

1 AN ACT relating to patient access to pharmacy benefits.

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

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
4 IS CREATED TO READ AS FOLLOWS:

5 *As used in Sections 1 to 5 of this Act:*

6 *(1) "Cost sharing" means the cost to an insured under a health plan according to*
7 *any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket*
8 *expense requirements imposed by the plan;*

9 *(2) "Health plan":*

10 *(a) Except as provided in paragraph (c) of this subsection, means any policy,*
11 *certificate, contract, or plan that offers or provides coverage in this state for*
12 *pharmacy or pharmacist services, whether the coverage is by direct*
13 *payment, reimbursement, or otherwise;*

14 *(b) Includes a health benefit plan; and*

15 *(c) Does not include:*

16 *1. A policy, certificate, contract, or plan that:*

17 *a. Offers or provides services under KRS Chapter 205; or*

18 *b. Is established by the Teachers' Retirement System pursuant to*
19 *KRS 161.675 solely for the purpose of providing coverage to*
20 *Medicare-eligible annuitants and dependents of annuitants;*

21 *2. A self-insured health plan provided by a hospital or health system to*
22 *its employees and dependents of employees if the hospital or health*
23 *system owns a pharmacy;*

24 *3. A prescription drug plan established under Medicare Part D; or*

25 *4. Student health insurance offered by a Kentucky-licensed insurer*
26 *under written contract with a university or college whose students it*
27 *proposes to insure;*

1 (3) "Insured" means any individual covered under a health plan;

2 (4) "Insurer":

3 (a) Means any of the following persons that offer or issue a health plan:

4 1. An insurance company;

5 2. A health maintenance organization;

6 3. A limited health service organization;

7 4. A self-insurer, including a governmental plan, church plan, or
8 multiple employer welfare arrangement;

9 5. A provider-sponsored integrated health delivery network;

10 6. A self-insured employer-organized association;

11 7. A nonprofit hospital, medical-surgical, dental, and health service
12 corporation; or

13 8. Any other third-party payor that is:

14 a. Authorized to transact health insurance business in this state; or

15 b. Not exempt by federal law from regulation under the insurance
16 laws of this state; and

17 (b) Includes any person that has contracted with a state or federal agency to
18 provide coverage in this state under a health plan;

19 (5) "Pharmacy" has the same meaning as in KRS 315.010;

20 (6) (a) "Pharmacy affiliate" means a pharmacy, including a specialty pharmacy,
21 that owns or controls, is owned or controlled by, or is under common
22 ownership or common control with an insurer, pharmacy benefit manager,
23 or other administrator of pharmacy benefits.

24 (b) As used in this subsection:

25 1. "Common control" includes sharing common management or
26 managers and having common members on boards of directors; and

27 2. "Control" may be direct or indirect through one (1) or more

1 intermediaries;

2 (7) "Pharmacy benefit manager" has the same meaning as in KRS 304.9-020; and

3 (8) "Pharmacy or pharmacist services":

4 (a) Means any health care procedures, treatments within the scope of practice
5 of a pharmacist, or services provided by a pharmacy or pharmacist; and

6 (b) Includes the sale and provision of the following by a pharmacy or
7 pharmacist:

8 1. Prescription drugs as defined in KRS 315.010; and

9 2. Home medical equipment as defined in KRS 309.402.

10 ➔SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
11 IS CREATED TO READ AS FOLLOWS:

12 To the extent permitted under federal law:

13 (1) (a) An insurer, a pharmacy benefit manager, or any other administrator of
14 pharmacy benefits that utilizes a network to provide pharmacy or
15 pharmacist services under a health plan shall ensure that the network is
16 reasonably adequate and accessible with respect to the provision of
17 pharmacy or pharmacist services.

18 (b) A reasonably adequate and accessible network, with respect to the provision
19 of pharmacy or pharmacist services, shall, at a minimum:

20 1. Offer an adequate number of accessible pharmacies that are not mail-
21 order pharmacies; and

22 2. Provide convenient access to pharmacies that are not mail-order
23 pharmacies within a reasonable distance from the insured's residence,
24 but in no event shall the distance be more than thirty (30) miles from
25 each insured's residence, to the extent that pharmacy or pharmacist
26 services are available; and

27 (2) (a) An insurer, a pharmacy benefit manager, and any other administrator of

1 pharmacy benefits conducting business in this state shall file with the
2 commissioner an annual report, in the manner and form prescribed by the
3 commissioner, describing the networks of the insurer, pharmacy benefit
4 manager, or other administrator that are utilized for the provision of
5 pharmacy or pharmacist services under a health plan.

6 (b) The commissioner shall review each network to ensure that the network
7 complies with this section.

8 (c) All information and data acquired by the department under this subsection
9 that is generally recognized as confidential or proprietary shall not be
10 subject to disclosure under KRS 61.870 to 61.884, except the department
11 may publicly disclose aggregated information not descriptive of any readily
12 identifiable person or entity.

13 ➔SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
14 IS CREATED TO READ AS FOLLOWS:

15 (1) As used in this section:

16 (a) "Actual overpayment" means the portion of any amount paid for pharmacy
17 or pharmacist services that:

18 1. Is duplicative because the pharmacy or pharmacist has already been
19 paid for the services; or

20 2. Was erroneously paid because the services were not rendered in
21 accordance with the prescriber's order, in which case only the amount
22 paid for that portion of the prescription that was filled incorrectly or in
23 excess of the prescriber's order may be deemed an actual
24 overpayment. The amount denied, refunded, or recouped shall not
25 include the dispensing fee paid to the pharmacy if the correct
26 medication was dispensed to the patient;

27 (b) "Ambulatory pharmacy" means a pharmacy that:

- 1 1. Is open to the general public; and
- 2 2. Dispenses outpatient prescription drugs;
- 3 (c) "National drug code number" means the unique national drug code
4 number that identifies a specific approved drug, its manufacturer, and its
5 package presentation;
- 6 (d) "Net amount" means the amount paid to the pharmacy or pharmacist by
7 the insurer, pharmacy benefit manager, or other administrator less any fees,
8 price concessions, and all other revenue passing from the pharmacy or
9 pharmacist to the insurer, pharmacy benefit manager, or other
10 administrator; and
- 11 (e) "Wholesale acquisition cost" means the manufacturer's list price for the
12 drug to wholesalers or direct purchasers in the United States, not including
13 prompt pay or other discounts, rebates, or reductions in price, for the most
14 recent month for which the information is available, as reported in
15 wholesale price guides or other publications of drug pricing data.
- 16 (2) To the extent permitted under federal law, every contract between a pharmacy or
17 pharmacist and an insurer, a pharmacy benefit manager, or any other
18 administrator of pharmacy benefits for the provision of pharmacy or pharmacist
19 services under a health plan, either directly or through a pharmacy services
20 administration organization or group purchasing organization, shall:
- 21 (a) Outline the terms and conditions for the provision of pharmacy or
22 pharmacist services;
- 23 (b) Prohibit the insurer, pharmacy benefit manager, or other administrator
24 from:
- 25 1. Reducing payment for pharmacy or pharmacist services, directly or
26 indirectly, under a reconciliation process to an effective rate of
27 reimbursement. This prohibition shall include, without limitation,

