59 O.S. § 356	**Pharmacy Audit Integrity Act** (***effective May 20, 2024)***
§ 356	**Short Title- This act shall be known and may be cited as the "Pharmacy Audit Integrity Act"**
§ 356.1	**"Pharmacy Benefits Manager" Defined - Purpose and Applicability of Act**
356.1 (A)	For purposes of the Pharmacy Audit Integrity Act, "**pharmacy benefits manager**" or "**PBM**" shall have the same meaning as in Section 6960 of Title 36 of the Oklahoma Statutes.
356.1 (B)	The purpose of the Pharmacy Audit Integrity Act is to establish minimum and uniform standards and criteria for the audit of pharmacy records by or on behalf of certain entities.
356.1 (C)	The Pharmacy Audit Integrity Act shall apply to any audit of the records of a pharmacy conducted by a managed care company, nonprofit hospital, medical service organization, insurance company, third-party payor, pharmacy benefits manager, a health program administered by a department of this state, or any entity that represents these companies, groups, or departments.
356.1 (D)	The Attorney General may promulgate rules to implement the provisions of the Pharmacy Audit Integrity Act.
§ 356.2	**Auditor's Duties - Audit Report and Results**
356.2 (A)	The entity conducting an audit of a pharmacy shall:

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356.2 (A)(1)	Identify and specifically describe the audit and appeal procedures in the pharmacy contract. Prescription claim documentation and record-keeping requirements shall not exceed the requirements set forth by the Oklahoma Pharmacy Act or other applicable state or federal laws or regulations;
356.2 (A)(2)	Give the pharmacy written notice by certified letter to the pharmacy and the pharmacy's contracting agent, including identification of specific prescription numbers and fill dates to be audited, at least fourteen (14) calendar days prior to conducting the audit, including, but not limited to, an on-site audit, a desk audit, or a wholesale purchase audit, request for documentation related to the dispensing of a prescription drug or any reimbursed activity by a pharmacy provider; provided, however, that wholesale purchase audits shall require a minimum of thirty (30) calendar days' written notice. For an on-site audit, the audit date shall be the date the on-site audit occurs. For all other audit types, the audit date shall be the date the pharmacy provides the documentation requested in the audit notice. The pharmacy shall have the opportunity to reschedule the audit no more than seven (7) calendar days from the date designated on the original audit notification;
356.2 (A)(3)	Not interfere with the delivery of pharmacist services to a patient and shall utilize every reasonable effort to minimize inconvenience and disruption to pharmacy operations during the audit process;
356.2 (A)(4)	Conduct any audit involving clinical or professional judgment by means of or in consultation with a licensed pharmacist;
356.2 (A)(5)	Not consider as fraud any clerical or record-keeping error, such as a typographical error, scrivener's error or computer error, including, but not limited to, a miscalculated day supply, incorrectly billed prescription written date or prescription origin code, and such errors shall not be subject to recoupment. The pharmacy shall have the right to submit amended claims electronically to correct clerical or record-keeping errors in lieu of recoupment. To the extent that an audit results in the identification of any clerical or record-keeping errors such as typographical errors, scrivener's errors or computer errors in a required document or record, the pharmacy shall not be subject to recoupment of funds by the pharmacy benefits manager unless the pharmacy benefits manager can provide proof of intent to commit fraud. A person shall not be subject to criminal penalties for errors provided for in this paragraph without proof of intent to commit fraud;

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356.2 (A)(6)	Permit a pharmacy to use the records of a hospital, physician, or other authorized practitioner of the healing arts 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;
356.2 (A)(7)	Not include the dispensing fee amount or the actual invoice cost of the prescription dispensed in a finding of an audit recoupment unless a prescription was not actually dispensed or a physician denied authorization of a dispensing order;
356.2 (A)(8)	Audit each pharmacy under identical standards, regularity and parameters as other similarly situated pharmacies and all pharmacies owned or managed by the pharmacy benefits manager conducting or having conducted the audit;
356.2 (A)(9)	Not exceed one (1) year from the date the claim was submitted to or adjudicated by a managed care company, nonprofit hospital or medical service organization, insurance company, third-party payor, pharmacy benefits manager, a health program administered by a department of this state, or any entity that represents the companies, groups, or departments for the period covered by an audit;
356.2 (A)(10)	Not schedule or initiate an audit during the first seven (7) calendar days of any month unless otherwise consented to by the pharmacy;
356.2 (A)(11)	Disclose to any plan sponsor whose claims were included in the audit any money recouped in the audit; and
356.2 (A)(12)	Not require pharmacists to break open packaging labeled "for single-patient-use only". Packaging labeled "for single-patient-use only" shall be deemed to be the smallest package size available; and

