

UnitedHealth Group 2009 Legislative Adjournment Report

State: Kentucky

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Session Overview: The Kentucky legislative session for 2009 adjourned sine die on March 26, 2009. This session was what is referred to as a “short session,” meaning the legislature is only in for no more than 30 working days. Nonetheless, there were several pieces of impactful legislation that were considered by the legislature. A special session is expected to be called by Governor Beshear in June to address the budget. The Governor is not expected to call for the legislature to address any health care issues during this special session. Additionally, legislative interim committees are expected to meet during the late summer and fall of this year on a variety of topics. These interim committees will give us a glimpse of what we can expect during the 2010 session.

Enacted Legislation:

- **HJR 52 Dialysis Treatment Study:** Requires the state to do a study on the impact of private sector coverage for dialysis treatment on public sector programs. Requires the Cabinet for Health Services to provide information about the cost dialysis treatment imposes on government programs when they become primary.
- **HB 414 Pharmacy Audits:** Regulates audit activities of insurers and Pharmacy Benefit Managers (PBMs) on pharmacies. Requires advance notice to pharmacies of any upcoming audits.

Failed Legislation:

- **HB 3 Durable Medical Equipment:** Relates to durable medical equipment; exempts durable medical equipment from sales and use taxes.
- **HB 11 Physical Activity:** Requires the Kentucky Department of Education to identify and disseminate model resources for integrating physical activity during the school day; encourage schools to utilize certified physical education teachers in the development of physical activity plans; develop a reporting mechanism for schools containing grades K-5 to report on results of physical activity and wellness programs.
- **HB 15 Substance Abuse:** Implements 2 pilot programs to screen for substance abuse by adult persons receiving or seeking to receive monetary public assistance; provides that

the program shall include testing of the person's blood or urine only when officials have probable cause to believe that an adult person covered by the screening program is using a controlled substance; provides that a person is ineligible for public assistance if they do not participate in the program or test positive for certain drugs.

- **HB 30 Health Care Services:** Prohibits a health benefit plan from excluding coverage for routine patient healthcare costs that are incurred in the course of a cancer clinical trial if the health benefit plan would provide coverage for the routine patient healthcare cost had it not been incurred in a cancer clinical trial.
- **HB 44 Government Contracts:** Relates to government contracts; expands and refines the list of entities included in definition of contracting body; refines the definition of memorandum of agreement and includes grant and research agreements; corrects references to universities and colleges and institutions of higher education; exempts health maintenance organization or Medicaid managed health care service contracts; exempts contracts between postsecondary institutions and health care providers.
- **HB 54 Kentucky Access:** Requires Kentucky residency for eligibility in Kentucky Access and to provide that an individual who is eligible under another group health plan is not eligible for Kentucky Access.
- **HB 59 Insurance Licensing:** Relates to insurance licensing; reduces the number of consecutive years an insurer may use an accountant or firm for preparing the audited financial statement from 7 to 5; defines "rental vehicle agent" as a "rental vehicle agent managing employee"; Removes the requirement that business entities file an annual report of all designated individuals who were not terminated on or prior to a specified date; provides that a business entity applicant or licensee shall not use a deceptively similar name.
- **HB 67 Health Facility acquired Infections:** Requires health care facilities to implement infection prevention program in high risk areas and throughout the facility; requires implementation of specified best practices that include public posting of policies, worker and staff education program; requires health facility to report data on health-facility acquired infection rates and multi-drug resistant infections; requires report to Governor and Legislative Research Commission; establishes penalties for violations.
- **HB 69 Female Children Immunizations:** Requires immunization against human papillomavirus for female children and require that parental statements to withhold consent be filed with the immunization certificate; requires forms relating to exemptions from immunization to include a form that reflects the parents' choice to accept or decline immunization; requires providing educational resources to the public and all schools with special information.
- **HB 78 Drugs:** Requires insurers to cover urine drug screening or blood tests ordered by a health care practitioner.

