

By Senator Peaden

1-712-02

1 A bill to be entitled
 2 An act relating to Medicaid audits of
 3 pharmacies; providing requirements for an audit
 4 conducted of the Medicaid-related records of a
 5 pharmacy licensed under ch. 465, F.S.;
 6 requiring that a pharmacist be provided prior
 7 notice of the audit; providing that a
 8 pharmacist is not subject to criminal penalties
 9 without proof of intent to commit fraud;
 10 providing that an underpayment or overpayment
 11 may not be based on certain projections;
 12 requiring that all pharmacies be audited under
 13 the same standards; limiting the period that
 14 may be covered by an audit; requiring that the
 15 Agency for Health Care Administration establish
 16 a procedure for conducting a preliminary
 17 review; authorizing the agency to establish
 18 peer-review panels; requiring that the agency
 19 dismiss an unfavorable audit report if it or a
 20 review panel finds that the pharmacist did not
 21 commit intentional fraud; providing an
 22 effective date.

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 24 Be It Enacted by the Legislature of the State of Florida:

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 26 Section 1. Medicaid audits of pharmacies.--
 27 (1) Notwithstanding any other law, an audit of the
 28 Medicaid-related records of a pharmacy licensed under chapter
 29 465, Florida Statutes, must be conducted as provided in this
 30 section.

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1 (a) The agency conducting the audit must give the
2 pharmacist at least 2 weeks' prior notice of the audit.

3 (b) An audit must be conducted by a pharmacist
4 licensed in this state.

5 (c) Any clerical or recordkeeping error, such as a
6 typographical error, scrivener's error, or computer error
7 regarding a document or record required under the Medicaid
8 program does not constitute a willful violation and is not
9 subject to criminal penalties without proof of intent to
10 commit fraud.

11 (d) A pharmacist may use the physician's record or
12 other order for drugs or medicinal supplies written or
13 transmitted by any means of communication for purposes of
14 validating the pharmacy record with respect to orders or
15 refills of a legend or narcotic drug.

16 (e) A finding of an overpayment or underpayment must
17 be based on the actual overpayment or underpayment and may not
18 be a projection based on the number of patients served having
19 a similar diagnosis or on the number of similar orders or
20 refills for similar drugs.

21 (f) Each pharmacy, regardless of whether the pharmacy
22 is a community pharmacy, an institutional pharmacy, or a
23 special pharmacy, shall be audited under the same standards
24 and parameters.

25 (g) A pharmacist must be allowed at least 10 days in
26 which to produce documentation to address any discrepancy
27 found during an audit.

28 (h) The period covered by an audit may not exceed 1
29 calendar year.

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1 (i) An audit may not be scheduled during the first 5
2 days of any month due to the high volume of prescriptions
3 filled during that time.

4 (j) The audit report must be delivered to the
5 pharmacist within 90 days after conclusion of the audit.

6 (2) The Agency for Health Care Administration shall
7 establish a process under which a pharmacist may obtain a
8 preliminary review of an audit report and may appeal an
9 unfavorable audit report without the necessity of obtaining
10 legal counsel. The preliminary review and appeal may be
11 conducted by an ad hoc peer-review panel, appointed by the
12 agency, which consists of pharmacists who maintain an active
13 practice. If, following the preliminary review, the agency or
14 review panel finds that an unfavorable audit report lacks
15 merit and finds that the pharmacist did not commit intentional
16 fraud, the agency shall dismiss the audit report without the
17 necessity of any further proceedings.

18 Section 2. This act shall take effect upon becoming a
19 law.

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22 SENATE SUMMARY

23 Provides requirements for audits of the Medicaid records
24 of pharmacies. Requires that a pharmacist be given 2
25 weeks' prior notice of an audit. Requires that there be
26 proof of intent to commit fraud before a pharmacist is
27 subject to criminal penalties. Provides that the period
28 subject to audit may not exceed 1 year. Requires the
29 Agency for Health Care Administration to provide for
30 preliminary reviews of an unfavorable audit report.
31 Requires dismissal of an audit report if the pharmacist
did not commit intentional fraud. (See bill for details.)