

By the Committee on Regulated Industries; and Senators Bean and Sobel

580-02547-14

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1 A bill to be entitled  
 2 An act relating to pharmacy audits; creating s.  
 3 465.1885, F.S.; enumerating the rights of pharmacies  
 4 relating to audits of pharmaceutical services which  
 5 are conducted by certain entities; requiring the  
 6 Office of Insurance Regulation to investigate  
 7 complaints alleging a violation of pharmacy rights;  
 8 providing that a willful violation of such rights is  
 9 an unfair claim settlement practice; exempting audits  
 10 in which fraudulent activity is suspected or which are  
 11 related to Medicaid claims; providing an effective  
 12 date.

13  
 14 Be It Enacted by the Legislature of the State of Florida:

15  
 16 Section 1. Section 465.1885, Florida Statutes, is created  
 17 to read:

18 465.1885 Pharmacy audits; rights.—

19 (1) If an audit of the records of a pharmacy licensed under  
 20 this chapter is conducted directly or indirectly by a managed  
 21 care company, an insurance company, a third-party payor, a  
 22 pharmacy benefit manager, or an entity that represents  
 23 responsible parties such as companies or groups, referred to as  
 24 an "entity" in this section, the pharmacy has the following  
 25 rights:

26 (a) To be notified at least 7 calendar days before the  
 27 initial on-site audit for each audit cycle.

28 (b) To have the on-site audit scheduled after the first 5  
 29 calendar days of a month unless the pharmacist consents

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30 otherwise.

31 (c) To have the audit period limited to 24 months after the  
32 date a claim is submitted to or adjudicated by the entity.

33 (d) To have an audit that requires clinical or professional  
34 judgment conducted by or in consultation with a pharmacist.

35 (e) To use the records of a hospital, physician, or other  
36 authorized practitioner, which are transmitted by any means of  
37 communication, to validate the pharmacy records in accordance  
38 with state and federal law.

39 (f) To be reimbursed for a claim that was retroactively  
40 denied for a clerical error, typographical error, scrivener's  
41 error, or computer error if the prescription was properly and  
42 correctly dispensed, unless a pattern of such errors exists,  
43 fraudulent billing is alleged, or the error results in actual  
44 financial loss to the entity. For the purposes of this section,  
45 a prescription is properly and correctly dispensed if the  
46 pharmacy dispenses the correct drug to the correct patient with  
47 the correct issuing directions.

48 (g) To receive the preliminary audit report within 120 days  
49 after the conclusion of the audit.

50 (h) To produce documentation to address a discrepancy or  
51 audit finding within 10 business days after the preliminary  
52 audit report is delivered to the pharmacy.

53 (i) To receive the final audit report within 6 months after  
54 receiving the preliminary audit report.

55 (j) To have recoupment or penalties based on actual  
56 overpayments and not according to the accounting practice of  
57 extrapolation.

58 (2) The Office of Insurance Regulation shall investigate a

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59 complaint received from a pharmacy which alleges a willful  
60 violation of this section by an entity conducting an audit of  
61 the pharmacy on behalf of a managed care company or insurance  
62 company regulated by the office. Such complaint must be in  
63 writing, signed by an authorized representative of the affected  
64 pharmacy, and contain ultimate facts that demonstrate a  
65 violation of this section. A violation of this section is an  
66 unfair claim settlement practice as described in s.  
67 641.3903(5)(c)1. and 4., enforceable against the entity as  
68 provided in part I of chapter 641 and s. 626.9521.

69 (3) The rights contained in this section do not apply to  
70 audits in which fraudulent activity is suspected or to audits  
71 related to fee-for-service claims under the Medicaid program.

72 Section 2. This act shall take effect July 1, 2014.