- 1 creating, imposing, or establishing direct or indirect remuneration
2 fees, generic effective rates, dispensing effective rates, brand effective
3 rates, any other effective rates, in-network fees, performance fees,
4 point-of-sale fees, retroactive fees, pre-adjudication fees, post-
5 adjudication fees, and any other mechanism that reduces, or
6 aggregately reduces, payment for pharmacy or pharmacist services;
- 7 2. Retroactively denying, reducing reimbursement for, or seeking any
8 refunds or recoupments for a claim for pharmacy or pharmacist
9 services, in whole or in part, from the pharmacy or pharmacist after
10 returning a paid claim response as part of the adjudication of the
11 claim, including claims for the cost of a medication or dispensed
12 product and claims for pharmacy or pharmacist services that are
13 deemed ineligible for coverage, unless one (1) or more of the following
14 occurred:
- 15 a. The original claim was submitted fraudulently; or
16 b. The pharmacy or pharmacist received an actual overpayment;
- 17 3. Reimbursing the pharmacy or pharmacist for a prescription drug or
18 other service at a net amount that is lower than the amount the
19 insurer, pharmacy benefit manager, or other administrator reimburses
20 itself or a pharmacy affiliate for the same:
- 21 a. Prescription drug by national drug code number; or
22 b. Service;
- 23 4. Collecting cost sharing from a pharmacy or pharmacist that was
24 provided to the pharmacy or pharmacist by an insured for the
25 provision of pharmacy or pharmacist services under the health plan;
26 and
- 27 5. Designating a prescription drug as a specialty drug unless the drug is

- 1 *a limited distribution drug that:*
- 2 *a. Requires special handling; and*
- 3 *b. Is not commonly carried at retail pharmacies or oncology clinics*
- 4 *or practices; and*
- 5 *(c) Notwithstanding any other law, provide the following minimum*
- 6 *reimbursements to the pharmacy or pharmacist for each prescription drug*
- 7 *or other service provided by the pharmacy or pharmacist:*
- 8 *1. a. Reimbursement for the cost of the drug or other service at an*
- 9 *amount that is not less than:*
- 10 *i. The national average drug acquisition cost for the drug or*
- 11 *service at the time the drug or service is administered,*
- 12 *dispensed, or provided; or*
- 13 *ii. If the national average drug acquisition cost is not*
- 14 *available at the time a drug is administered or dispensed,*
- 15 *the wholesale acquisition cost for the drug at the time the*
- 16 *drug is administered or dispensed.*
- 17 *b. For purposes of complying with this subparagraph, the insurer,*
- 18 *pharmacy benefit manager, or other administrator shall utilize*
- 19 *the most recently published monthly national average drug*
- 20 *acquisition cost as a point of reference for the ingredient drug*
- 21 *product component of a pharmacy's or pharmacist's*
- 22 *reimbursement for drugs appearing on the national average*
- 23 *drug acquisition cost list; and*
- 24 *2. a. Except as provided in subdivision b. of this subparagraph, for*
- 25 *health plan years beginning on or after January 1, 2027,*
- 26 *reimbursement for a professional dispensing fee that is not less*
- 27 *than the average cost to dispense a prescription drug in an*

1 ambulatory pharmacy located in Kentucky, as determined by the
2 commissioner in an administrative regulation promulgated in
3 accordance with KRS Chapter 13A.

4 b. i. The minimum dispensing fee required under subdivision a.
5 of this subparagraph shall not apply to a mail-order
6 pharmaceutical distributor, including a mail-order
7 pharmacy.

8 ii. For health plan years beginning prior to January 1, 2027,
9 and for any future health plan years for which a
10 determination under subdivision a. of this subparagraph
11 has not taken effect, the minimum dispensing fee for a
12 pharmacy permitted under KRS Chapter 315 with a
13 designated pharmacy type of "retail independent" on file
14 with the Kentucky Board of Pharmacy, or a pharmacist
15 practicing at such a pharmacy, shall be not less than ten
16 dollars and sixty-four cents (\$10.64).

17 c. In acquiring data for, and making, the determination required
18 under subdivision a. of this subparagraph, the commissioner
19 shall:

20 i. Promulgate an administrative regulation in accordance
21 with KRS Chapter 13A that establishes the data elements to
22 be collected by the Kentucky Board of Pharmacy under
23 Section 16 of this Act;

24 ii. Conduct a study of the dispensing data submitted to the
25 commissioner by the Kentucky Board of Pharmacy in
26 accordance with Section 16 of this Act;

27 iii. Repeat the study every two (2) years to obtain updated

- 1 information;
- 2 iv. Adjust the determination every two (2) years as appropriate
- 3 based upon the results of each study; and
- 4 v. Comply with all requirements of Section 16 of this Act.
- 5 d. In carrying out his or her duties under this subparagraph, the
- 6 commissioner shall cooperate and consult with the Kentucky
- 7 Board of Pharmacy.

8 ➔SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
9 IS CREATED TO READ AS FOLLOWS:

10 To the extent permitted under federal law and except as provided in Section 3 of this
11 Act:

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

15 (a) Shall not:

16 1. a. Require or incentivize an insured to use a mail-order
17 pharmaceutical distributor, including a mail-order pharmacy.

18 b. Conduct prohibited under this subparagraph includes but is not
19 limited to imposing any cost-sharing requirement, fee, drug
20 supply limitation, or other condition relating to pharmacy or
21 pharmacist services received from a retail pharmacy that is
22 greater, or more restrictive, than what would otherwise be
23 imposed if the insured used a mail-order pharmaceutical
24 distributor, including a mail-order pharmacy;

25 2. Prohibit a pharmacy or pharmacist from, or impose a penalty on a
26 pharmacy or pharmacist for, the following:

27 a. Selling a lower cost alternative to an insured, if one is available;

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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

1 information about all eligible nonaffiliated pharmacies; or
2 ii. Requiring an insured to utilize a network that may include
3 pharmacy affiliates in order to receive coverage under the
4 plan, or providing financial incentives for utilizing that
5 network, if the insurer, pharmacy benefit manager, or
6 other administrator complies with this section and Section
7 2 of this Act; or

8 6. a. Interfere with an insured's right to choose the insured's network
9 pharmacy of choice.

