

REFERENCE TITLE: pharmacy audit; procedures; prohibition

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

# SB 1165

Introduced by  
Senators Shamp: Burch, Gowan

AN ACT

AMENDING SECTION 20-3322, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 25, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-3335; RELATING TO PHARMACY BENEFITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-3322, Arizona Revised Statutes, is amended to  
3 read:

4 20-3322. Audit procedures; interest prohibition

5 A. The following procedures apply to an audit conducted by an  
6 auditing entity:

7 1. When conducting an in-pharmacy audit an auditing entity shall:

8 (a) Give a pharmacy at least fourteen days' written notice.

9 (b) Not conduct an audit during the first five days of the month  
10 unless the pharmacy otherwise consents.

11 (c) Provide the pharmacy a list of items to be audited that  
12 provides for identification of prescription number or numbers or date  
13 range that the auditing entity is seeking to audit.

14 (d) When conducting an in-pharmacy **AUDIT** or desktop audit, limit  
15 the audit to claims that **may DO** not exceed two years from the date that  
16 the claim was adjudicated by the pharmacy benefits manager.

17 2. An in-pharmacy audit or desktop audit that involves clinical or  
18 professional judgment shall be conducted by or in consultation with a  
19 pharmacist.

20 3. The pharmacy may use the records of a hospital, physician or  
21 other authorized practitioner to validate the pharmacy records. The  
22 validated records may be obtained via electronic methods, fax, ~~phone~~  
23 **TELEPHONE** or written prescription orders and do not have to be the  
24 original hard copy prescription order.

25 4. Each pharmacy shall be audited under the same standards and  
26 parameters as other similarly situated pharmacies in this state.

27 **5. WHEN CONDUCTING A WHOLESALE INVOICE AUDIT, AN AUDITING ENTITY**  
28 **SHALL:**

29 (a) **NOT AUDIT THE PHARMACY CLAIMS OF ANOTHER AUDITING ENTITY.**

30 (b) **REVERSE A FINDING OF DISCREPANCY IF:**

31 (i) **THE PHARMACIST OR PHARMACY DISPENSED THE CORRECT QUANTITY OF**  
32 **THE DRUG ACCORDING TO THE PRESCRIPTION.**

33 (ii) **THE NATIONAL DRUG CODE PUBLISHED BY THE UNITED STATES FOOD AND**  
34 **DRUG ADMINISTRATION IS IN A QUANTITY THAT IS A SUBUNIT OR MULTIPLE OF THE**  
35 **DRUG PURCHASED BY THE PHARMACIST OR PHARMACY ACCORDING TO THE SUPPLIER**  
36 **INVOICE.**

37 (iii) **THE DRUG DISPENSED BY THE PHARMACIST OR PHARMACY SHARES ALL**  
38 **BUT THE LAST TWO DIGITS OF THE UNITED STATES FOOD AND DRUG**  
39 **ADMINISTRATION'S NATIONAL DRUG CODE OF THE DRUG REFLECTED ON THE SUPPLIER**  
40 **INVOICE.**

41 (c) **AS A PRESUMPTION OF VALIDITY OF A PURCHASE OF A DISPENSED DRUG,**  
42 **ACCEPT ANY OF THE FOLLOWING TO SUPPORT THE PHARMACY'S CLAIM RELATED TO A**  
43 **DISPENSED DRUG:**

44 (i) **COPIES OF THE SUPPLIER INVOICES IN THE PHARMACIST'S OR**  
45 **PHARMACY'S POSSESSION, INCLUDING ANY SUPPLIER INVOICES THAT WERE ISSUED**

1 BEFORE THE DATE THE DRUG WAS DISPENSED BUT NOT EARLIER THAN NINETY DAYS  
2 BEFORE THE FIRST DAY OF THE AUDIT PERIOD AND ANY OTHER INVOICES AND  
3 SUPPORTING DOCUMENTATION FROM A SUPPLIER THAT IS AUTHORIZED BY FEDERAL OR  
4 STATE LAW TO TRANSFER OWNERSHIP OF THE DRUG TO THE PHARMACIST OR PHARMACY.

5 (ii) ANY REPORTS REQUIRED BY A STATE BOARD OR AGENCY.

6 (d) NOT LATER THAN THE FIFTH BUSINESS DAY AFTER RECEIVING THE  
7 PHARMACY'S REQUEST, PROVIDE ANY SUPPORTING DOCUMENTATION THAT THE PHARMACY  
8 SUPPLIER PROVIDED TO THE AUDITING ENTITY.

9 B. When conducting an in-pharmacy audit or desktop audit, an  
10 auditing entity shall comply with the following requirements:

11 1. The auditing entity shall base a finding of overpayment or  
12 underpayment on the actual overpayment or underpayment and not on a  
13 projection based on the number of patients served who have similar  
14 diagnoses or on the number of similar orders or refills for similar drugs,  
15 unless required by federal or state law.

16 2. The auditing entity may not recoup monies from the pharmacy for  
17 any clerical errors identified in an audit.

18 3. Any finding of an overpayment may not include the dispensing fee  
19 amount unless any of the following criteria ~~are~~ IS met:

20 (a) A prescription was not received by the patient or the patient's  
21 designee.

22 (b) The prescriber denied authorization.

23 (c) The prescription dispensed was a medication error by the  
24 pharmacy.

25 (d) The identified overpayment is based solely on an extra  
26 dispensing fee.

27 C. Interest may not accrue during the audit period.

28 Sec. 2. Title 20, chapter 25, article 2, Arizona Revised Statutes,  
29 is amended by adding section 20-3335, to read:

30 20-3335. ~~Affiliated pharmacies; reimbursement; definition~~

31 A. A PHARMACY BENEFIT MANAGER MAY NOT REIMBURSE A NONAFFILIATED  
32 PHARMACY IN AN AMOUNT LESS THAN THE AMOUNT REIMBURSED FOR AN AFFILIATED  
33 PHARMACY FOR PROVIDING THE SAME PRODUCT.

34 B. A PHARMACY BENEFIT MANAGER SHALL SUBMIT AN ANNUAL REPORT TO THE  
35 DIRECTOR THAT DETAILS THE DIFFERENCE IN REIMBURSEMENT AMOUNTS PAID TO AN  
36 AFFILIATED PHARMACY AND A NONAFFILIATED PHARMACY FOR PROVIDING THE SAME  
37 PRODUCT.

38 C. FOR THE PURPOSES OF THIS SECTION, "AFFILIATED PHARMACY" MEANS A  
39 NETWORK PHARMACY THAT DIRECTLY OR INDIRECTLY THROUGH ONE OR MORE  
40 INTERMEDIARIES CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH  
41 A PHARMACY BENEFIT MANAGER.