
A BILL FOR AN ACT

RELATING TO PHARMACY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 461, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§461- Audit of records of pharmacist or pharmacy. (a)

When an audit of records of a pharmacist or pharmacy is conducted by the State, a county, an insurer regulated under article 10A of chapter 431, a mutual benefit society, a health maintenance organization, a pharmacy benefit manager, a medical service organization, a nonprofit hospital, or any other entity representing the same, the audit shall be conducted in the following manner:

(1) Written notice shall be given to the pharmacist or pharmacy at least two weeks before conducting the initial on-site audit for each audit cycle;

(2) Any audit performed under this section that involves clinical or professional judgment shall be conducted



1 in consultation with a pharmacist who has knowledge of
2 this chapter;

3 (3) Any clerical or recordkeeping error identified during
4 an audit, such as a typographical error, scrivener's
5 error, omission, or computer error, shall not, in and
6 of itself, constitute fraud or intentional
7 misrepresentation and shall not be the basis of a
8 recoupment unless the error results in an actual
9 overpayment to the pharmacy or the wrong medication
10 being dispensed to the patient. Notwithstanding any
11 other law to the contrary, no such claim shall be
12 subject to criminal penalties without proof of intent
13 to commit fraud;

14 (4) A pharmacist or pharmacy may use the records of a
15 hospital, physician, dentist, veterinarian, advanced
16 practice registered nurse, or other authorized
17 practitioner of the healing arts for drugs or medical
18 supplies written or transmitted by any means of
19 communication for purposes of validating pharmacy
20 records with respect to orders or refills of a legend
21 or narcotic drug;



1 (5) A finding of overpayment or underpayment may be a
2 projection based on the number of patients served
3 having a similar diagnosis or on the number of similar
4 orders or refills for similar drugs; however,
5 recoupment of claims shall be based on the actual
6 overpayment or underpayment, unless the projection for
7 overpayment or underpayment is part of a settlement as
8 agreed to by the pharmacist or pharmacy;

9 (6) Each pharmacist or pharmacy shall be audited under the
10 standards and parameters as other similarly situated
11 pharmacists or pharmacies audited by the State, a
12 county, an insurer regulated under article 10A of
13 chapter 431, a mutual benefit society, a health
14 maintenance organization, a pharmacy benefit manager,
15 a medical service organization, a nonprofit hospital,
16 or any other entity representing the same;

17 (7) A pharmacist or pharmacy shall be allowed the length
18 of time described in the pharmacist's or pharmacy's
19 contract or provider manual, whichever is applicable,
20 which shall be no less than thirty days, following
21 receipt of the preliminary audit report in which to



1 produce documentation to address any discrepancy found
2 during an audit. A pharmacist or pharmacy may correct
3 a clerical or recordkeeping error by submitting an
4 amended claim during the designated time frame if the
5 prescription was dispensed according to the
6 requirements of federal and state law. If the
7 pharmacist's or pharmacy's contract or provider manual
8 does not specify the allowed length of time for the
9 pharmacist or pharmacy to address any discrepancy
10 found in the audit following receipt of the
11 preliminary report, then that pharmacist or pharmacy
12 shall be allowed no less than thirty days following
13 receipt of the preliminary audit report to respond and
14 produce documentation;

- 15 (8) The period covered by an audit shall not exceed two
16 years from the date the claim was submitted to or
17 adjudicated by the State, a county, an insurer
18 regulated under article 10A of chapter 431, a mutual
19 benefit society, a health maintenance organization, a
20 pharmacy benefit manager, a medical service
21 organization, a nonprofit hospital, or any other



1 entity representing the same, except this paragraph
2 shall not apply where a longer period is required by
3 any federal rule or law;

4 (9) An audit shall not be initiated or scheduled during
5 the first seven calendar days of any month due to the
6 high volume of prescriptions filled during that time,
7 unless otherwise consented to by the pharmacist or
8 pharmacy;

9 (10) The preliminary audit report shall be delivered to the
10 pharmacist or pharmacy within one hundred twenty days
11 after conclusion of the audit. A final audit report
12 shall be delivered to the pharmacist or pharmacy
13 within six months after receipt of the preliminary
14 audit report or final appeal, whichever is later;

15 (11) Notwithstanding any other law to the contrary, any
16 audit of a pharmacist or pharmacy shall not use the
17 accounting practice of extrapolation in calculating
18 recoupments or penalties for audits; and

19 (12) Any recoupment related to clerical or recordkeeping
20 errors shall not include the cost of the drug or
21 dispensed product, except in cases of the following:



1 (A) Fraud or other intentional and wilful
2 misrepresentation;

3 (B) Dispensing in excess of the pharmacy benefit
4 contract established by a plan sponsor; or

5 (C) Prescriptions not filled in accordance with the
6 prescriber's order.

