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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- PHARMACIES

Introduced By: Representatives Kislak, McGaw, Donovan, Corvese, Cruz, Giraldo,
Potter, Fogarty, and Stewart

Date Introduced: April 01, 2026

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-19.1-35 of the General Laws in Chapter 5-19.1 entitled
2 "Pharmacies" is hereby amended to read as follows:

3 **5-19.1-35. Audits.**

4 (a) For the purposes of this section:

5 (1) "Audit" means a systematic review of provider claims, documentation, and billing
6 practices, whether conducted remotely or on site, for the purported purpose of ensuring payments
7 are made for covered, reasonable, and necessary services, or to detect fraud, waste, and abuse, or
8 to recover overpayments.

9 (2) "Auditor" means a person or entity who conducts an audit as defined in subsection
10 (a)(1) of this section.

11 (b) When an ~~on-site~~ audit of the records of a pharmacy is conducted by a carrier or its
12 intermediary, the audit must be conducted in accordance with the following criteria:

13 (1) A finding of overpayment or underpayment must be based on the actual overpayment
14 or underpayment, and not a projection based on the number of patients served having a similar
15 diagnosis, or on the number of similar orders or refills for similar drugs, unless the projected
16 overpayment or denial is a part of a settlement agreed to by the pharmacy or pharmacist;

17 (2) The auditor may not use extrapolation in calculating recoupments or penalties unless
18 required by state or federal laws or regulations;

19 (3) Any audit that involves clinical judgment must be conducted by, or in consultation with,

1 a pharmacist; and

2 (4) Each entity conducting an audit shall establish an appeal process under which a
3 pharmacy may appeal an unfavorable preliminary audit report to the entity.

4 ~~(b) This section does not apply to any audit, review, or investigation that is initiated based~~
5 ~~on or involving suspected or alleged fraud, willful misrepresentation, or abuse.~~

6 (c) Prior to an audit, the entity conducting an audit shall give the pharmacy fourteen (14)
7 days advance written notice of the audit and the range of prescription numbers involved in the audit.
8 The carrier or its intermediary may mask the last two digits of the numbers. Additionally, the
9 number of prescriptions shall not exceed one hundred fifty (150) prescription claims and their
10 applicable refills. The time allotted must be adequate to collect all samples. The examination of
11 signature logs shall not exceed twenty-five (25) signature logs in number.

12 (d) A pharmacy has the right to execute the dispute resolution contained in their contract.

13 (e)(1) A preliminary audit report must be delivered to the pharmacy or its corporate office
14 within sixty (60) days after the conclusion of the audit. A pharmacy must be allowed at least thirty
15 (30) days following receipt of the preliminary audit [report](#) to provide documentation to address any
16 discrepancy found in the audit. A final audit report must be delivered to the pharmacy or its
17 corporate office within ninety (90) days after receipt of the preliminary audit report or final appeal,
18 whichever is later. A charge-back recoupment or other penalty may not be assessed until the appeal
19 process provided by the pharmacy benefits manager has been exhausted and the final report issued.
20 If the identified discrepancy for a single audit exceeds twenty-five thousand dollars (\$25,000),
21 future payments in excess of that amount may be withheld pending the adjudication of an appeal.
22 Auditors shall only have access to previous audit reports on a particular pharmacy conducted for
23 the same entity.

24 ~~(2) Auditors may initiate a desk audit prior to an on-site audit unless otherwise specified in~~
25 ~~the law.~~

26 ~~(3)~~(2) Contracted auditors cannot be paid based on the findings within an audit.

27 ~~(4)~~(3) Scanned images of all prescriptions including all scheduled controlled substances
28 are allowed to be used by the pharmacist for an audit. Verbally received prescriptions must be
29 accepted upon validation by the auditing entity and applicable for the ~~initial desk or on-site~~ audit.

30 ~~(5)~~(4) The period covered by an audit may not exceed two (2) years.

31 ~~(6)~~(5) Within five (5) business days of receiving the audit notification, pharmacies are
32 allowed, at a minimum, one opportunity to reschedule with the auditor if the scheduled audit
33 presents a scheduling conflict for the pharmacist.

34 (f) Any clerical error, typographical error, scrivener's error, or computer error regarding a

1 document or record does not constitute a willful violation and is not subject to criminal penalties
2 without proof of intent to commit fraud.

3 (g) **Limitations.**

4 (1) **Exceptions.** ~~The~~ Subject to subsection (g)(2) of this section, the provisions of this
5 chapter do not apply to an investigative audit of pharmacy records when:

6 (i) Fraud, waste, abuse, or other intentional misconduct is indicated by physical review or
7 review of claims data or statements; or

8 (ii) Other investigative methods indicate a pharmacy is or has been engaged in criminal
9 wrongdoing, fraud, or other intentional or willful misrepresentation.

10 (2) Scope of exceptions.

11 (i) An audit for which an exception is applicable shall be strictly limited in scope to the
12 issue(s) directly giving rise to the suspicions, allegations, or conduct indicated by other
13 investigative methods. Before conducting an audit for which an exception is applicable, the auditor
14 shall memorialize in writing the basis for any exception hereunder, which shall include a
15 description of the specific issue(s) under review and facts giving rise to the audit, and shall make
16 such writing available to the attorney general upon request.

17 (ii) The auditor may not rely solely on a finding of common control or common ownership
18 as a basis for conducting an audit to which an exception applies with respect to a pharmacy, unless
19 the auditor first confirms the presence of an identified systemic error, fraud, abuse, willful
20 misrepresentation, or criminal wrongdoing with respect to a pharmacy under common control or
21 common ownership.

22 ~~(2)~~(3) Frequency of audits. A pharmacy shall not be subject to more than one ~~on-site~~ audit
23 in connection with a carrier every twelve (12) months, unless there is an identified problem or
24 substantial evidence of fraud, abuse, or misrepresentation is suspected, or other criminal
25 wrongdoing.

26 ~~(3)~~(4) Federal law. This chapter does not supersede any audit requirements established by
27 federal law.

28 (5) Notice to the attorney general. Prior to initiating an audit pursuant to an exception under
29 subsection (g)(1) of this section, the auditor shall provide written notice to the attorney general of
30 their intent to conduct an audit pursuant to an applicable exception. Such notice shall be provided
31 at least three (3) business days prior to the initiation of the audit.

32 (h) **Enforcement.** The ~~Rhode Island~~ attorney general shall have the authority to enforce
33 and ensure compliance with this section.

34 (1) The attorney general may institute proceedings to prevent and restrain violations of this

1 section. The superior court shall have jurisdiction to prevent and restrain violations of this section.

2 (2) In addition to injunctive relief, any person or entity in violation of this section shall be
3 liable for a civil penalty, in an action brought by the attorney general, of not more than ten thousand
4 dollars (\$10,000) for each violation.

5 (3) The attorney general may promulgate rules and regulations to implement the provisions
6 of this section.

7 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO BUSINESSES AND PROFESSIONS -- PHARMACIES

- 1 This act would strengthen enforcement of the state's pharmacy audit law by clarifying and
- 2 tightening audit procedures to ensure pharmacy audits are conducted fairly and transparently.
- 3 This act would take effect upon passage.

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