10 b. For purposes of this subparagraph, interfering includes
11 inducing, steering, offering financial or other incentives, and
12 imposing a penalty, including but not limited to:

13 i. Promoting one (1) participating pharmacy over another;

14 ii. Offering a monetary advantage;

15 iii. Charging higher cost sharing; and

16 iv. Reducing an insured's allowable reimbursement for
17 pharmacy or pharmacist services; and

18 (b) Shall:

19 1. Provide equal access and incentives to all pharmacies within the
20 insurer's, pharmacy benefit manager's, other administrator's, or
21 health plan's network; and

22 2. Offer all pharmacies located in the health plan's geographic coverage
23 area eligibility to participate in the insurer's, pharmacy benefit
24 manager's, other administrator's, or health plan's network under
25 identical reimbursement terms for the provision of pharmacy or
26 pharmacist services; and

27 (2) A pharmacist shall have the right to provide an insured information regarding

1 lower cost alternatives to assist the insured in making informed decisions.

2 ➔SECTION 5. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
3 IS CREATED TO READ AS FOLLOWS:

4 (1) Any insured, pharmacy, or pharmacist impacted by an alleged violation of
5 Section 2, 3, or 4 of this Act may file a complaint with the commissioner.

6 (2) The commissioner shall:

7 (a) Review and investigate all complaints filed under this section;

8 (b) Issue, in writing, a determination to the insured, pharmacy, or pharmacist
9 as to whether a violation occurred;

10 (c) For alleged violations of subsection (2)(b)5. of Section 3 of this Act, consult
11 with the Kentucky Board of Pharmacy in making the determination of
12 whether a violation occurred; and

13 (d) Otherwise comply with KRS 304.2-160 and 304.2-165.

14 (3) An insurer, a pharmacy benefit manager, or any other administrator of pharmacy
15 benefits shall comply with KRS 304.2-165 and otherwise respond to, and comply
16 with, any requests made by the commissioner under this section.

17 ➔SECTION 6. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304
18 IS CREATED TO READ AS FOLLOWS:

19 In addition to any other remedies, penalties, or damages available under common law
20 or statute, the commissioner may order reimbursement to any person who has incurred
21 a monetary loss as a result of a violation of Section 2, 3, 4, or 5 of this Act.

22 ➔Section 7. KRS 304.9-053 is amended to read as follows:

23 (1) (a) In order to conduct business in this state, a pharmacy benefit manager shall
24 first obtain a license from the commissioner. The license shall be in lieu of an
25 administrator's license as required by KRS 304.9-052.

26 (b) A licensed pharmacy benefit manager performing utilization review, as
27 defined in KRS 304.17A-600, shall be registered as a private review agent in

1 accordance with KRS 304.17A-607.

2 (2) **(a)** **A person seeking** a pharmacy benefit manager ~~seeking a~~ license shall apply
3 to the commissioner in writing on a form provided by the department.

4 **(b)** The application ~~form~~ shall **include:**~~state~~

5 **1.** The name, address, official position, and professional qualifications of
6 each individual responsible for the conduct of affairs of the pharmacy
7 benefit manager, including all members of the board of directors, board
8 of trustees, executive committee, other governing board or committee,
9 the principal officers in the case of a corporation, the partners or
10 members in the case of a partnership or association, and any other
11 person who exercises control or influence over the affairs of the
12 pharmacy benefit manager;~~;~~ and

13 **2.** The name and address of the applicant's agent for service of process in
14 this state.

15 (3) Each application for a license~~,~~ and subsequent renewal for a license~~,~~ shall be
16 accompanied by:

17 **(a)** A nonrefundable fee of one thousand dollars (\$1,000); ~~and~~

18 **(b)** Evidence of financial responsibility in an amount of one million dollars
19 (\$1,000,000); **and**

20 **(c)** **Any methodologies utilized, or to be utilized, by the pharmacy benefit**
21 **manager in connection with reimbursement, which shall:**

22 **1. Comply with subsection (2)(c) of Section 3 of this Act; and**

23 **2. Be used in determining all appeals under KRS 304.17A-162.**

24 (4) **(a)** ~~[Any person acting as a pharmacy benefit manager on July 15, 2016, and who~~
25 ~~is required to obtain a license under subsection (1) of this section, shall obtain~~
26 ~~a license from the commissioner not later than January 1, 2017, in order to~~
27 ~~continue to do business in this state. If the license fee required in subsection~~

1 ~~(3) of this section is submitted after January 1, 2017, a penalty fee of five~~
 2 ~~hundred dollars (\$500) shall be paid.~~

3 ~~(5)~~ All licenses issued under this section shall be renewed annually in accordance with
 4 KRS 304.9-260.

5 **(b)** If the renewal fee required ~~by~~~~in~~ subsection (3) of this section is paid after the
 6 renewal date, a penalty fee of five hundred dollars (\$500) shall be paid.

7 ➔ Section 8. KRS 304.9-054 is amended to read as follows:

8 (1) **(a)** Upon receipt of a completed application, ~~[evidence of financial responsibility,~~
 9 ~~and]~~ fee, **and other documentation and information required under Section**
 10 **7 of this Act,** the commissioner shall make a review of each applicant **for a**
 11 **pharmacy benefit manager license.**~~[and]~~

12 **(b)** **The commissioner** shall issue a license if:

13 **1.** The applicant is qualified in accordance with this section and KRS
 14 304.9-053; **and**

15 **2.** **The commissioner determines, after reasonable investigation, that the**
 16 **applicant, upon licensure, is likely to be in compliance with Sections 1**
 17 **to 5 of this Act.**

18 ~~(c)~~~~(2)~~ The commissioner may require **and obtain** additional information or
 19 submissions from applicants ~~[and may obtain any documents or information],~~
 20 **as** reasonably necessary to **comply with this section and** verify the
 21 information contained in the application.

22 ~~(2)~~~~(3)~~ **(a)** The commissioner may suspend, revoke, or refuse to issue or renew any
 23 **pharmacy benefit manager** license in accordance with KRS 304.9-440,
 24 **except that a license shall not be renewed if the licensee is not in**
 25 **compliance with Sections 1 to 5 of this Act.**

26 ~~(b)~~~~(4)~~ The commissioner may make determinations on the length of
 27 suspension for **a license**~~[an applicant],~~ not to exceed twenty-four (24) months.

1 ~~(c)~~ ~~[However, the licensee may have the alternative, subject to the approval of the~~
 2 ~~commissioner, to pay]~~ In lieu of servicing part or all of the days of any
 3 suspension period determined under paragraph (b) of this subsection, the
 4 commissioner may permit a licensee to pay a sum of one thousand dollars
 5 (\$1,000) per day not to exceed two hundred fifty thousand dollars (\$250,000).