- **HB 111 Healthy Lifestyles:** Relates to healthy lifestyles; authorizes tax credits for employers that establish wellness programs; defines such programs to include policies which promote a healthy lifestyle, including those related to smoking, obesity, stress management, physical fitness, substance abuse, and other health issues; provides for the development of an Employer Wellness Project Model; authorizes the Secretary of the Personnel Cabinet to collaborate with the YMCA to establish a state employee fitness program.
- **HB 144 Tobacco Taxation:** Relates to a surtax on existing tobacco taxation to be deposited in the cancer research institutions matching fund; increases wholesalers tax; includes a floor stock tax.
- **HB 175 State Employee Health Insurance:** Relates to state employee health insurance; changes completion date of financial audit of public employee health insurance trust fund to December 1; changes due date of policy recommendations from Kentucky Group Health Insurance Board to December 1; grants authority to Secretary of Personnel Cabinet to promulgate administrative regulations concerning health coverage.
- **HB 190 Health Insurance:** Relates to health insurance; defines terms: applied behavior analysis, autism services provider, autism spectrum disorders, diagnosis of autism spectrum disorders, habilitative or rehabilitative care, health insurance policy, medically necessary, pharmacy care, psychiatric care, psychological care, therapeutic care, and treatment for autism spectrum disorders; requires health policies covered in this subtitle to provide coverage for the diagnosis and treatment of autism spectrum disorders.
- **HB 200 Acupuncture:** Relates to acupuncture; changes acupuncture from a certified to a licensed profession; increase the penalty for practicing acupuncture without a license to a Class D felony; clarifies the list of potentially serious disorders or conditions.
- **HB 288 Physician Assistants:** Deletes the prohibition against physician assistants prescribing controlled substances allow physician assistants to prescribe Schedules II through V controlled substances if delegated to do so by their supervising physicians; requires that prescriptions for Schedule II controlled substances be limited to a 72-hour supply with no refills; requires that prescriptions for Schedule III controlled substances be limited to a 30-day supply with no refills.
- **HB 297 Pharmacists:** Allows a pharmacist to dispense up to a 30-day supply of a maintenance drug in emergency situations redefines collaborative care agreement to include multiple practitioners and multiple patients; defines enhanced pharmacy-related primary care as additional acts by trained pharmacists certified by the Board of Pharmacy to provide enhanced pharmacy-related primary care including authority to issue nonscheduled legend drugs.
- **HB 453 Health Benefit Plan Coverage of Infertility:** Provides that health benefit plans offering pregnancy-related benefits shall contain coverage for the diagnosis and treatment of infertility.

- **HB 464 Health Insurance:** Requires insurance coverage for prescription drugs and outpatient services relating to contraception; provides an exemption from the requirements of this section for religious employers.
- **HB 491 Prosthetics Orthotics and Pedorthics:** Establishes and create New sections of krs Chapter 319B, regarding the licensing and regulation of practitioners of prosthetics, orthotics, and pedorthics; defines terms for the chapter; establishes the Kentucky Board of Prosthetics, Orthotics, and Pedorthics and its appointment and meeting procedures; clarifies board liability to include requirement that current or former board members or affiliated Persons act with ordinary care; delineates the duties of the board; requires the board to administer.
- **HB 515 Registered Nurses:** Creates New sections of code to code to establish the patient advocacy duties and rights of direct care registered nurses including free speech, acting exclusively in the interests of patients, and avoidance of conflicts of interest; creates new sections of KRS Chapter 216B to establish the protection of free speech for direct care registered nurses and other health professionals who are responsible for patient care; establishes the content of protected free speech.
- **HB 535 Improper Solicitation for Medical Services:** Creates the offense of improper solicitation for medical services; classifies the newly created offense as a Class A misdemeanor.
- **HB 538 Kentucky Board of Emergency Medical Services:** Establishes protocols to allow patients to select a hospital of choice within the geographic service area of an ambulance service provider to which the patient will be transported.
- **SB 19 Dialysis Treatment:** Relates to insurance coverage of dialysis treatments; limits patient travel for dialysis; prohibits specified actions by the insurer that would result in a shift in primary responsibility for reimbursement to any governmental program; requires advance written notice of any proposed decrease in reimbursement rates; prohibits consideration of governmental reimbursement in determining out-of-network reimbursement; requires reimbursement for dialysis treatment be to the provider and not the patient.
- **SB 25 Anatomical Gifts:** Relates to anatomical gifts; creates the Revised Anatomical Gift Act to make consistent the provisions relating to organ donation across the states.
- **SB 40 Health Benefit Plan Reimbursement To Practitioners:** Relates to health benefit plan reimbursement to practitioners of the healing arts; Creates new sections of Subtitles 17A, 17B and 17C of KRS Chapter 304 to define "insurer" "doctor of chiropractic" "licensed practitioner of the healing arts" "nonroutine office visit," and "routine office visit"; requires that individual procedures performed by a doctor of chiropractic be treated as separate and distinct treatments and not be combined into payments.

