

1 A bill to be entitled
 2 An act relating to pharmacy audits; creating s.
 3 465.1885, F.S.; providing rights to which a licensed
 4 pharmacy is entitled during certain audits by
 5 specified entities; providing applicability; providing
 6 an exemption from notice requirements for an entity
 7 that audits a certain pharmacy; providing an effective
 8 date.

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

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

14 465.1885 Pharmacy audits; rights.-

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

22 (a) To be notified at least 7 calendar days before the
 23 initial onsite audit for each audit cycle.

24 (b) To have the onsite audit scheduled after the first 3
 25 calendar days of a month unless the pharmacist consents
 26 otherwise.

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

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

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

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

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

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

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

50 (j) To have recoupment or penalties based on actual
51 overpayments rather than 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 willful 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
58 programs; or

59 (c) Concurrent reviews or desk audits that occur within 3
60 business days after transmission of a claim when no chargeback
61 or recoupment is demanded.

62 (3) An entity that audits a pharmacy located within a
63 Health Care Fraud Prevention and Enforcement Action Team (HEAT)
64 Task Force area designated by the United States Department of
65 Health and Human Services and the United States Department of
66 Justice is not subject to the notice requirements of paragraph
67 (1) (a) if such pharmacy has been a member of a credentialed
68 provider network for less than 12 months.

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