§ 369-cc. Retrospective and prospective drug utilization review. The department, in cooperation with the DUR board, shall include in its state plan the creation and implementation of a retrospective and prospective DUR program for medicaid outpatient drugs to ensure that the prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes.

1. The retrospective and prospective DUR program shall be operated under the guidelines and procedures established by the DUR board.

2. The retrospective DUR program shall be based on the guidelines established by the DUR board and shall use the mechanized drug claims processing and information retrieval system to analyze claims data to:

(a) Identify patterns of gross overuse, and inappropriate or medically unnecessary care.

(b) Assess data on drug use against explicit predetermined standards that are based on the compendia and other sources to monitor the following:

(i) Therapeutic appropriateness;

(ii) Overutilization or underutilization;

(iii) Therapeutic duplication;

(iv) Drug-disease contraindications;

(v) Drug-drug interactions;

(vi) Incorrect drug dosage or duration of drug treatment; and

(vii) Clinical abuse/misuse.

3. The prospective DUR program shall be based on the guidelines established by the DUR board not in conflict with education or social services laws and shall provide that prior to the prescription being filled or delivered, a review will be conducted by the pharmacist at the point of sale to screen for potential drug therapy problems resulting from:

(a) Therapeutic duplication;

(b) Drug-drug interactions;

(c) Incorrect dosage/duration of treatment;

(d) Drug-allergy interactions;

(e) Clinical abuse/misuse.

In conducting the prospective DUR, the pharmacist may not alter the prescribed outpatient drug therapy without the consent of the prescriber who prescribed that therapy.

4. (a) The commissioner, through the prospective DUR program, may require step therapy when there is more than one drug appropriate to treat a medical condition. The purpose of step therapy is to encourage the use of medically appropriate, cost effective drugs when clinically indicated and to limit use of alternative drug therapies unless certain clinical requirements are met. The DUR board shall recommend guidelines for specific diagnoses and therapy regimens within which practitioners may prescribe drugs without the requirement for prior authorization of those drugs. In establishing these guidelines, the board shall consider clinical effectiveness, safety, and cost effectiveness. Prior authorization under this paragraph shall be obtained under section two hundred seventy-three of the public health law.

(b) The commissioner, through the prospective DUR program, may from time to time limit the quantity, frequency, and duration of drug therapy, using guidelines developed by the DUR board. The DUR board shall develop clinical prescribing guidelines relating to quantity, frequency, and duration of drug therapy for the commissioner's use under this paragraph. In establishing these guidelines, the board shall consider clinical effectiveness, safety, and cost effectiveness. Prior authorization under this paragraph shall be obtained under section two hundred seventy-three of the public health law. Exceptions to any prior authorization imposed as a result of these guidelines shall include, but need not be limited to, provision for emergency circumstances where a medical condition requires alleviation of severe pain or which threatens to cause disability or to take a life if not promptly treated.