

House Bill 1371

By: Representatives Graves of the 137<sup>th</sup>, Carter of the 159<sup>th</sup>, Harbin of the 118<sup>th</sup>, Stephens of the 164<sup>th</sup>, and Parrish of the 156<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and pharmacies, so as to enact "The Pharmacy Audit Bill of Rights"; to provide for a short title; to set out a list of rights of pharmacies undergoing audits; to provide for an appeal process; to provide for applicability; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and pharmacies, is amended by adding a new Code section to the end of Article 6, relating to pharmacies, to read as follows:

"26-4-118.

(a) This Code section shall be known and may be cited as 'The Pharmacy Audit Bill of Rights.'

(b) Notwithstanding any other law, when an audit of the records of a pharmacy is conducted by a managed care company, insurance company, third-party payor, the Department of Community Health under Article 7 of Chapter 4 of Title 49, or any entity that represents such companies, groups, or department, it shall be conducted in accordance with the following bill of rights:

(1) The entity conducting the audit must give the pharmacy notice at least one week prior to conducting the initial audit for each audit cycle;

(2) Any audit must be conducted by a pharmacist licensed in this state;

(3) Any clerical or record keeping error, such as a typographical error, scrivener's error, or computer error, regarding a required document or record shall not constitute a willful violation and is not subject to criminal penalties without proof of intent to commit fraud;

(4) A pharmacy may use the physician's record or other order for drugs or medicinal supplies written or transmitted by any means of communication for purposes of validating the pharmacy record with respect to orders or refills of a legend or narcotic drug;

(5) A finding of an overpayment or underpayment must be based on the actual overpayment or underpayment and may not be a projection based on the number of patients served having a similar diagnosis or on the number of similar orders or refills for similar drugs;

(6) Each pharmacy shall be audited under the same standards and parameters as other pharmacies audited by the entity;

(7) A pharmacy shall be allowed at least ten days in which to produce documentation to address any discrepancy found during an audit;

(8) The period covered by an audit may not exceed one calendar year;

(9) An audit may not be scheduled during the first five days of any month due to the high volume of prescriptions filled during that time;

(10) The preliminary audit report must be delivered to the pharmacy within 90 days after conclusion of the audit. A final audit report shall be delivered to the pharmacy within six months after receipt of the preliminary audit report or final appeal, as provided for in subsection (c), whichever is later; and

(11) The audit criteria set forth in this subsection shall apply only to audits of claims submitted for payment after July 1, 2006. Notwithstanding any other provision in this subsection, the agency conducting the audit shall not use the accounting practice of extrapolation in calculating penalties for Medicaid audits.

(c) Each entity conducting an audit shall establish a process under which a pharmacy may obtain a preliminary review of an audit report and may appeal an unfavorable audit report without the necessity of obtaining legal counsel. The preliminary review and appeal may be conducted by an ad hoc peer review panel, appointed by the entity, which consists of pharmacists who maintain an active practice in this state. If, following the preliminary review, the entity or review panel finds that an unfavorable audit report is unsubstantiated, the entity shall dismiss the audit report without the necessity of any further proceedings.

(d) This Code section shall not apply to any investigative audit where there is reliable evidence that the claim that is the subject of the audit involves fraud, willful misrepresentation, or abuse under Article 7 of Chapter 4 of Title 49."

## **SECTION 2.**

All laws and parts of laws in conflict with this Act are repealed.