6 ~~(d)(5)~~ If a pharmacy benefit manager license is denied or revoked~~[the~~
 7 ~~commissioner's denial or revocation is sustained after a hearing in accordance~~
 8 ~~with KRS Chapter 13B],~~ the previous~~[an]~~ applicant or licensee may make a
 9 new application not earlier than one (1) full year after the date on which the~~[a]~~
 10 denial or revocation became final~~[was sustained]~~.

11 ~~(3)(6)~~ ~~[The department shall promulgate administrative regulations in accordance~~
 12 ~~with KRS Chapter 13A to implement and enforce the provisions of this section and~~
 13 ~~KRS 205.647, 304.9-053, 304.9-055, and 304.17A-162.]~~ The commissioner shall
 14 promulgate administrative regulations in accordance with KRS Chapter 13A
 15 that~~[shall]~~ specify the contents and format of:

16 (a) The application submitted under subsection (2) of Section 7 of this
 17 Act~~;~~~~[form]~~ and

18 (b) Any other form, disclosure, or report required or permitted under this section
 19 or Section 2 or 7 of this Act.

20 ~~(4)(7)~~ (a) The department may impose a fee upon pharmacy benefit managers, in
 21 addition to a license fee, to cover the costs of implementation and
 22 enforcement of KRS 205.647 and any provision of this chapter applicable to
 23 pharmacy benefit managers, including but not limited to this section and
 24 KRS ~~[205.647,]~~304.9-053, 304.9-055, and 304.17A-162.

25 (b) The fees permitted under paragraph (a) of this subsection shall include~~;~~
 26 ~~including]~~ fees to cover the cost of:

27 1.(a) Salaries and benefits paid to the personnel of the department

- 1 engaged in the enforcement;
- 2 ~~2.(b)~~ Reasonable technology costs related to the enforcement process.
- 3 Technology costs shall include the actual cost of software and hardware
- 4 utilized in the enforcement process and the cost of training personnel in
- 5 the proper use of the software or hardware; and
- 6 ~~3.(e)~~ Reasonable education and training costs incurred by the state to
- 7 maintain the proficiency and competence of the enforcing personnel.

8 ➔Section 9. KRS 304.9-055 is amended to read as follows:

9 **(1)** Pharmacy benefit managers shall be subject to this subtitle and to the provisions of

10 Subtitles 1, 2, 3, 4, 12, 14, 17, 17A, 17C, 18, 25, 32, 38, 47, and 99 of KRS Chapter

11 304 to the extent applicable and not in conflict with the expressed provisions of this

12 subtitle.

13 **(2)** ***The commissioner shall promulgate any administrative regulations in accordance***

14 ***with KRS Chapter 13A that are necessary to implement, enforce, or aid in the***

15 ***effectuation of any provision of this chapter applicable to pharmacy benefit***

16 ***managers, including but not limited to administrative regulations that establish:***

17 ***(a) Prohibited practices, including market conduct practices, of pharmacy***

18 ***benefit managers;***

19 ***(b) Data reporting requirements; and***

20 ***(c) Specifications for the sharing of information with pharmacy affiliates.***

21 ➔Section 10. KRS 304.14-120 is amended to read as follows:

22 (1) **(a)** ***Except as otherwise provided in this section, a***~~[(No)]~~ basic insurance policy or

23 annuity contract form, or application form where written application is

24 required and is to be made a part of the policy or contract, or printed rider or

25 indorsement form or form of renewal certificate, shall **not** be delivered, or

26 issued for delivery in this state, unless the form has been filed with and

27 approved by the commissioner.

- 1 **(b)** This **subsection**~~[provision]~~ shall not apply to:
- 2 **1.** Any rates filed under Subtitle 17A of this chapter;~~;~~
- 3 **2.** Surety bonds;~~;~~ ~~or to~~
- 4 **3.** Specially rated inland marine risks;~~;~~ or ~~to~~
- 5 **4.** Policies, riders, indorsements, or forms of unique character:
- 6 **a.** Designed for and used with relation to insurance upon a particular
- 7 subject;~~;~~ or
- 8 **b.** Which relate to the manner or distribution of benefits or to the
- 9 reservation of rights and benefits under life or health insurance
- 10 policies and are used at the request of the individual policyholder,
- 11 contract holder, or certificate holder.
- 12 **(c)** As to group insurance policies issued and delivered to an association outside
- 13 this state but covering persons resident in this state, all or substantially all of
- 14 the premiums for which are payable by the insured members, the group
- 15 certificates to be delivered or issued for delivery in this state shall be filed
- 16 with and approved by the commissioner.
- 17 **(d)**~~(a)~~ **1.** As to forms for use in property, marine (other than wet marine and
- 18 transportation insurance), casualty, and surety insurance coverages
- 19 (other than accident and health), the filing required by this subsection
- 20 may be made by advisory organizations or form providers on behalf of
- 21 their members and subscribers;~~;~~ ~~but this provision~~
- 22 **2. This paragraph** shall not be **construed**~~[deemed]~~ to prohibit any~~[such]~~
- 23 member or subscriber **of an advisory organization or form provider**
- 24 from filing any~~[such]~~ forms on its own behalf.
- 25 **(e)**~~(b)~~ Every advisory organization and form provider shall file with the
- 26 commissioner for approval every property and casualty policy form and
- 27 endorsement before distribution to members, subscribers, customers, or

1 others.

2 ~~(f)(e)~~ Every property and casualty insurer shall file with the commissioner
3 notice of adoption before use of any approved form filed by an advisory
4 organization or form provider or filed by the insurer pursuant to paragraph
5 ~~(d)(a)~~ of this subsection.

6 (2) (a) Every ~~[such]~~ filing **required under this section** shall be made not less than
7 sixty (60) days in advance of any ~~[such]~~ delivery **of the form in this state.**

8 (b) At the expiration of ~~[such]~~ sixty (60) days, the form so filed shall be deemed
9 approved unless prior thereto it has been affirmatively approved or
10 disapproved by order of the commissioner.

11 (c) Approval of any **filing** ~~[such form]~~ by the commissioner **under this section**
12 shall constitute a waiver of any unexpired portion of ~~the~~ ~~[such]~~ waiting period
13 **established under this subsection.**

14 (d) The commissioner may extend **the waiting period established under**
15 **paragraph (a) of this subsection** by not more than a thirty (30) day period,
16 within which **time** he or she may ~~[so]~~ affirmatively approve or disapprove any
17 **filing** ~~[such form]~~, by giving notice to the insurer of ~~the~~ ~~[such]~~ extension before
18 expiration of the initial sixty (60) day period.

