



CHAMBER ACTION

The Committee on Health Care recommends the following:

**Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to Medicaid audits of pharmacies; providing requirements for an audit conducted of the Medicaid-related records of a pharmacy licensed under ch. 465, F.S.; requiring that a pharmacist be provided prior notice of the audit; providing that a pharmacist is not subject to criminal penalties without proof of intent to commit fraud; providing that an underpayment or overpayment may not be based on certain projections; requiring that all pharmacies be audited under the same standards; limiting the period that may be covered by an audit; providing for delivery of preliminary and final audit reports; requiring that the Agency for Health Care Administration establish a procedure for conducting a preliminary review; authorizing the agency to establish peer-review panels; requiring that the agency dismiss an unfavorable audit report if it or a review panel finds that the pharmacist did not commit intentional fraud; exempting certain audits conducted by the Medicaid Fraud



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29 Control Unit of the Department of Legal Affairs; providing  
30 an effective date.

31

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

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34 Section 1. Medicaid audits of pharmacies.--

35 (1) Notwithstanding any other law, when an audit of the  
36 Medicaid-related records of a pharmacy licensed under chapter  
37 465, Florida Statutes, is conducted, such audit must be  
38 conducted as provided in this section.

39 (a) The agency conducting the audit must give the  
40 pharmacist at least 1 week's prior notice of the audit.

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

43 (c) Any clerical or recordkeeping error, such as a  
44 typographical error, scrivener's error, or computer error,  
45 regarding a document or record required under the Medicaid  
46 program does not constitute a willful violation and is not  
47 subject to criminal penalties without proof of intent to commit  
48 fraud.

49 (d) A pharmacist may use the physician's record or other  
50 order for drugs or medicinal supplies written or transmitted by  
51 any means of communication for purposes of validating the  
52 pharmacy record with respect to orders or refills of a legend or  
53 narcotic drug.

54 (e) A finding of an overpayment or underpayment must be  
55 based on the actual overpayment or underpayment and may not be a  
56 projection based on the number of patients served having a



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57 similar diagnosis or on the number of similar orders or refills  
58 for similar drugs.

59 (f) Each pharmacy shall be audited under the same  
60 standards and parameters.

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

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

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

69 (j) The preliminary audit report must be delivered to the  
70 pharmacist within 90 days after conclusion of the audit. A final  
71 audit report shall be delivered to the pharmacist within 6  
72 months after receipt of the preliminary audit report or final  
73 appeal, as provided for in subsection (2), whichever is later.

74 (2) The Agency for Health Care Administration shall  
75 establish a process under which a pharmacist may obtain a  
76 preliminary review of an audit report and may appeal an  
77 unfavorable audit report without the necessity of obtaining  
78 legal counsel. The preliminary review and appeal may be  
79 conducted by an ad hoc peer-review panel, appointed by the  
80 agency, which consists of pharmacists who maintain an active  
81 practice. If, following the preliminary review, the agency or  
82 review panel finds that an unfavorable audit report lacks merit  
83 and finds that the pharmacist did not commit intentional fraud,



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84 | the agency shall dismiss the audit report without the necessity  
85 | of any further proceedings.

86 | (3) This section does not apply to investigative audits  
87 | conducted by the Medicaid Fraud Control Unit of the Department  
88 | of Legal Affairs.

89 | Section 2. This act shall take effect upon becoming a law.