

304.17A-597 Prohibition against certain actions of administrator of pharmacy benefits against pharmacy -- Right of pharmacist to provide information about lower cost alternatives to insured.

To the extent permitted under federal law and except as provided in KRS 304.17A-595:

(1) With respect to the provision of pharmacy or pharmacist services under a health plan, an insurer, a pharmacy benefit manager, or any other administrator of pharmacy benefits:

(a) Shall not:

1. a. Require or incentivize an insured to use a mail-order pharmaceutical distributor, including a mail-order pharmacy.
- b. Conduct prohibited under this subparagraph includes but is not limited to imposing any cost-sharing requirement, fee, drug supply limitation, or other condition relating to pharmacy or pharmacist services received from a retail pharmacy that is greater, or more restrictive, than what would otherwise be imposed if the insured used a mail-order pharmaceutical distributor, including a mail-order pharmacy;
2. Prohibit a pharmacy or pharmacist from, or impose a penalty on a pharmacy or pharmacist for, the following:
 - a. Selling a lower cost alternative to an insured, if one is available; or
 - b. Providing information to an insured under subsection (2) of this section;
3. Discriminate against any pharmacy or pharmacist that is:
 - a. Located within the geographic coverage area of the health plan; and
 - b. Willing to agree to, or accept, reasonable terms and conditions established for participation in the insurer's, pharmacy benefit manager's, other administrator's, or health plan's network;
4. Impose limits, including quantity limits or refill frequency limits, on an insured's access to medication from a pharmacy that are more restrictive than those existing for a pharmacy affiliate;
5. a. Require or incentivize an insured to receive pharmacy or pharmacist services from a pharmacy affiliate.
- b. Conduct prohibited under this subparagraph includes but is not limited to:
 - i. Requiring or incentivizing an insured to obtain a specialty drug from a pharmacy affiliate;
 - ii. Charging less cost sharing to insureds that use pharmacy affiliates than what is charged to insureds that use nonaffiliated pharmacies; and
 - iii. Providing any incentives for insureds that use pharmacy affiliates that are not provided for insureds that use nonaffiliated pharmacies.

- c. This subparagraph shall not be construed to prohibit:
 - i. Communications to insureds regarding networks and prices if the communication is accurate and includes information about all eligible nonaffiliated pharmacies; or
 - ii. Requiring an insured to utilize a network that may include pharmacy affiliates in order to receive coverage under the plan, or providing financial incentives for utilizing that network, if the insurer, pharmacy benefit manager, or other administrator complies with this section and KRS 304.17A-593; or
 - 6.
 - a. Interfere with an insured's right to choose the insured's network pharmacy of choice.
 - b. For purposes of this subparagraph, interfering includes inducing, steering, offering financial or other incentives, and imposing a penalty, including but not limited to:
 - i. Promoting one (1) participating pharmacy over another;
 - ii. Offering a monetary advantage;
 - iii. Charging higher cost sharing; and
 - iv. Reducing an insured's allowable reimbursement for pharmacy or pharmacist services; and
- (b) Shall:
- 1. Provide equal access and incentives to all pharmacies within the insurer's, pharmacy benefit manager's, other administrator's, or health plan's network; and
 - 2. Offer all pharmacies located in the health plan's geographic coverage area eligibility to participate in the insurer's, pharmacy benefit manager's, other administrator's, or health plan's network under identical reimbursement terms for the provision of pharmacy or pharmacist services; and
- (2) A pharmacist shall have the right to provide an insured information regarding lower cost alternatives to assist the insured in making informed decisions.

Effective: January 1, 2025

History: Created 2024 Ky. Acts ch. 104, sec. 4, effective January 1, 2025.

Legislative Research Commission Note (1/1/2025). 2024 Ky. Acts ch. 104, sec. 19, provides that this statute shall apply to contracts issued, delivered, entered, renewed, extended, or amended on or after January 1, 2025.