2019 Regular Session

HOUSE BILL NO. 538

BY REPRESENTATIVE LEBAS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana. PHARMACISTS: Provides relative to pharmacy record audits

1	AN ACT
2	To amend and reenact R.S. 22:1856.1(B)(introductory paragraph), (2), (3), (7)(b), and (8),
3	(D)(1)(introductory paragraph) and (2)(introductory paragraph), and (F), to enact
4	R.S. 22:1856.1(D)(3), and to repeal R.S. 22:1856.1(G)(3) and (4), relative to
5	pharmacy record audits; to provide for applicability of laws relative to such audits;
6	to provide relative to procedures for such audits; to repeal provisions relative to
7	onsite audits; to provide relative to audits conducted by or in consultation with
8	licensed pharmacists; to provide limitations on recoupment of reimbursements paid
9	to pharmacists; and to provide for related matters.
10	Be it enacted by the Legislature of Louisiana:
11	Section 1. R.S. 22:1856.1(B)(introductory paragraph), (2), (3), (7)(b), and (8),
12	(D)(1)(introductory paragraph) and (2)(introductory paragraph), and (F) are hereby amended
13	and reenacted and R.S. 22:1856.1(D)(3) is hereby enacted to read as follows:
14	§1856.1. Pharmacy record audits; recoupment; appeals
15	* * *
16	B. Notwithstanding any other provision of law to the contrary, when an
17	onsite audit of the records of a pharmacy is conducted by an entity, the audit shall
18	be conducted in accordance with the following criteria:
19	* * *

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(2) No entity shall conduct an on-site audit at a particular pharmacy more
2	than one time annually. However, the provisions of this Paragraph shall not apply
3	when an entity must return to a pharmacy to complete an audit already in progress,
4	or there is an identified history of errors, an identified activity which a reasonable
5	man would believe to be inappropriate, or illegal activity that the entity has brought
6	to the attention of the pharmacy owner or corporate headquarters of the pharmacy.
7	(3)(a) The entity or any vendor or subcontractor of the entity which conducts
8	the initial onsite audit shall give the pharmacy notice at least two weeks before
9	conducting the initial onsite audit for each audit cycle.
10	(b) If the audit, review, or investigation is initiated based on or involves
11	alleged fraud or willful misrepresentation, notice before the initial on-site audit is not
12	mandatory where it could impede the audit, review, or investigation.
13	* * *
14	(7)
15	* * *
16	(b) A pharmacy shall be allowed at least thirty days following receipt of the
17	preliminary audit report in which to initiate an appeal to address any discrepancy
18	found during an on-site audit, as provided in Subsection E of this Section.
19	* * *
20	(8) Any audit which involves clinical judgment of a pharmacy with its
21	principal place of business in this state shall be conducted by or in consultation with
22	a licensed pharmacist <u>licensed in Louisiana.</u>
23	* * *
24	D.(1) No pharmacy shall be subject to recoupment of any portion of the
25	reimbursement for the dispensed product of a prescription unless one or more of the
26	following has occurred at the point of adjudication:
27	* * *
28	(2) Recoupment of claims shall be based on the actual financial harm to the
29	entity, or on the actual overpayment or underpayment, at the point of adjudication.

1	A finding of an overpayment that is the result of dispensing in excess of the benefit
2	design, as established by the plan sponsor, shall be calculated as the difference
3	between what was dispensed in accordance with the prescriber's orders and the
4	dispensing requirements as set forth by the benefit design. Calculations of
5	overpayments shall not include dispensing fees unless one or more of the following
6	conditions has been satisfied:
7	* * *
8	(3) If any entity determines that the processed or adjudicated claim of a
9	pharmacy qualifies for recoupment based upon the use of manufacturer coupon or
10	copay card, such recoupment shall come from the beneficiary of the reduction.
11	* * *
12	F. Unless otherwise provided for in the network agreement, pharmacies or
13	payors may seek mediation to resolve contractual disputes related to pricing or
14	on-site audits.
15	* * *
16	Section 2. R.S. 22:1856.1(G)(3) and (4) are hereby repealed in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 538 Original	2019 Regular Session	LeBas

Abstract: Provides relative to the audit of pharmacy records.

<u>Present law</u> provides the criteria for the auditing of pharmacy records including the protocol for conducting an onsite audit and a prohibition against an audit taking place within the first five days of a month.

<u>Proposed law</u> repeals the requirement for onsite audits as they relate to the auditing of pharmacy records.

<u>Present law</u> requires any audit involving clinical judgment be conducted by or in consultation with a pharmacist.

<u>Proposed law</u> changes <u>present law</u> to require that any audit of a pharmacy with its principle place of business within this state be conducted by a pharmacist licensed in La.

<u>Present law</u> provides that no pharmacy be subject to recoupment of any portion of the reimbursement for the dispensed product of a prescription unless one or more conditions occur.

<u>Proposed law</u> changes <u>present law</u> by requiring that the condition occur at the point of adjudication.

<u>Present law</u> provides that recoupment of claims be based on the actual financial harm to the entity, or on the actual overpayment or underpayment.

<u>Proposed law</u> changes <u>present law</u> by requiring that such financial harm exist at the point of adjudication.

<u>Proposed law</u> provides that if any entity determines that the processed or adjudicated claim of a pharmacy qualifies for recoupment based upon the use of a manufacturer coupon or copay card, such recoupment shall come from the beneficiary of the reduction.

<u>Present law</u> provides that <u>present law</u> does not apply to any federally funded activity, specifically preempted by law or rule or any audit conducted pursuant to the participation of a pharmacy in the Louisiana Medicaid Program. <u>Proposed law</u> repeals <u>present law</u>.

(Amends R.S. 22:1856.1; Adds R.S. 22:1856.1(D)(3); Repeals 22:1856.1(G)(3) and (4))