19 (e) At the expiration of any ~~[such]~~ period ~~[as so]~~ extended **under paragraph (d)**
20 **of this subsection,** and in the absence of ~~a~~ ~~[such]~~ prior affirmative approval or
21 disapproval, **the filing** ~~[any such form]~~ shall be deemed approved.

22 (f) The commissioner may at any time, after notice and for cause shown,
23 withdraw ~~[any such]~~ approval **of any filing.**

24 (3) (a) Any order of the commissioner disapproving any **filing**, ~~[such form]~~ or any
25 notice of the commissioner withdrawing a previous approval, shall state the
26 grounds therefor and the particulars thereof in such detail as reasonably to
27 inform the insurer ~~[thereof]~~.

1 **(b)** Any ~~[such]~~ withdrawal of a previously approved filing ~~[form]~~ shall be
 2 effective ~~[at expiration of such period,]~~ not less than thirty (30) days after the
 3 insurer receives ~~[giving of the]~~ notice of the withdrawal, as the commissioner
 4 shall in such notice prescribe.

5 (4) Except as provided in subsection (6) of this section, the commissioner may, by
 6 order, exempt from the requirements of this section, for so long as he or she deems
 7 proper, any insurance document or form or type thereof, as specified in the
 8 commissioner's ~~[such]~~ order, to which, in his or her opinion: ~~[,]~~

9 **(a)** This section may not practicably be applied; ~~[,]~~ or

10 **(b)** The filing and approval of ~~[which]~~ are ~~[, in his or her opinion,]~~ not desirable or
 11 necessary for the protection of the public.

12 (5) Appeals from orders of the commissioner disapproving any filing ~~[such form]~~ or
 13 withdrawing a previous approval shall be taken as provided in Subtitle 2 of this
 14 chapter.

15 (6) The commissioner shall:

16 **(a)** Review every filing relating to a health plan, as defined in Section 1 of this
 17 Act, for compliance with Sections 1 to 5 of this Act; and

18 **(b)** Not approve any filing referenced in paragraph (a) of this subsection that
 19 does not comply with Sections 1 to 5 of this Act.

20 (7) As used in ~~[For the purposes of]~~ this section, unless the context requires otherwise:

21 (a) "Advisory organization" has the same meaning as ~~[provided]~~ in KRS 304.13-
 22 011; and

23 (b) "Form provider" has the same meaning as ~~[provided]~~ in KRS 304.13-011.

24 ➔Section 11. KRS 304.17A-712 is amended to read as follows:

25 **(1)** Except as provided in subsection (2) of this section, if an insurer determines that
 26 payment was made for services rendered to an individual who was not eligible for
 27 coverage or that payment was made for services not covered by a covered person's

1 health benefit plan, the insurer shall give written notice to the provider and:

2 ~~(a)(1)~~ Request a refund from the provider; or

3 ~~(b)(2)~~ Make a recoupment of the overpayment from the provider in accordance
4 with KRS 304.17A-714.

5 **(2) An insurer, a pharmacy benefit manager, or any other administrator of pharmacy**
6 **benefits shall not request a refund or make a recoupment in violation of Section 3**
7 **of this Act.**

8 ➔Section 12. KRS 304.17C-125 (Effective January 1, 2025) is amended to read
9 as follows:

10 **The following**~~[KRS 304.17A-262]~~ shall apply to limited health service benefit plans,
11 including any limited health service contract, as defined in KRS 304.38A-010:

12 **(1) KRS 304.17A-262; and**

13 **(2) Sections 1 to 5 of this Act.**

14 ➔Section 13. KRS 304.38A-115 (Effective January 1, 2025) is amended to read
15 as follows:

16 Limited health service organizations shall comply with:

17 **(1) KRS 304.17A-262;**

18 **(2) KRS 304.17A-265; and**

19 **(3) Sections 1 to 5 of this Act.**

20 ➔Section 14. KRS 18A.2254 is amended to read as follows:

21 (1) Based on the recommendation of the secretary of the Personnel Cabinet, the
22 secretary of the Finance and Administration Cabinet, in lieu of contracting with one
23 (1) or more insurers licensed to do business in this state, shall procure, in
24 compliance with KRS 45A.080, 45A.085, and 45A.090, and reviewed by the
25 Government Contract Review Committee pursuant to KRS 45A.705, a contract
26 with one (1) or more third-party administrators licensed to do business in the
27 Commonwealth pursuant to KRS 304.9-052 to administer a self-insured plan

1 offered to the Public Employee Health Insurance Program for public employees.

2 The requirements for the self-insured plan shall be as follows:

- 3 (a) 1. The secretary of the Personnel Cabinet shall incorporate by reference in
4 an administrative regulation, pursuant to KRS 13A.2251, the plan year
5 handbook distributed by the Department of Employee Insurance in the
6 Personnel Cabinet to public employees covered under the self-insured
7 plan. The plan year handbook shall contain, at a minimum, the
8 premiums, employee contributions, employer contributions, and a
9 summary of benefits, copays, coinsurance, and deductibles for each plan
10 provided to public employees covered under the self-insured plan;
- 11 2. Notwithstanding any other provision of KRS Chapter 18A to the
12 contrary, the administrative regulation shall not be subject to review by
13 the Personnel Board prior to filing the administrative regulation with the
14 Legislative Research Commission; and
- 15 3. The secretary of the Personnel Cabinet shall file the administrative
16 regulation for the self-insured plan with the Legislative Research
17 Commission on or before September 15 of the year before each new
18 plan year begins;
- 19 (b) The self-insured plan offered by the program shall cover hospice care at least
20 equal to the Medicare benefit;
- 21 (c) The Personnel Cabinet shall provide written notice of any formulary change
22 to employees covered under the self-insured plan who are directly impacted
23 by the formulary change and to the Kentucky Group Health Insurance Board
24 fifteen (15) days before implementation of any formulary change. If, after
25 consulting with his or her physician, the employee still disagrees with the
26 formulary change, the employee shall have the right to appeal the change. The
27 employee shall have sixty (60) days from the date of the notice of the

1 formulary change to file an appeal with the Personnel Cabinet. The cabinet
2 shall render a decision within thirty (30) days from the receipt of the request
3 for an appeal. After a final decision is rendered by the Personnel Cabinet, the
4 employee shall have a right to file an appeal pursuant to the utilization review
5 statutes in KRS 304.17A-600 to 304.17A-633. During the appeal process, the
6 employee shall have the right to continue to take any drug prescribed by his or
7 her physician that is the subject of the formulary changes;

