

# 2024 PHARMACY LEGISLATION IN KENTUCKY

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# Disclaimer

This presentation is for educational purposes only and does not constitute legal, financial, or professional advice. The information provided herein is based on current knowledge and best practices but should not be relied upon as a substitute for consultation with qualified professionals. Attendees are encouraged to seek independent advice tailored to their specific circumstances.

# Disclosure

Ben Mudd, has ownership in an independent pharmacy. This relationship is disclosed to ensure transparency and to allow participants to consider this information when evaluating the content of the presentation.

There is no commercial support for this activity.



# Objectives



Review the following provisions of KY SB 188 (2024)

Anti-steering components  
Minimum pharmacy reimbursement requirements  
General contract provisions



Review KY HB 220 (2024) and its impact on coverage of biosimilar pharmaceuticals



# Introduction: SB 188

- Senate Bill 188, enacted in Kentucky in 2024, focuses on regulating pharmacy benefit managers (PBMs) and enhancing pharmacy-related insurance practices to improve patient access to medications. The bill requires the state employee health plan and state agencies to comply with specific pharmacy-related insurance laws and mandates insurers and PBMs to maintain accessible pharmacy networks. It establishes new requirements for contracts between pharmacies and PBMs, creates a complaint process for violations of these laws, and introduces new licensure and oversight measures for PBMs. Additionally, it includes provisions to protect proprietary data and mandates that administrative regulations be developed to implement these changes, which take effect, in part, on January 1, 2025.



# Introduction: SB 188

## Applies to:

- State Employee Health Plan
- State-Regulated Health Plans
- ERISA Health Plans
  - To the extent permitted under federal law

## Excluded:

- Medicaid and KCHIP
- Medicare Part D
- Self-insured Health Systems\*\*
- Student Health Insurance



# Section 2

- Network Adequacy
  - Requires PBMs to ensure reasonably adequate access to pharmacist services
  - Offer adequate access to non mail-order pharmacies
    - Not more than 30 miles from each insured's residence
  - Subject to DOI review annually



# Section 3: Anti-steering Components

- Payment parity provisions
  - PBM cannot reimburse a pharmacy less than it reimburses itself or a pharmacy affiliate
- Specialty drug designation
  - Defines as a limited distribution drug that:
    - Requires special handling
    - Is not commonly carried at retail pharmacies or oncology clinics or practices



# Section 3: Minimum Reimbursement Requirement

Acquisition Cost + Dispensing Fee

Definitions:

- NADAC = National Average Drug Acquisition Cost
- WAC = Wholesale Acquisition Cost
- Ambulatory pharmacy
- Retail independent pharmacy



# Section 3: Minimum Reimbursement Requirement

## NADAC Pricing Model

### Pros

- National average acquisition across all pharmacies
- Updated weekly
- Available on public database
- Brand/generic consistency

### Cons

- Doesn't reflect regional pricing differences
- Response to survey is optional
- Doesn't account for all rebates and prompt pay discounts



# Section 3: Minimum Reimbursement Requirement

## NADAC + Dispensing Fee

- Dispensing fee requirement (plan years beginning on or after **January 1, 2025**):
  - Requires PBMs to pay independent retail pharmacies pay a \$10.64 dispensing fee
- Dispensing fee requirement (plan years beginning on or after **January 1, 2027**):
  - Dispensing fee TBD by cost of dispensing survey
  - Applies to all ambulatory pharmacies



# Section 3: Other provisions

- Prohibits:
  - Retroactive fees
  - Effective rate contracts
  - Recoupments
    - Unless fraudulent or for actual overpayment



# Section 4: Anti-steering Components

- PBM shall not:
  - Require or incentivize an insured to use mail-order
  - Require or incentivize an insured to use an affiliated pharmacy
  - Impose limits on an insured's access to medications that are more restrictive than those existing for a pharmacy affiliate
  - Discriminate against any pharmacy or pharmacist



# Other sections of interest:

- Section 5 & 6: Complaint Process
- Section 7 & 8: Ensures PBM compliance
- Section 14: Application to state employee health plan



