

By the Committees on Judiciary; and Regulated Industries; and  
 Senators Bean and Sobel

590-03521-14

2014702c2

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; providing a list of  
 6       audits not subject to such rights; providing an  
 7       exemption from the right to notice of an on-site audit  
 8       under certain circumstances; providing an effective  
 9       date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

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 13       Section 1. Section 465.1885, Florida Statutes, is created  
 14 to read:

15       465.1885 Pharmacy audits; rights.-

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

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

25       (b) To have the on-site audit scheduled after the first 3  
 26 calendar days of a month unless the pharmacist consents  
 27 otherwise.

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

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

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

36 (f) To be reimbursed for a claim that was retroactively  
37 denied for a clerical error, typographical error, scrivener's  
38 error, or computer error if the prescription was properly and  
39 correctly dispensed, unless a pattern of such errors exists,  
40 fraudulent billing is alleged, or the error results in actual  
41 financial loss to the entity.

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

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

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

49 (j) To have recoupment or penalties based on actual  
50 overpayments and not according to the accounting practice of  
51 extrapolation.

52 (2) The rights contained in this section do not apply to:

53 (a) Audits in which suspected fraudulent activity or other  
54 intentional or wilful misrepresentation is evidenced by a  
55 physical review, review of claims data or statements, or other  
56 investigative methods.

57 (b) Audits of claims paid for by federally funded programs;

58 (c) Concurrent reviews or desk audits that occur within 3

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59 business days of transmission of a claim and where no chargeback  
60 or recoupment is demanded; or

61 (d) Audits related to fee-for-service claims under the  
62 Medicaid program.

63 (3) An entity that audits a pharmacy located within a  
64 Health Care Fraud Prevention and Enforcement Action Team (HEAT)  
65 Task Force area designated by the United States Department of  
66 Health and Human Services and the United States Department of  
67 Justice may dispense with the notice requirements of paragraph  
68 (1) (a) if such pharmacy has been a member of a provider network  
69 for less than 12 months.

70 Section 2. This act shall take effect October 1, 2014.