8 (d) The Personnel Cabinet shall develop the necessary capabilities to ensure that
9 an independent review of each formulary change is conducted and includes
10 but is not limited to an evaluation of the fiscal impact and therapeutic benefit
11 of the formulary change. The independent review shall be conducted by
12 knowledgeable medical professionals and the results of the independent
13 review shall be posted on the Web sites of the Personnel Cabinet and the
14 Cabinet for Health and Family Services and made available to the public upon
15 request within thirty (30) days of the notice from the Personnel Cabinet
16 required in paragraph (c) of this subsection;

17 (e) If the self-insured plan restricts pharmacy benefits to a drug formulary, the
18 plan shall comply with and have an exceptions policy in accordance with KRS
19 304.17A-535;

20 (f) Premiums for all plans offered by the Public Employee Health Insurance
21 Program to employees shall be based on the experience of the entire group;~~f~~
22 ~~and~~

23 (g) The plan year for the Public Employee Health Insurance Program, whether for
24 fully insured or self-insured benefits, shall be on a calendar year basis; and

25 **(h) The self-insured plan shall comply with subsection (4) of this section.**

26 (2) (a) 1. In addition to any fully insured health benefit plans or self-insured
27 plans, beginning January 1, 2015, the Personnel Cabinet shall offer a

1 health reimbursement account or health flexible spending account for
2 public employees insured under the Public Employee Health Insurance
3 Program.

4 2. The Personnel Cabinet may offer a health savings account in
5 conjunction with a high deductible health plan option as defined by 26
6 U.S.C. sec. 223(c)(2) or as an optional account to which the Personnel
7 Cabinet may deposit funds of an employee who waives coverage in
8 accordance with paragraph (b) of this subsection, provided the employee
9 who waives coverage is eligible to contribute to a health savings
10 account.

11 (b) If a public employee waives coverage provided by his or her employer under
12 the Public Employee Health Insurance Program, the employer shall forward a
13 monthly amount to be determined by the secretary of the Personnel Cabinet
14 for that employee as an employer contribution to the health reimbursement
15 account or health flexible spending account, but not less than one hundred
16 seventy-five dollars (\$175) per month, subject to any conditions or limitations
17 imposed by the secretary to comply with applicable federal law.

18 (c) The administrative fees associated with the employee's health savings
19 account, health reimbursement account, or health flexible spending account
20 shall be an authorized expense to be charged to the public employee health
21 insurance trust fund.

22 (3) (a) The public employee health insurance trust fund is established in the
23 Personnel Cabinet. The purpose of the public employee health insurance trust
24 fund is to provide funds to pay medical claims and other costs associated with
25 the administration of the Public Employee Health Insurance Program self-
26 insured plan under a competitively bid contract as provided by KRS Chapter
27 45A and reviewed by the Government Contract Review Committee pursuant

1 to KRS 45A.705. Unless authorized by the General Assembly, the trust fund
2 shall not utilize funds for any other purpose and the trust fund receipts from
3 prior plan years shall not be used to pay claims and expenses for current or
4 subsequent plan years, except as provided by paragraph (b) of this subsection.

5 (b) In the event of a projected deficit in the trust fund balance of a prior plan year,
6 the secretary of the Finance and Administration Cabinet may declare an
7 emergency and transfer up to twenty-five percent (25%) of another prior plan
8 year's balance to that plan year, provided the Governor, all members of the
9 General Assembly, and Legislative Research Commission are notified at least
10 thirty (30) days prior to the transfer. The Legislative Research Commission
11 shall refer the notice to appropriate committees of jurisdiction for their
12 review.

13 (c) The following moneys shall be directly deposited into the trust fund:
14 1. Employer and employee premiums collected under the self-insured plan;
15 2. Interest and investment returns earned by the self-insured plan;
16 3. Rebates and refunds attributed to the self-insured plan; and
17 4. All other receipts attributed to the self-insured plan.

18 (d) Any balance remaining in the public employee health insurance trust fund at
19 the end of a fiscal year shall not lapse. Any balance remaining at the end of a
20 fiscal year shall be carried forward to the next fiscal year and be used solely
21 for the purpose established in paragraphs (a) and (b) of this subsection. The
22 balance of funds in the public employee health insurance trust fund shall be
23 invested by the Office of Financial Management consistent with the
24 provisions of KRS Chapter 42, and interest income shall be credited to the
25 trust fund. Any balance for a specific plan year and any subsequent interest
26 income for that specific plan year shall be accounted for separately.

27 (e) The Auditor of Public Accounts shall be responsible for a financial audit of

1 the books and records of the trust fund. The audit shall be conducted in
2 accordance with generally accepted accounting principles and shall be
3 completed within ninety (90) days of the close of the fiscal year. All audit
4 reports shall be filed with the Governor, the President of the Senate, the
5 Speaker of the House of Representatives, and the secretary of the Personnel
6 Cabinet.

7 (f) The secretary of the Personnel Cabinet shall file a quarterly report on the
8 status of the trust fund with the Governor, the Interim Joint Committee on
9 Appropriations and Revenue, the Kentucky Group Health Insurance Board,
10 and the Advisory Committee of State Health Insurance Subscribers. The first
11 status report shall be submitted no later than July 30, 2006, and subsequent
12 reports shall be submitted no later than sixty (60) days following the end of
13 each calendar quarter. The report shall include the following:

- 14 1. The current balance of the trust fund and the amount of the balance
15 associated with each plan year;
- 16 2. A detailed description of all income to the trust fund since the last
17 report;
- 18 3. A detailed description of any receipts due to the trust fund;
- 19 4. A total amount of payments made for medical and pharmacy claims
20 from the trust fund by plan year;
- 21 5. A detailed description of all payments made to the third-party
22 administrator of the self-insured plan by the trust fund;
- 23 6. Current enrollment data, including monthly enrollment since the last
24 report, of the Public Employee Health Insurance Program self-insured
25 plan;
- 26 7. Any other information the secretary may include;
- 27 8. Any other information requested by the Interim Joint Committee on

1 Appropriations and Revenue concerning the operation of the Public
2 Employee Health Insurance Program self-funded plan or the trust fund;
3 and

4 9. In addition to the information required under subparagraphs 1. to 8. of
5 this paragraph, the quarterly report filed in July and January shall also
6 include the following:

7 a. A projection of the medical claims incurred but not yet reported
8 that are considered liabilities to the trust fund;

9 b. A statement of any other trust fund liabilities;

10 c. A detailed calculation outlining proposed premium rates for the
11 next plan year, including base claims, trend assumptions,
12 administrative fees, and any proposed plan or benefit changes;

13 d. A detailed description of the current in-state and out-of-state
14 networks provided under the plan, any changes to the networks
15 since the last report, and any proposed changes to the in-state or
16 out-of-state networks during the next six (6) months; and

17 e. Specific data regarding the third-party administrator's performance
18 under the contract. The data shall include the following:

19 i. Any results or outcomes of disease management and
20 wellness programs;

21 ii. Results of case management audits and educational and
22 communication efforts; and

23 iii. Comparison of actual measurable results to contract
24 performance guarantees.