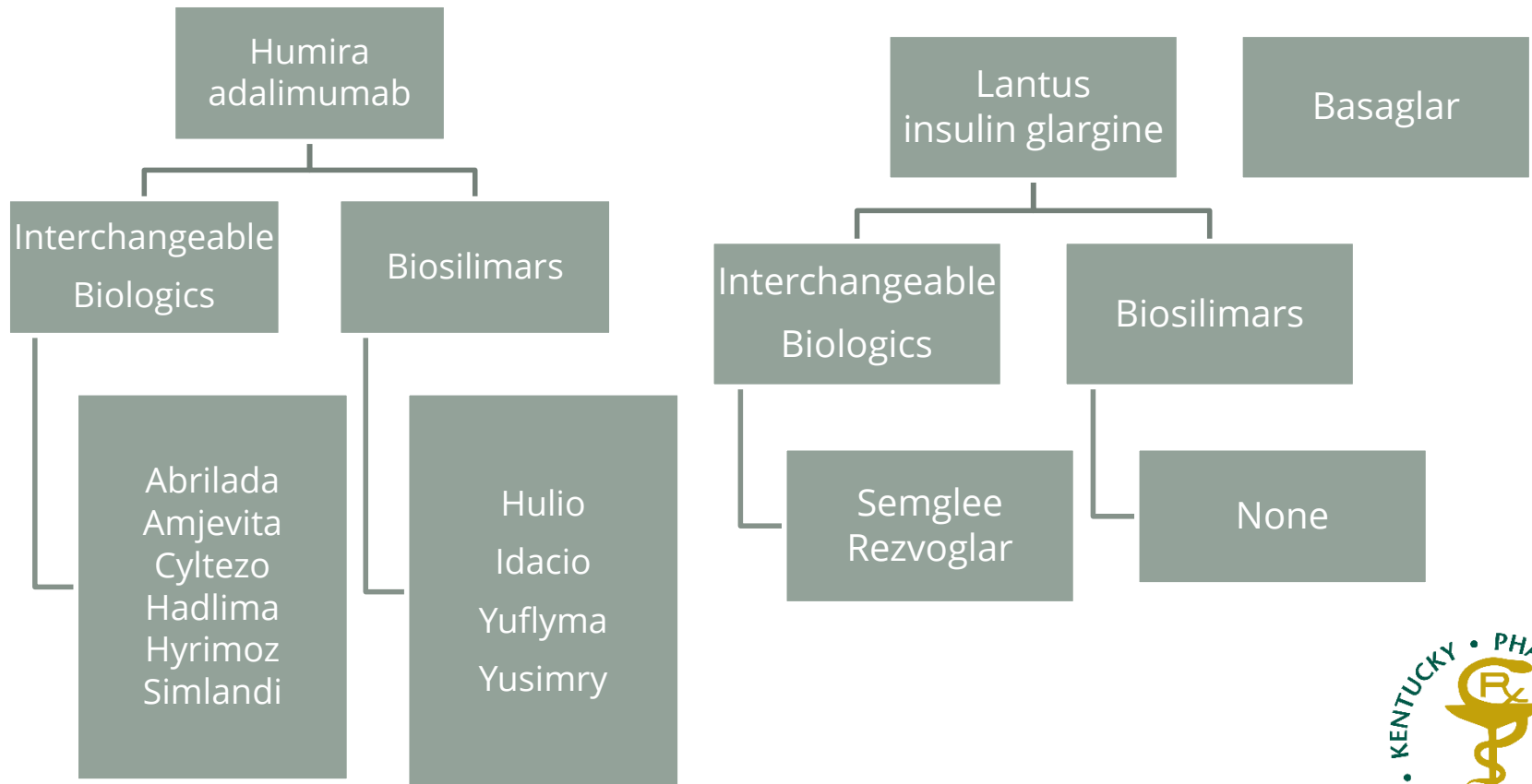
# HB 220: Introduction

- Amends KRS 304.17A-163 to permit insurers to require insureds to try biosimilar biological products prior to providing coverage for the equivalent branded prescription drug under certain circumstances; and makes findings and establishes intent of Act.



# HB 220: Biosimilar Review

- Interchangeable biologic versus a biosimilar



# HB 220: Introduction

- Amends KRS 304.17A-163 to permit insurers to require insureds to try biosimilar biological products prior to providing coverage for the equivalent branded prescription drug under certain circumstances; and makes findings and establishes intent of Act.



# QUESTIONS?

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