7 (b) Recoupments of any disputed funds shall only occur
8 after final internal disposition of the audit, including the
9 appeal process as set forth in subsection (c).

10 (c) Each pharmacy benefit manager conducting an audit
11 shall establish an appeals process under which a pharmacist or
12 pharmacy may appeal an unfavorable preliminary audit report to
13 the pharmacy benefit manager on whose behalf the audit was
14 conducted. The pharmacy benefit manager conducting any audit
15 shall provide to the pharmacist or pharmacy, before or at the
16 time of delivery of the preliminary audit report, a written
17 explanation of the appeals process, including the name, address,
18 and telephone number of the person to whom an appeal should be
19 addressed. If, following the appeal, it is determined that an
20 unfavorable audit report or any portion of the audit report is



1 unsubstantiated, the audit report or the portion shall be
2 dismissed without the necessity of further proceedings.

3 (d) A pharmacy provider may use any prescription that
4 meets the requirements of being a legal prescription under the
5 laws of the State to validate claims submitted for reimbursement
6 for dispensing of original and refill prescriptions, or changes
7 made to prescriptions.

8 (e) Auditors may enter the prescription department when
9 accompanied by or authorized by a member of the pharmacy staff.
10 During the auditing process, auditors shall not disrupt the
11 provision of services to the pharmacy's customers.

12 (f) A demand for recoupment, repayment or offset against
13 future reimbursement for an overpayment on a claim for
14 dispensing of an original or refill prescription shall not
15 include the dispensing fee, unless the prescription that is the
16 subject of the claim was not actually dispensed, was not valid,
17 was fraudulent, or was outside the contract. This subsection
18 shall not apply where a pharmacy is requested, pursuant to a
19 contractual provision, to correct an error in a claim submitted
20 in good faith.



1 (g) Audit information from an audit conducted by one
2 pharmacy benefit manager shall not be shared with or utilized by
3 another pharmacy benefit manager. This subsection shall not
4 apply to an investigative audit that is believed by the pharmacy
5 benefit manager to involve fraud or wilful misrepresentation.

6 (h) Unless otherwise agreed to by contract, no audit
7 finding or demand for recoupment, repayment or offset against
8 future reimbursement shall be made for any claim for dispensing
9 of an original or refill prescription for the reason of
10 information missing from a prescription or for information not
11 placed in a particular location on a prescription when the
12 information or location of the information is not required or
13 specified by federal or state law.

14 (i) In the event the actual quantity dispensed on a valid
15 prescription for a covered beneficiary exceeds the allowable
16 maximum days supply of the product as defined in the applicable
17 agreement between a pharmacy benefit manager and a pharmacy
18 provider, the amount allowed to be recouped, repaid, or offset
19 against future reimbursement shall be limited to an amount that
20 is calculated based on the quantity of the product dispensed
21 found to be in excess of the allowed days supply quantity and



1 using the cost of the product as reflected on the original
2 claim.

3 (j) A pharmacy provider shall be allowed to dispense and
4 shall be reimbursed for the full quantity of the smallest
5 available commercially packaged product, including but not
6 limited to eye drops, insulin, and topical products, that
7 contains the total amount that is required to be dispensed to
8 meet the days supply ordered by the prescriber, even if the full
9 quantity of the commercially prepared package exceeds the
10 maximum days supply allowed.

11 (k) The highest daily total dose that may be utilized by
12 the patient pursuant to the prescriber's directions shall be
13 used to make a determination of the days supply. For
14 prescriptions having a titrated dose schedule, the schedule
15 shall be used to determine the days supply.

16 (l) Subsections (d) to (k) shall not apply to any
17 investigative audit that involves allegations of fraud or wilful
18 misrepresentation.

19 (m) For purposes of this section, "pharmacy benefit
20 manager" has the same meaning as in section 431S-1."


21 SECTION 2. New statutory material is underscored.



1 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



JAN 20 2026



H.B. NO. 1643

Report Title:

Pharmacy; Pharmacists; Audits; Pharmacy Benefit Managers

Description:

Specifies a framework for the administration of audits of records of pharmacists and pharmacies.

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