25 **(4) (a) Any fully insured health benefit plan, self-insured plan, or other health**
26 **plan, as defined in Section 1 of this Act, offered, issued, or renewed to**
27 **public employees under this section or KRS 18A.225 shall comply with**

1 Sections 1 to 5 of this Act, including any state cabinet, agency, or official
 2 that contracts with a third-party administrator to administer any self-
 3 insured plan offered, issued, or renewed to public employees under this
 4 section or KRS 18A.225.

5 **(b) The plan or plans referred to in paragraph (a) of this subsection shall be**
 6 **filed with the commissioner of the Department of Insurance, and the**
 7 **commissioner shall review the plan or plans in accordance with subsection**
 8 **(6) of Section 10 of this Act.**

9 ➔Section 15. KRS 367.828 is amended to read as follows:

10 (1) As used in this section, "health discount plan" means any card, program, device, or
 11 mechanism that is not insurance that purports to offer discounts or access to
 12 discounts from a health care provider without recourse to the health discount plan.

13 (2) No person shall sell, market, promote, advertise, or otherwise distribute a health
 14 discount plan unless:

15 (a) The health discount plan clearly states in bold and prominent type on all cards
 16 or other purchasing devices, promotional materials, and advertising that the
 17 discounts are not insurance;

18 (b) The discounts are specifically authorized by an individual and separate
 19 contract with each health care provider listed in conjunction with the health
 20 discount plan;~~and~~

21 (c) The discounts or the range of discounts advertised or offered by the plan are
 22 clearly and conspicuously disclosed to the consumer; **and**

23 **(d) For health discount plans that purport to offer discounts or access to**
 24 **discounts on prescription drugs:**

25 **1. The plan does not utilize the same identifying information used by an**
 26 **insurer under a health insurance policy, certificate, plan, or contract,**
 27 **including but not limited to policy numbers, group numbers, or**

- 1 member identifications; and
- 2 2. The person or plan does not seek, or contract for, the payment of any
- 3 refunds, recoupments, or fees from a pharmacy or pharmacist.
- 4 (3) The provisions of subsection (2) of this section do not apply to the following:
- 5 (a) A customer discount or membership card issued by a retailer for use in its
- 6 own facility; or
- 7 (b) Any card, program, device, or mechanism that:
- 8 1. Is not insurance; ~~and which~~
- 9 2. Is administered by a health insurer authorized to transact the business of
- 10 insurance in this state; and
- 11 3. Does not purport to offer discounts or access to discounts on
- 12 prescription drugs.
- 13 (4) (a) A violation of this section shall be deemed an unfair, false, misleading, or
- 14 deceptive act or practice in the conduct of trade or commerce in violation of
- 15 KRS 367.170.
- 16 (b) All of the remedies, powers, and duties delegated to the Attorney General by
- 17 KRS 367.190 to 367.300 and penalties pertaining to acts and practices
- 18 declared unlawful under KRS 367.170 shall be applied to acts and practices in
- 19 violation of this section.
- 20 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO
- 21 READ AS FOLLOWS:
- 22 (1) As used in this section:
- 23 (a) "Ambulatory pharmacy" has the same meaning as in Section 3 of this Act;
- 24 and
- 25 (b) "Commissioner" means the commissioner of the Department of Insurance.
- 26 (2) An ambulatory pharmacy located in Kentucky and permitted under this chapter
- 27 shall, by March 1, 2026, and by March 1 every other year thereafter, provide data

1 to the board, in accordance with the requirements of Section 3 of this Act and
2 subsection (3) of this section, relating to the pharmacy's dispensing costs for the
3 previous calendar year.

4 (3) The board shall promulgate an administrative regulation in accordance with KRS
5 Chapter 13A to implement and effectuate subsection (2) of this section, which
6 shall include:

7 (a) Incorporating the data elements to be collected from each pharmacy, as
8 determined by the commissioner under subsection (2)(c)2.c.i. of Section 3 of
9 this Act; and

10 (b) Establishing the reporting format, and the manner, of the data submission.

11 (4) The data collected by the board under this section shall, within thirty (30) days of
12 receipt, be shared with the commissioner for the purposes set forth in subsection
13 (2)(c)2. of Section 3 of this Act.

14 (5) In carrying out its duties under this section, the board shall cooperate and
15 consult with the commissioner.

16 (6) All information and data acquired by the board or the commissioner under this
17 section or Section 3 of this Act shall:

18 (a) Be deemed, and protected as, confidential and proprietary; and

19 (b) Not be subject to disclosure under KRS 61.870 to 61.884.

20 (7) The board or the commissioner may retain or contract with one (1) or more third-
21 party vendors or contractors to collect or process the data required under this
22 section, or provide any other expertise, service, or function necessary to carry out
23 the board's or commissioner's duties under this section or Section 3 of this Act, if
24 the vendor or contractor:

25 (a) Agrees in a written or electronic record to maintain the confidential and
26 proprietary status of the data and all information relating to the data; and

27 (b) Is not owned by or affiliated with a pharmacy benefit manager, as defined

1 *in KRS 304.9-020.*

2 ➔Section 17. KRS 315.191 is amended to read as follows:

- 3 (1) The board is authorized to:
- 4 (a) Promulgate administrative regulations pursuant to KRS Chapter 13A
5 necessary to regulate and control all matters set forth in this chapter relating to
6 pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale
7 distributors, and manufacturers, to the extent that regulation and control of
8 same have not been delegated to some other agency of the Commonwealth,
9 but administrative regulations relating to drugs shall be limited to the
10 regulation and control of drugs sold pursuant to a prescription drug order.
11 However, *except as provided in Section 16 of this Act,* nothing contained in
12 this chapter shall be construed as authorizing the board to promulgate any
13 administrative regulations relating to prices or fees or to advertising or the
14 promotion of the sales or use of commodities or services;
- 15 (b) Issue subpoenas, schedule and conduct hearings, or appoint hearing officers to
16 schedule and conduct hearings on behalf of the board on any matter under the
17 jurisdiction of the board;
- 18 (c) Prescribe the time, place, method, manner, scope, and subjects of
19 examinations, with at least two (2) examinations to be held annually;
- 20 (d) Issue and renew all licenses, certificates, and permits for all pharmacists,
21 pharmacist interns, pharmacies, pharmacy technicians, wholesale distributors,
22 and manufacturers engaged in the manufacture, distribution, or dispensation
23 of drugs;
- 24 (e) Investigate all complaints or violations of the state pharmacy laws and the
25 administrative regulations promulgated by the board, and bring all these cases
26 to the notice of the proper law enforcement authorities;
- 27 (f) Promulgate administrative regulations, pursuant to KRS Chapter 13A, that are