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356.2 (A)(13)	Upon recoupment of funds from a pharmacy, refund first to the patient the portion of the recovered funds that were originally paid by the patient, provided such funds were part of the recoupment.
356.2 (B)(1)	Any entity that conducts wholesale purchase review during an audit of a pharmacist or pharmacy shall not require the pharmacist or pharmacy to provide a full dispensing report. Wholesaler invoice reviews shall be limited to verification of purchase inventory specific to the pharmacy claims paid by the health benefits plan or pharmacy benefits manager conducting the audit.
356.2 (B)(2)	Any entity conducting an audit shall not identify or label a prescription claim as an audit discrepancy when:
356.2 (B)(2)(a)	the National Drug Code for the dispensed drug is in a quantity that is a subunit or multiple of the drug purchased by the pharmacist or pharmacy as supported by a wholesale invoice,
356.2 (B)(2)(b)	the pharmacist or pharmacy dispensed the correct quantity of the drug according to the prescription, and
356.2 (B)(2)(c)	the drug dispensed by the pharmacist or pharmacy shares all but the last two digits of the National Drug Code of the drug reflected on the supplier invoice.
356.2 (B)(3)	An entity conducting an audit shall accept as evidence, subject to validation, to support the validity of a pharmacy claim related to a dispensed drug:
356.2 (B)(3)(a)	redacted copies of supplier invoices in the pharmacist's or pharmacy's possession, or

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356.2 (B)(3)(b)	invoices and any supporting documents from any supplier as authorized by federal or state law to transfer ownership of the drug acquired by the pharmacist or pharmacy.
356.2 (B)(4)	An entity conducting an audit shall provide, no later than five (5) business days after the date of a request by the pharmacist or pharmacy, all supporting documents the pharmacist's or pharmacy's purchase suppliers provided to the health benefits plan issuer or pharmacy benefits manager.
356.2 (C)	A pharmacy shall be allowed to provide the pharmacy's computerized patterned medical records or the records of a hospital, physician, or other authorized practitioner of the healing arts for drugs or medicinal supplies written or transmitted by any means of communication for purposes of supporting the pharmacy record with respect to orders or refills of a legend or narcotic drug.
356.2 (D)	The entity conducting the audit shall not audit more than fifty prescriptions, with specific date of service, per calendar year. The annual limit to the number of prescription claims audited shall be inclusive of all audits, including any prescription-related documentation requests from the health insurer, pharmacy benefits manager or any third-party company conducting audits on behalf of any health insurer or pharmacy benefits manager during a calendar year.
356.2 (E)	If paper copies of records are requested by the entity conducting the audit, the entity shall pay twenty-five cents ($0.25) per page to cover the costs incurred by the pharmacy. The entity conducting the audit shall provide the pharmacy with accurate instructions, including any required form for obtaining reimbursement for the copied records.
356.2 (F)	The entity conducting the audit shall:

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356.2 (F)(1)	Deliver a preliminary audit findings report to the pharmacy and the pharmacy's contracting agent within **forty-five (45) calendar days** of conducting the audit;
356.2(F)(2)	Allow the pharmacy at least **ninety (90) calendar days** following receipt of the preliminary audit findings report in which to produce documentation to address any discrepancy found during the audit; provided, however, a pharmacy may request an extension, **not to exceed an additional forty-five (45)** calendar days;
356.2 (F)(3)	Deliver a final audit findings report to the pharmacy and the pharmacy's contracting agent signed by the auditor within **ten (10) calendar days** after receipt of additional documentation provided by the pharmacy, as provided for in Section 356.3 of this title;
356.2 (F)(4)	Allow the pharmacy to reverse and resubmit claims electronically within **thirty (30) days** of receipt of the final audit report in lieu of the auditing entity recouping discrepant claim amounts from the pharmacy;
356.2 (F)(5)	Not recoup any disputed funds until after final disposition of the audit findings, including the appeals process as provided for in Section 356.3 of this title;
356.2 (F)(6)	Not accrue interest during the audit and appeal period.
356.2 (G)	Each entity conducting an audit shall provide a copy of the final audit results, and a final audit report upon request, after completion of any review process to the plan sponsor.
356.2 (H)(1)	The full amount of any recoupment on an audit shall be refunded to the plan sponsor. Except as provided for in paragraph 2 of this subsection, a charge or assessment for an audit shall not be based, directly or indirectly, on amounts recouped.

