GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2015 REGULAR SESSION

HOUSE BILL NO. 69

AS ENACTED

WEDNESDAY, MARCH 11, 2015

RECEIVED AND FILED
DATE March 23, 2015
4:39pm

ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

1 AN ACT relating to health benefit plans.

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

3 ➔Section 1. KRS 304.17A-257 is amended to read as follows:

4 (1) A health benefit plan issued or renewed on or after ***the effective date of this***
5 ***Act***[~~January 1, 2009~~], shall provide coverage for all colorectal cancer examinations
6 and laboratory tests specified in current American Cancer Society guidelines for
7 ***complete*** colorectal cancer screening of asymptomatic individuals as follows:

8 (a) Coverage or benefits shall be provided for all colorectal screening
9 examinations and tests that are administered at a frequency identified in the
10 most recent version of the American Cancer Society guidelines for ***complete***
11 colorectal cancer screening; and

12 (b) The covered individual shall be:

13 1. Fifty (50) years of age or older; or

14 2. Less than fifty (50) years of age and at high risk for colorectal cancer
15 according to current colorectal cancer screening guidelines of the
16 American Cancer Society.

17 (2) Coverage under this section shall not be subject to a[~~ separate~~] deductible or[~~
18 separate~~] coinsurance ***for services received from participating providers***[~~ but may
19 be subject to the same deductible or coinsurance established for other laboratory
20 testing~~] under the health benefit plan.

21 ➔Section 2. KRS 315.522 is amended to read as follows:

22 (1) ***(a)*** The board may ***grant a license on the basis of reciprocity to a home medical***
23 ***equipment and services provider located in one (1) of Kentucky's seven (7)***
24 ***contiguous bordering states that license***[~~permit an out-of-state~~]home
25 medical equipment and services ***providers***[~~provider to obtain a license on the~~
26 ~~basis of reciprocity~~] if:

27 ***1.***[~~(a)~~] The out-of-state provider physically located in one (1) of

1 ***Kentucky's seven (7) contiguous***[~~the~~] bordering states possesses a valid
2 license from ***a***[~~another~~] jurisdiction that grants the same privileges to
3 persons licensed by the Commonwealth as the Commonwealth grants to
4 persons licensed by the other jurisdiction;
5 ***2.***[~~(b)~~] The requirements for licensure in the ***contiguous*** bordering state***,***
6 ***including but not limited to a requirement for a physical location in***
7 ***the state as a condition of issuing or renewing a license,*** are
8 substantially similar to the requirements under KRS 315.510 to 315.524;
9 and
10 ***3.***[~~(c)~~] The out-of-state provider seeking licensure states that he or she has
11 studied, is familiar with, and shall abide by KRS 315.510 to 315.524 and
12 the administrative regulations promulgated thereunder.
13 ***(b) 1. Notwithstanding subsection (2) of this section, the board may grant a***
14 ***license on the basis of reciprocity to a home medical equipment and***
15 ***services provider physically located in one (1) of Kentucky's seven (7)***
16 ***contiguous bordering states that does not license home medical***
17 ***equipment and services providers if the out-of-state provider seeking to***
18 ***operate in Kentucky states by affidavit that he or she has studied, is***
19 ***familiar with, and shall abide by KRS 315.510 to 315.524 and the***
20 ***administrative regulations promulgated thereunder; and***
21 ***2. The contiguous bordering state grants the same privileges to persons***
22 ***licensed in the Commonwealth as the Commonwealth grants to***
23 ***providers from the state described in paragraph (b)1. of this***
24 ***subsection.***
25 (2) If the requirements for licensure under KRS 315.510 to 315.524 and the
26 administrative regulations promulgated thereunder are more restrictive than the
27 standards of ***a contiguous***[~~the other~~] jurisdiction, then the out-of-state provider

1 shall comply with the additional requirements of KRS 315.510 to 315.524 to obtain
2 a reciprocal license.
3 ➔Section 3. KRS 315.191 is amended to read as follows:
4 (1) The board is authorized to:
5 (a) Promulgate administrative regulations pursuant to KRS Chapter 13A
6 necessary to regulate and control all matters set forth in this chapter relating to
7 pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale
8 distributors, manufacturers, and home medical equipment and services
9 providers, to the extent that regulation and control of same have not been
10 delegated to some other agency of the Commonwealth, but administrative
11 regulations relating to drugs and home medical equipment and services shall
12 be limited to the regulation and control of drugs sold pursuant to a
13 prescription drug order or home medical equipment sold pursuant to a medical
14 order. However, nothing contained in this chapter shall be construed as
15 authorizing the board to promulgate any administrative regulations relating to
16 prices or fees or to advertising or the promotion of the sales or use of
17 commodities or services;
18 (b) Issue subpoenas, schedule and conduct hearings, or appoint hearing officers to
19 schedule and conduct hearings on behalf of the board on any matter under the
20 jurisdiction of the board;
21 (c) Prescribe the time, place, method, manner, scope, and subjects of
22 examinations, with at least two (2) examinations to be held annually;
23 (d) Issue and renew all:
24 1. Licenses for home medical equipment and services providers engaged in
25 providing home medical equipment and services; and
26 2. Licenses, certificates, and permits for all pharmacists, pharmacist
27 interns, pharmacies, pharmacy technicians, wholesale distributors, and

