

## BOARDS AND COMMISSIONS

### Board of Pharmacy

#### (Amended After Comments)

#### **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)

CERTIFICATION STATEMENT: This is to certify that the administrative regulation complies with the requirements of 2025 RS HB 6, Section 8. The Board of Pharmacy is not one of the agencies that is directed by House Bill 6, Section 8(3) to include a certification by the Governor.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 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 (30) 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 year which shall remain confidential and only be shared with the Department of Insurance as required by KRS 315.038:

(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. If the pharmacy shares a building with retail space, the proportion of the square footage that is permitted for pharmacy operations shall be applied to the total rent for the building;
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. Data may be submitted in the aggregate for pharmacies with multiple locations.

## 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. Only board staff will have access to the data submitted. Board of Pharmacy members will not have access to the data submitted.

Section 4. Enforcement discretion will be exercised if a pharmacy fails to submit mandatory data under Section 1 of this administrative regulation if they do not bill third parties.

Section 5. 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>.

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