding the maximum allowable cost pricing is outlined in the bill as follows:

- The right to appeal is limited to sixty (60) days following the initial claim;
- The appeal must be investigated and resolved within ten (10) days; and
- If the appeal is denied, the pharmacy benefit manager must:
  - Provide a reason for the denial; and
  - Identify the national drug code of a drug product that may be purchased by the contracted pharmacies at a price at or below the maximum allowable cost.

For every drug for which the pharmacy benefit manager establishes a maximum allowable cost, the pharmacy benefit manager must:

- Include in the pharmacy contract information identifying the national drug pricing compendia or sources used to obtain the drug price data;
- Make available to a contracted pharmacy the drugs subject to the maximum allowable cost and the actual maximum allowable cost for each drug;
- Review and make necessary adjustments to the maximum allowable cost for every drug at least every fourteen (14) days; and
- Make available to a contracted pharmacy weekly updates to the list of drugs subject to maximum allowable cost and the actual maximum allowable cost for each drug.

The provisions of the bill apply to contracts entered into on behalf of a health benefit plan, state agency, insurer, managed care organization or other third-party payor.

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

### **SB 152 – Rental Vehicle Agents; Definition of Employer-Organized Association**

This bill makes the following amendments regarding rental vehicle agents:

- The definition of “rental vehicle agent” in KRS 304.9-020 is amended to use the word “vehicle” rather than the word “car” in order to be consistent with the terminology used in other statutes.
- KRS 304.9-425, related to the acceptance of commission or consideration for services, is amended to clarify that employees supervised by a rental vehicle managing employee may receive compensation for their services.
- KRS 304.12-100, setting forth exceptions to discrimination, rebating, and illegal inducement is amended to include referral fees paid in accordance with KRS 304.9-425 and compensation paid to an employee supervised by a rental vehicle managing employee in accordance with KRS 304.9-507.

The bill also amends the definition of “employer-organized association” and the definition of “large group” in KRS 304.17A-005 to require that an employer-organized association that is a bona fide association be treated as a large group under KRS 304, Subtitle 17A.

*Please note that pursuant to federal guidance issued by the Center for Consumer Information and Insurance Oversight, for purposes of the Affordable Care Act, including the market reforms, any state law that defines coverage sold to individuals and small groups through an association as large group coverage would be preempted by federal law.*

Contact:      Agent Licensing Division  
                  (502) 564-6004

                  Health and Life Division  
                  (502) 564-6088

### **SB 202 – Self-Insured Groups**

This bill includes the following changes related to self-insured groups:

- KRS 304.50-010, KRS 304.50-085, and KRS 342.350 are amended to allow any heterogeneous workers’ compensation self-insured group to contract in the name of the group and to sue and be sued in the name of the group.

- KRS 304.48-250 and KRS 304.50-055 are amended to permit governmental entities that are assessed by a liability self-insured group or a workers' compensation self-insured group to cover an accrued deficit to finance the payment of the assessment over a period of no more than twenty (20) years. The financing may be accomplished through the issuance of bonds, notes or other obligations or a lease, installment payment agreement or another similar agreement.

The bill permits any payments due to the governmental entity to be withheld in accordance with KRS 160.160 if the governmental entity fails to make a scheduled payment.

Contact: *Financial Standards & Examination Division*  
(502) 564-6082

### **HB 164 – Proof of Motor Vehicle Insurance**

This bill amends KRS 304.39-117 to permit an insurer to provide a proof of insurance card in either a paper or electronic format. The owner of a motor vehicle is required to keep the paper insurance card or a portable electronic device to download the insurance card in his or her motor vehicle as evidence that the required security is currently in full force and effect.

Either the paper or the electronic insurance card can be used as evidence to a peace officer that the required security is in force. If presenting a mobile electronic device as evidence, the peace officer is only permitted to view the electronic image of the insurance card and cannot view any other content on the mobile electronic device.

The bill describes an electronic format to mean the display of an image on any portable device depicting a current valid representation of the proof of insurance card.

The bill also amends KRS 186A.052 to allow either a paper or electronic proof of insurance card to be presented to a county clerk as evidence that the required security is in force on a motor vehicle if the vehicle identification number of the vehicle is not listed in AVIS. Both the paper and electronic proof of insurance card must be effective no more than forty-five (45) days before being submitted to the county clerk. The county clerk may require that the electronic proof of insurance card be emailed to the clerk in order for the clerk to maintain a copy in his records.

For this section, the bill describes an electronic format to mean the display of an image subject to immediate download or transmission from the insurer or agent on any

portable electronic device. It does not include a picture of a paper insurance card on a portable electronic device.