1 manufacturers engaged in the manufacture, distribution, or dispensation
2 of drugs;
3 (e) Investigate all complaints or violations of the state pharmacy and home
4 medical equipment laws and the administrative regulations promulgated by
5 the board, and bring all these cases to the notice of the proper law enforcement
6 authorities;
7 (f) Promulgate administrative regulations, pursuant to KRS Chapter 13A, that are
8 necessary and to control the storage, retrieval, dispensing, refilling, and
9 transfer of prescription drug orders within and between pharmacists and
10 pharmacies licensed or issued a permit by it;
11 (g) Perform all other functions necessary to carry out the provisions of law and
12 the administrative regulations promulgated by the board relating to
13 pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale
14 distributors, manufacturers, and home medical equipment and services
15 providers;
16 (h) Establish or approve programs for training, qualifications, and registration of
17 pharmacist interns;
18 (i) Assess reasonable fees, in addition to the fees specifically provided for in this
19 chapter and consistent with KRS 61.870 to 61.884, for services rendered to
20 perform its duties and responsibilities, including, but not limited to, the
21 following:
22 1. Issuance of duplicate certificates;
23 2. Mailing lists or reports of data maintained by the board;
24 3. Copies of documents; or
25 4. Notices of meetings;
26 (j) Seize any drug or device found by the board to constitute an imminent danger
27 to public health and welfare;

1 (k) Establish an advisory council to advise the board on administrative regulations
2 and other matters, within the discretion of the board, pertinent to the
3 regulation of pharmacists, pharmacist interns, pharmacy technicians,
4 pharmacies, drug distribution, drug manufacturing, and home medical
5 equipment and services. The council shall consist of nine (9) members
6 selected by the board for terms of up to four (4) years. No member shall serve
7 on the council for more than eight (8) years. Membership of the council shall
8 include ***seven (7)***[~~nine (9)~~] individuals broadly representative of the
9 profession of pharmacy[~~, the profession of providing home medical equipment~~
10 ~~and services,~~] and the general public***, and two (2) individuals representative***
11 ***of the home medical equipment and services profession licensed in***
12 ***accordance with KRS 315.518***. Members shall be selected by the board from
13 a list of qualified candidates submitted by the association, society, or other
14 interested parties;
15 (l) Promulgate administrative regulations establishing the qualifications that
16 pharmacy technicians are required to attain prior to engaging in pharmacy
17 practice activities outside the immediate supervision of a pharmacist; and
18 (m) Oversee and administer the licensure of home medical equipment and services
19 providers pursuant to KRS 315.510 to 315.524.
20 (2) The board shall have other authority as may be necessary to enforce pharmacy and
21 home medical equipment laws and administrative regulations of the board
22 including, but not limited to:
23 (a) Joining or participating in professional organizations and associations
24 organized exclusively to promote improvement of the standards of practice of
25 pharmacy and of providing home medical equipment and services for the
26 protection of public health and welfare or facilitate the activities of the board;
27 and

1 (b) Receiving and expending funds, in addition to its biennial appropriation,
2 received from parties other than the state, if:
3 1. The funds are awarded for the pursuit of a specific objective which the
4 board is authorized to enforce through this chapter, or which the board is
5 qualified to pursue by reason of its jurisdiction or professional expertise;
6 2. The funds are expended for the objective for which they were awarded;
7 3. The activities connected with or occasioned by the expenditure of the
8 funds do not interfere with the performance of the board's
9 responsibilities and do not conflict with the exercise of its statutory
10 powers;
11 4. The funds are kept in a separate account and not commingled with funds
12 received from the state; and
13 5. Periodic accountings of the funds are maintained at the board office for
14 inspection or review.
15 (3) In addition to the sanctions provided in KRS 315.121, the board or its hearing
16 officer may direct any licensee, permit holder, or certificate holder found guilty of a
17 charge involving home medical equipment, pharmacy, or drug laws, rules, or
18 administrative regulations of the state, any other state, or federal government, to pay
19 to the board a sum not to exceed the reasonable costs of investigation and
20 prosecution of the case, not to exceed twenty-five thousand dollars ($25,000).
21 (4) In an action for recovery of costs, proof of the board's order shall be conclusive
22 proof of the validity of the order of payment and any terms for payment.
23 ➔Section 4. KRS 315.514 is amended to read as follows:
24 (1) No person shall provide home medical equipment and services, or use the title
25 "home medical equipment and services provider" in connection with his or her
26 profession or business, without a license issued by the board.
27 (2) Unless home medical equipment and services are provided through a separate legal