- 1 necessary and to control the storage, retrieval, dispensing, refilling, and
2 transfer of prescription drug orders within and between pharmacists and
3 pharmacies licensed or issued a permit by it;
- 4 (g) Perform all other functions necessary to carry out the provisions of law and
5 the administrative regulations promulgated by the board relating to
6 pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale
7 distributors, and manufacturers;
- 8 (h) Establish or approve programs for training, qualifications, and registration of
9 pharmacist interns;
- 10 (i) Assess reasonable fees, in addition to the fees specifically provided for in this
11 chapter and consistent with KRS 61.870 to 61.884, for services rendered to
12 perform its duties and responsibilities, including, but not limited to, the
13 following:
- 14 1. Issuance of duplicate certificates;
- 15 2. Mailing lists or reports of data maintained by the board;
- 16 3. Copies of documents; or
- 17 4. Notices of meetings;
- 18 (j) Seize any drug or device found by the board to constitute an imminent danger
19 to public health and welfare;
- 20 (k) 1. Establish an advisory council to advise the board on statutes,
21 administrative regulations, and other matters within the discretion of the
22 board pertinent to the practice of pharmacy and regulation of
23 pharmacists, pharmacist interns, pharmacy technicians, pharmacies,
24 drug distribution, and drug manufacturing. The council shall provide
25 recommendations for updating policies and procedures, including
26 administrative regulations relating to the practice of pharmacy.
- 27 2. The council shall consist of nine (9) pharmacists broadly representative

1 of the profession of pharmacy. For purposes of this subparagraph,
2 "broadly representative" means the following:

- 3 a. Two (2) pharmacists appointed by the Kentucky Pharmacists
4 Association;
 - 5 b. Two (2) pharmacists appointed by the Kentucky Independent
6 Pharmacy Alliance;
 - 7 c. One (1) pharmacist who practices or specializes primarily in a mail
8 order pharmacy appointed by the Kentucky Pharmacists
9 Association;
 - 10 d. One (1) pharmacist who practices or specializes primarily in a
11 long-term care pharmacy appointed by Kentucky Association of
12 Health Care Facilities;
 - 13 e. One (1) pharmacist who practices or specializes primarily in a
14 veterinary pharmacy appointed by the Kentucky Pharmacists
15 Association;
 - 16 f. One (1) pharmacist who practices or specializes primarily in a
17 hospital pharmacy appointed by the Kentucky Society of Health-
18 System Pharmacists; and
 - 19 g. One (1) pharmacist who practices in a specialized pharmacy that
20 solely or mostly provides medication to persons living with serious
21 health conditions requiring complex therapies, appointed by the
22 Kentucky Pharmacists Association.
- 23 3. Each pharmacist member shall be licensed by the board, a resident of
24 Kentucky, and employed for at least two (2) consecutive years in the
25 practice area he or she represents.
 - 26 4. Members shall serve terms of up to four (4) years and may serve two (2)
27 consecutive terms, but shall not serve on the council for more than two

1 (2) consecutive terms. Members may continue to serve until their
2 successors are appointed.

3 5. Members shall be confirmed by roll call vote of the board at a meeting
4 conducted in accordance with the Open Meetings Act, KRS 61.805 to
5 61.850; and

6 (l) Promulgate administrative regulations establishing the qualifications that
7 pharmacy technicians are required to attain prior to engaging in pharmacy
8 practice activities outside the immediate supervision of a pharmacist.

9 (2) The board shall have other authority as may be necessary to enforce pharmacy laws
10 and administrative regulations of the board including, but not limited to:

11 (a) Joining or participating in professional organizations and associations
12 organized exclusively to promote improvement of the standards of practice of
13 pharmacy for the protection of public health and welfare or facilitate the
14 activities of the board; and

15 (b) Receiving and expending funds, in addition to its biennial appropriation,
16 received from parties other than the state, if:

17 1. The funds are awarded for the pursuit of a specific objective which the
18 board is authorized to enforce through this chapter, or which the board is
19 qualified to pursue by reason of its jurisdiction or professional expertise;

20 2. The funds are expended for the objective for which they were awarded;

21 3. The activities connected with or occasioned by the expenditure of the
22 funds do not interfere with the performance of the board's
23 responsibilities and do not conflict with the exercise of its statutory
24 powers;

25 4. The funds are kept in a separate account and not commingled with funds
26 received from the state; and

27 5. Periodic accountings of the funds are maintained at the board office for

1 inspection or review.

2 (3) In addition to the sanctions provided in KRS 315.121, the board or its hearing
3 officer may direct any licensee, permit holder, or certificate holder found guilty of a
4 charge involving pharmacy or drug laws, rules, or administrative regulations of the
5 state, any other state, or federal government, to pay to the board a sum not to
6 exceed the reasonable costs of investigation and prosecution of the case, not to
7 exceed twenty-five thousand dollars (\$25,000).

8 (4) In an action for recovery of costs, proof of the board's order shall be conclusive
9 proof of the validity of the order of payment and any terms for payment.

10 ➔Section 18. The following KRS section is repealed:

11 304.38A-120 Compliance with KRS 304.17A-265.

12 ➔Section 19. Sections 2, 3, and 4 of this Act apply to contracts issued, delivered,
13 entered, renewed, extended, or amended on or after January 1, 2025.

14 ➔Section 20. If any provision of this Act, or this Act's application to any person
15 or circumstance, is held invalid, the invalidity shall not affect other provisions or
16 applications of the Act, which shall be given effect without the invalid provision or
17 application, and to this end the provisions and applications of this Act are severable.

18 ➔Section 21. (1) Except as provided in subsection (2) of this section, on or
19 before January 1, 2025, the commissioner of the Department of Insurance shall
20 promulgate any emergency and ordinary administrative regulations necessary to
21 implement the provisions of this Act, including but not limited to the administrative
22 regulation required under subsection (2)(c)2.c.i. of Section 3 of this Act.

23 (2) On or before June 1, 2026, the commissioner of insurance shall promulgate
24 any emergency and ordinary administrative regulations required under subsection
25 (2)(c)2.a. of Section 3 of this Act.

26 ➔Section 22. On or before January 1, 2025, the Kentucky Board of Pharmacy
27 shall promulgate any emergency and ordinary administrative regulations required under

- 1 Section 16 of this Act.
- 2 ➔Section 23. Sections 1 to 15, 18, and 19 of this Act take effect January 1, 2025.