*Contact: Property & Casualty Division  
(502) 564-6046*

### **HB 366 – Coverage for Milk Fortifiers**

Section 11 of this bill amends KRS 304.17A-139 to require a health benefit plan that provides prescription drug coverage to provide coverage for a 100% human diet to supplement a mother's expressed breast milk or donor milk with a milk fortifier if such a diet is:

- Prescribed for the prevention of necrotizing enterocolitis and associated comorbidities; and
- Administered under the direction of a physician.

This coverage may be capped at \$15,000 per infant, per plan year, subject to annual inflation adjustments.

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

## **Additional Legislation of Interest**

### **SB 52 – Certificates of Death**

This bill amends KRS 213.076 to require all certificates of death to be electronically filed with the Cabinet for Health and Family Services using the Kentucky Electronic Death Registration System. The provisions of the bill take effect on January 1, 2015.

### **SB 78 – Expungement**

Section 15 of this bill creates a new statute in KRS Chapter 431 to require every petition for expungement of court records filed on or after January 1, 2014, to include a certification of eligibility for expungement. The Kentucky State Police and the Administrative Office of the Courts shall certify whether the petitioner is eligible to have the requested record expunged.

This section defines “expungement” to mean the removal or deletion of records by the court and other agencies which prevents the matter from appearing on official state performed background checks.

Section 16 of this bill amends KRS 431.076 to require the court and other agencies to delete or remove the records from their computer systems so that any official state performed background check will indicate that the records do not exist.

Section 17 of this bill amends KRS 431.078 to add traffic infractions not otherwise classified as a misdemeanor or violation to the list of records eligible for expungement. The bill permits a person denied an expungement prior to the effective date of the act due to the presence of a traffic infraction to file a new petition for expungement without the need to pay additional fees.

### **SB 125 – Newborn Screening for Congenital Heart Disease**

This bill amends KRS 214.155 to require institutions caring for infants twenty-eight (28) days or less of age to screen the infant for critical congenital heart disease (CCHD) prior to discharge unless CCHD has been ruled out or diagnosed with a prior echocardiogram or prenatal diagnosis of CCHD.

The provisions of this bill take effect January 1, 2014.

### **HB 217 – Controlled Substances**

This bill amends various statutes related to the prescribing of controlled substances. KRS 218A.172 is amended to require a health care practitioner to obtain a complete physical or mental health examination of a patient, as appropriate, before initially prescribing or dispensing a Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone. Additionally, the practitioner must query the electronic monitoring system for all available data on the patient for the past twelve (12) months and appropriately use that data in the evaluation and treatment of the patient.

For subsequent prescriptions, the practitioner is required to review the patient's treatment at regular intervals and modify or terminate the treatment, as appropriate. If the course of treatment extends beyond three (3) months, the practitioner must again query the electronic monitoring system for any available data within the past twelve (12) months and review that data before issuing any new prescription or refills.

Administrative regulations may be promulgated by a state licensing board, working in conjunction with the Office of Drug Control Policy, to exempt practitioners in various specific situations from the protocols in this statute.

The bill also amends:

- KRS 218A.175 regarding the ownership and operation standards for pain management facilities;
- KRS 218A.202 regarding reporting requirements for the electronic system for monitoring controlled substances dispensed within the Commonwealth;
- KRS 218A.205 regarding required prescribing and dispensing standards for licensing boards; and
- KRS 315.335 regarding requirement for pharmacies that have experienced a robbery or theft of a controlled substance.

### **HB 219 – Rebuilt Title Applications**

This bill amends KRS 186.115 to allow an owner of a motor vehicle which has been assembled from parts from wrecked or salvaged motor vehicles to submit an affidavit and invoices showing the purchase of such parts to either the county clerk or the Kentucky Transportation Cabinet’s central office in Frankfort.

### **HB 273 – Operation of Mini-Trucks**

This bill creates a new statute in KRS Chapter 189 to define a “mini-truck” as a lightweight Japanese kei class utility vehicle and to allow for the following with regard to its operation:

- A mini-truck may not be operated upon any public highway, roadway or right-of-way except as follows:
  - On a two lane public highway in order to cross the highway;
  - On a two lane public highway if the operator is engaged in farm or agricultural-related activities, construction, road maintenance or snow removal; and
  - If the travel is permitted by the Transportation Cabinet, city government or county government.
- If operated on the highway:
  - The operator must have a valid operator’s license;
  - The operator must comply with all applicable traffic regulations;
  - The mini-truck must have at least two (2) headlights and two (2) taillights illuminated at all times;

- The mini-truck can only be operated on the highway during daylight hours except when engaged in snow removal or emergency road maintenance.
- A mini-truck may not be operated on private property without the consent of the landowner, tenant or individual responsible for the property.
- A mini-truck may not be operated on public property unless the governmental agency responsible for the property has approved the use of the mini-truck.

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

May 31, 2013  
Date