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356.2 (H)(2)	This subsection does not prevent the entity conducting the audit from charging or assessing the responsible party, directly or indirectly, based on amounts recouped if both of the following conditions are met:
356.2 (H)(2)(a)	the plan sponsor and the entity conducting the audit have a contract that explicitly states the percentage charge or assessment to the plan sponsor, and
356.2 (H)(2)(b)	a commission to an agent or employee of the entity conducting the audit is not based, directly or indirectly, on amounts recouped.
356.2 (I)	Unless superseded by state or federal law, auditors shall only have access to previous audit reports on a particular pharmacy conducted by the auditing entity for the same pharmacy benefits manager, health plan or insurer. An auditing vendor contracting with multiple pharmacy benefits managers or health insurance plans shall not use audit reports or other information gained from an audit on a pharmacy to conduct another audit for a different pharmacy benefits manager or health insurance plan.
356.2 (J)	Sections A through I of this section shall not apply to any audit initiated based on or that involves fraud, willful misrepresentation, or abuse.
356.2 (K)	If the Attorney General, after notice and opportunity for hearing, finds that the entity conducting the audit failed to follow any of the requirements pursuant to the Pharmacy Audit Integrity Act, the audit shall be considered null and void. Any monies recouped from a null and void audit shall be returned to the affected pharmacy within fourteen (14) calendar days. Any violation of this section by a pharmacy benefits manager or auditing entity shall be deemed a violation of the Pharmacy Audit Integrity Act.

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§ 356.3	**Appeals - Final Audit Report - Findings of Fraud or Willful Misrepresentation**
356.3 (A)	Each entity conducting an audit shall establish a written appeals process under which a pharmacy may appeal an unfavorable preliminary audit report and/or final audit report to the entity.
356.3 (B)	Following an appeal, if the entity finds that an unfavorable audit report or any portion thereof is unsubstantiated, the entity shall dismiss the audit report or the unsubstantiated portion of the audit report without any further action.
356.3 (C)	Any final audit report, following the final audit appeal period, with a finding of fraud or willful misrepresentation shall be referred to the district attorney having proper jurisdiction or the Attorney General for prosecution upon completion of the appeals process.
356.3 (D)	For any audit initiated based on or that involves fraud, willful misrepresentation, or abuse, the auditing entity shall provide, in writing, at the time of the audit, a clear and conspicuous declaration to the pharmacy being audited that the audit is being conducted under suspicion of fraud, willful misrepresentation, or abuse and a statement of facts that supports the reasonable suspicion.
356.3 (E)	Any entity conducting an audit that is based on or involves fraud, willful misrepresentation, or abuse shall provide to the Office of the Attorney General:
356.3 (E)(1)	Notice at least two (2) calendar days prior to beginning performance of an audit pursuant to this section;

356.3 (E)(2)	A preliminary report within thirty (30) calendar days of performing the audit pursuant to this section; and
356.3 (E)(3)	A final report within thirty (30) calendar days following the closure of the final appeal period for an audit performed pursuant to this section.
356.3 (F)	The Attorney General, authorized employees, and examiners shall have access to any pharmacy benefits manager's files and records that may relate to an audit that is based on or involves fraud, willful misrepresentation, or abuse.
356.3 (G)	The Attorney General may levy a civil or administrative fine of not less than One Hundred Dollars ($100.00) and not greater than Ten Thousand Dollars ($10,000.00) for each violation of this section and assess any other penalty or remedy authorized by law.
§ 356.4	**Extrapolation Audit**
356.4 (A)	For the purposes of the Pharmacy Audit Integrity Act, "extrapolation audit" means an audit of a sample of prescription drug benefit claims submitted by a pharmacy to the entity conducting the audit that is then used to estimate audit results for a larger batch or group of claims not reviewed by the auditor.
356.4 (B)	The entity conducting the audit shall not use the accounting practice of extrapolation in calculating recoupments or penalties for audits.
§ 356.5	**Applicability of Audit Criteria and Act**
356.5 (A)	The audit criteria set forth in the Pharmacy Audit Integrity Act shall apply only to audits of claims for services provided and claims submitted for payment after this act becomes law.

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356.5 (B)	The Pharmacy Audit Integrity Act shall not apply to any audit, including but not limited to audits conducted by or on behalf of a state agency, which involves fraud, willful misrepresentation, abuse or Medicaid payments including, without limitation, investigative audits or any other statutory provision which authorizes investigations relating to insurance fraud.