- **SB 45 Prescription Drugs:** Relates to prescription drugs; exempts blood banks from the definition of wholesale distribution; provides exemptions from the pedigree requirements for prescription drugs.
- **SB 54 Health Insurance:** Relates to health insurance; defines terms, including applied behavior analysis, autism services provider, autism spectrum disorders, diagnosis of autism spectrum disorders, habilitative or rehabilitative care, health insurance policy, medically necessary, pharmacy care, psychiatric care, psychological care, therapeutic care, and treatment for autism spectrum disorders.
- **SB 65 Controlled Substances:** Relates to controlled substances the entities authorized to receive reports from the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system; requires the Cabinet for Health and Family Services to notify a board responsible for the licensure, regulation, or discipline of a practitioner, pharmacist, or other person authorized to prescribe, administer, or dispense controlled substances if analysis of data indicates investigation.
- **SB 74 Health Insurance:** Creates new sections of Subtitle 17A of KRS Chapter 304 to define terms "applied behavior analysis," "autism services provider," "autism spectrum disorders," "diagnosis of autism spectrum disorders," "habilitative or rehabilitative care," "health insurance policy," "medically necessary," "pharmacy care," "psychiatric care," "psychological care," "therapeutic care," and "treatment for autism spectrum disorders".
- **SB 91 Medical Services:** Relates to Emergency medical services; requires when transport times are within thirty minutes of each other, for an ambulance to take the patient to the hospital of the patient's choice or the hospital chosen by the person with legal responsibility for the patient; specifies ambulance transport procedures in the event that no guidance is given or the patient's condition requires another choice.
- **SB 102 Health Care Services:** Creates a new section of Subtitle 17A of KRS Chapter 304 to prohibit a health benefit plan from excluding coverage for routine patient healthcare costs that are incurred in the course of a cancer clinical trial if the health benefit plan would provide coverage for the routine patient healthcare cost had it not been incurred in a cancer clinical trial; provides that nothing in this section requires a policy to offer, nor prohibits a policy from offering.
- **SB 111 Surgical Technologists:** Creates new sections of KRS Chapter 216B, relating to the licensure and regulation of health facilities and services, to regulate the practice of surgical technology; defines "surgical technology"; prohibits the practice of surgical technology in a health facility by a person unless the person meets specified criteria; allows surgical technology practice if the person has successfully completed an accredited surgical technology education program.
- **SB 162 Child Medical Support:** Relates to child medical support; defines reasonable in cost and cash medical support; requires the court to order the parent to obtain or maintain coverage; changes the term noncustodial parent to obligated parent.

- **SJR 46 Cabinet for Health and Family Services:** Directs the Cabinet for Health and Family Services to estimate the cost of care for Kentucky dialysis patients who drop their private health coverage and transfer to the Medicare and Medicaid programs during their coordination of benefits period and make the analysis public by December 31, 2009.
- **SJR 90 Group Insurance:** Directs the executive director of the Office of Insurance and the Health Insurance Advisory Council to develop a uniform group health insurance application and proposals for implementation and adoption.