

BOARDS AND COMMISSIONS

Board of Pharmacy

(New Administrative Regulation)

201 KAR 2:416. Pharmacy annual reporting of cost of dispensing data.

RELATES TO: KRS 18A.2254, 304.9-053, 304.9-054, 304.9-055, 304.14-120, 304.14-120, 304.17A-595, 304.17A-712, 304.17C-125, 304.38A-115, 367.828

STATUTORY AUTHORITY: KRS 315.038, 315.191(1)

NECESSITY, FUNCTION, AND CONFORMITY: 315.191(1) authorizes the board to promulgate administrative regulations to regulate pharmacists, pharmacies, wholesalers and manufacturers. Senate Bill 188 from the 2024 legislative session requires the Board of Pharmacy to promulgate regulations to require all ambulatory pharmacies permitted by the Board of Pharmacy to report annually beginning March 1, 2026 cost of dispensing data to the Board of Pharmacy. The Board of Pharmacy shall then submit that data to the Department of Insurance within thirty days.

Section 1. Mandatory Submission of Data.

(1) On an annual basis, beginning March 1, 2026, and by March 1 every year thereafter, every ambulatory pharmacy permitted by the Board of Pharmacy shall submit to the Board, the following data relating to the dispensing costs for the previous year:

- (a) NCPDP number;
- (b) Labor costs, including:
 - 1. Pharmacist salaries, including benefits and taxes;
 - 2. Pharmacy technician salaries, including benefits and taxes;
 - 3. Salaries of other support staff involved in the dispensing of prescriptions; and
 - 4. Other employee benefits.
- (c) Cost to acquire the medications dispensed;
- (d) Cost of materials, including:
 - 1. Cost of prescription labels and paper;
 - 2. Cost of bottles, vials and packaging;
 - 3. Prescription delivery costs;
 - 4. Inventory services costs;
 - 5. Lost inventory costs; and
 - 6. Warehouse expenses.
- (e) Facility costs, including:
 - 1. Rent or mortgage payments for the pharmacy space;
 - 2. Mortgage interest;
 - 3. Utilities, including electricity, water, heating and communications costs;
 - 4. Facility taxes, including personal property, real estate and payroll as well as insurance
 - 5. Maintenance, cleaning and repair costs; and
 - 6. Security and alarm fees.
- (f) Operational costs, including:
 - 1. Insurance, including liability and property;
 - 2. Software and IT systems;
 - 3. Switch or e-prescribing fees;
 - 4. Office supplies and equipment;
 - 5. Professional liability insurance for pharmacists;
 - 6. Credit card processing fees;
 - 7. Prescription department licenses, permits, accreditation and fees;
 - 8. Cost of continuing education and certification for pharmacists and technicians;

9. Dues and subscriptions for pharmacy department;
10. Delivery and mailing expenses for the prescription department;
11. Transaction fees;
12. Charitable contributions;
13. Employee training;
14. Bad debts for prescriptions, including uncollected copays; and
15. Third party prescriptions audit adjustments.

(g) Store costs, including:

1. Marketing and advertising;
2. Professional accounting and legal services;
3. Franchise fees, if applicable; and
4. Other costs not included elsewhere.

(h) Depreciation and amortization costs, including:

1. Depreciation of building, equipment and fixtures; and
2. Amortization of software and intangible assets.

(i) Total number of prescriptions dispensed each month of the prior year; and

(j) Total number of prescriptions prepared via a central fill pharmacy each month of the prior year; and

(k) Percent of revenue coming directly from the pharmacy department.

(2) All data shall be reported to the Board electronically through the Board's licensing gateway on Reporting Form A, Pharmacy Cost of Dispensing Data, 12/2024.

Section 2. Optional Submission of Data.

(1) On an annual basis, beginning March 1, 2026 and by March 1 every year thereafter, any ambulatory pharmacy permitted by the Board of Pharmacy may submit to the Board, the following data for each prescription dispensed:

- (a) The date the claim was submitted to the pharmacy benefit manager;
- (b) The date the prescription was written;
- (c) The NCPDP transaction type;
- (d) The prescription insurance member identification number;
- (e) The prescription number assigned by the pharmacy;
- (f) The number of the refill;
- (g) The NDC number of the product dispensed;
- (h) The name of the product dispensed;
- (i) The strength of the medication dispensed;
- (j) The quantity of the medication dispensed;
- (k) The days supply of medication dispensed;
- (l) Whether the medication dispensed was generic;
- (m) Whether the medication dispensed was a specialty drug;
- (n) The NABP identification number of the pharmacy where the medication was dispensed;
- (o) The NPI identification number of the pharmacy where the medication was dispensed;
- (p) The name of the pharmacy where the medication was dispensed;
- (q) The amount, in dollars, paid to the pharmacy by the prescription benefit plan;
- (r) The amount, in dollars, paid to the pharmacy by the health plan member;
- (s) The total amount, in dollars, paid to the pharmacy for the prescription dispensed, including what the patient paid and what the health plan paid;
- (t) The amount, in dollars, paid to the pharmacy for dispensing the medication; and
- (u) The amount (in dollars) of retroactive fees that were assessed to the pharmacy by the pharmacy benefit manager for the medication dispensed at any time after the medication was dispensed, including, but not limited to:

1. Direct remuneration fees;
2. Indirect remuneration fees;
3. Generic effective rates;
4. In-network fees;
5. Performance fees;
6. Point-of-sale fees; and
7. Pre and post adjudication fees.

(2) If the pharmacy chooses to submit this data, the data shall be reported to the Board electronically through the Board's licensing gateway on Reporting Form B, Pharmacy Claims Data, 12/2024.

Section 3. All information and data submitted to the Board shall be deemed confidential and proprietary and shall not be subject to disclosure pursuant to KRS 61.870 to 61.884.

Section 4. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) Reporting Form A, Pharmacy Cost of Dispensing Data, 12/2024; and
- (b) Reporting Form B, Pharmacy Claims Data, 12/2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law at the Kentucky Board of Pharmacy, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or on the Web site at <https://pharmacy.ky.gov/Businesses/Pages/Pharmacy.aspx>.

CHRISTOPHER HARLOW, Pharm.D., Executive Director

APPROVED BY AGENCY: December 12, 2024

FILED WITH LRC: December 17, 2024 at 4:18 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 26, 2025, at 10:00 a.m. Eastern Time via zoom teleconference. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Christopher Harlow, Executive Director, Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email Christopher.harlow@ky.gov.