1 entity, nothing in KRS 315.510 to 315.524 or any administrative regulations
2 promulgated thereunder shall be construed as preventing or restricting the practices,
3 services, or activities of the following:
4 (a) A person licensed or registered in this state under any other law who is
5 engaging in the profession or occupation for which he or she is licensed or
6 registered;
7 (b) Health care practitioners who lawfully prescribe or order home medical
8 equipment and services, or who use home medical equipment and services to
9 treat their patients;
10 (c) Home health agencies that do not engage in the provision of home medical
11 equipment and services;
12 (d) Hospitals that provide home medical equipment and services only as an
13 integral part of patient care;
14 (e) Manufacturers and wholesale distributors of home medical equipment who do
15 not sell, lease, or rent home medical equipment directly to a patient;
16 (f) Pharmacies that are engaged in the sale, lease, or rental of home medical
17 equipment and services;
18 (g) An employee of a person licensed under KRS 315.510 to 315.524;
19 (h) Hospice programs that do not involve the sale, lease, or rental of home
20 medical equipment and services;
21 (i) Skilled nursing facilities that do not involve the sale, lease, or rental of home
22 medical equipment and services;~~[and]~~
23 (j) Government agencies, including fire districts which provide emergency
24 medical services***; and***
25 ***(k) Notwithstanding subsection (1) of this section, an out-of-state provider***
26 ***whose primary business is the manufacture, distribution, or both, of highly***
27 ***specialized equipment who ships that equipment into this state if that***

1 ***equipment is not provided by a licensed Kentucky home medical equipment***
2 ***and services provider***.
3 ➔Section 5. (1) Any cost-savings demonstration projects provided for the
4 state employee health plan shall:
5 (a) Center on process improvement and patient empowerment with door-to-door
6 engagement through use of interactive technology, known as telehealth, to capture the
7 potential for improved medical outcomes at reduced cost;
8 (b) Include established patients who have, within twenty-four (24) months of
9 telehealth services, visited established providers and maintained a clinical relationship
10 with a qualified health professional licensed in Kentucky through an in-office and in-
11 person evaluation, including a medical history and a physical examination;
12 (c) Not increase premiums nor reduce benefits; and
13 (d) Be a proof of concept to confirm the ability to capture an annualized savings
14 of up to ten percent (10%).
15 (2) The cabinet shall enter into an agreement with one (1) or both of the
16 university teaching hospitals in the Commonwealth to leverage the substantial return on
17 investment of the demonstration projects.
18 (3) The demonstration projects shall be implemented as provided in this section
19 under the contracts used for the purpose of administering the state employee health plan.
20 (4) The demonstration projects shall:
21 (a) Be based on a competitive procurement process through a formal request for
22 information; and
23 (b) Be completed with a report regarding the proof of concept submitted to the
24 Legislative Program Review and Investigations Committee and the cabinet by December
25 1, 2015.
26 (5) If the proof of concept demonstrates an annual savings, the cabinet shall
27 implement the final project on a larger scale. If implemented, the large scale project shall

1 be awarded via a formal request for proposal process under KRS Chapter 45A to capture
2 the mandated annualized savings of up to ten percent (10%) in the state employee health
3 plan. The cost of implementing a large scale project shall be paid via a shared savings
4 model wherein the contractor shall be compensated by a percentage of the savings
5 captured by the project.

6 ➔Section 6. (1) Any cost savings demonstration projects provided for the
7 state Medicaid plan shall:

8 (a) Center on process improvement and patient empowerment with door-to-door
9 engagement via use of interactive technology, known as telehealth, to capture the
10 potential for improved medical outcomes at reduced cost;

11 (b) Include established patients who have, within twenty-four (24) months of the
12 telehealth services, visited established providers and maintained a clinical relationship
13 with a qualified health professional licensed in Kentucky through an in-office and in-
14 person evaluation, including a medical history and a physical examination;

15 (c) Not increase premiums nor reduce benefits; and

16 (d) Be a proof of concept to confirm the ability to capture an annualized savings
17 of up to five percent (5%).

18 (2) The cabinet shall enter into an agreement with one (1) or both of the
19 university teaching hospitals in the Commonwealth to leverage the substantial return on
20 investment of the demonstration projects.

21 (3) The demonstration projects shall be implemented as provided in this section
22 under the contracts used for the purpose of administering the state Medicaid plan.

23 (4) The demonstration projects shall:

24 (a) Be based on a competitive procurement process through a formal request for
25 information; and

26 (b) Be completed with a report regarding the proof of concept submitted to the
27 Legislative Program Review and Investigations Committee and the cabinet by December

1 1, 2015.

2 (5) If the proof of concept demonstrates an annual savings, the cabinet shall
3 implement the final project on a larger scale. If implemented, the large scale project shall
4 be awarded through a formal request for proposal process under KRS Chapter 45A to
5 capture the mandated annualized savings of up to five percent (5%) in the state Medicaid
6 plan. The cost of implementing a large scale project shall be paid via a shared savings
7 model wherein the contractor shall be compensated by a percentage of the savings
8 captured by the project.

9 ➔Section 7. Section 1 of this Act takes effect January 1, 2016.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 3/23/15