

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 625

By: Monson of the Senate

and

Stanley of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to public health and safety; amending
12 Section 2, Chapter 161, O.S.L. 1995, as amended by
13 Section 4, Chapter 221, O.S.L. 1996, and as
14 renumbered by Section 7, Chapter 221, O.S.L. 1996 (63
15 O.S. Supp. 1998, Section 5030.1), clarifying language
16 related to the Medicaid Drug Utilization Review
17 Board; defining terms; specifying powers and duties;
18 providing for guidelines and program for medical and
19 patient drugs; providing for contents; specifying
20 certain conditions; providing for codification;
21 providing an effective date; and declaring an
22 emergency.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. AMENDATORY Section 2, Chapter 161, O.S.L.
25 1995, as amended by Section 4, Chapter 221, O.S.L. 1996, and as
26 renumbered by Section 7, Chapter 221, O.S.L. 1996 (63 O.S. Supp.
27 1998, Section 5030.1), is amended to read as follows:

28 Section 5030.1 A. There is hereby created within the Oklahoma
29 Health Care Authority the Medicaid Drug Utilization Review ~~(DUR)~~
30 Board, which shall be responsible for the development,
31 implementation and assessment of retrospective and prospective drug
32 utilization programs under the direction of the Authority.

B. The ~~DUR~~ Medicaid Drug Utilization Review Board shall consist
of ten (10) members appointed by the administrator of the Authority
as follows:

1 1. Four physicians, licensed and actively engaged in the
2 practice of medicine or osteopathic medicine in this state, of
3 which:

4 a. three shall be physicians chosen from a list of not
5 less than six names submitted by the Oklahoma State
6 Medical Association, and

7 b. one shall be a physician chosen from a list of not
8 less than two names submitted by the Oklahoma
9 Osteopathic Association;

10 2. Four licensed pharmacists actively engaged in the practice
11 of pharmacy, chosen from a list of not less than six names submitted
12 by the Oklahoma Pharmaceutical Association;

13 3. One person representing the lay community, who shall not be
14 a physician or a pharmacist, but shall be a health care professional
15 with recognized knowledge and expertise in at least one of the
16 following:

17 a. clinically appropriate prescribing of covered
18 outpatient drugs,

19 b. clinically appropriate dispensing and monitoring of
20 covered outpatient drugs,

21 c. drug use review, evaluation and intervention, and

22 d. medical quality assurance; and

23 4. One person representing the pharmaceutical industry who is a
24 resident of the State of Oklahoma, chosen from a list of not less
25 than two names submitted by the Pharmaceutical Research and
26 Manufacturers of America.

27 C. Members shall serve terms of three (3) years, except that
28 one physician, one pharmacist and the lay representative shall each
29 be initially appointed for two-year terms in order to stagger the
30 terms. In making the appointments, the administrator shall provide,
31 to the extent possible, for geographic balance in the representation
32 on the ~~DUR~~ Medicaid Drug Utilization Review Board. Members may be

1 reappointed for a period not to exceed three three-year terms and
2 one partial term. Vacancies on the Medicaid Drug Utilization Review
3 Board shall be filled for the balance of the unexpired term from new
4 lists submitted by the entity originally submitting the list for the
5 position vacated.

6 D. The Medicaid Drug Utilization Review Board shall elect from
7 among its members a chair and a vice-chair who shall serve one-year
8 terms, provided they may succeed themselves.

9 E. The proceedings of all meetings of the Medicaid Drug
10 Utilization Review Board shall comply with the provisions of the
11 Oklahoma Open Meeting Act and shall be subject to the provisions of
12 ~~Article I~~ of the Administrative Procedures Act.

13 F. The ~~DUR~~ Medicaid Drug Utilization Review Board may advise
14 and make recommendations to the Authority regarding existing,
15 proposed and emergency rules governing retrospective and prospective
16 drug utilization programs. The Oklahoma Health Care Authority Board
17 shall promulgate rules pursuant to the provisions of ~~Article I~~ of
18 the Administrative Procedures Act for implementation of the
19 provisions of this section.

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 5030.2 of Title 63, unless there
22 is created a duplication in numbering, reads as follows:

23 As used in Sections 1 through 5 of this act:

24 1. "Compendia" means the "American Hospital Formulary Services
25 Drug Information", "U.S. Pharmacopoeia Drug Information", peer-
26 reviewed medical literature, other information provided by
27 individuals involved in health care, and information as needed by
28 the Medicaid Drug Utilization Review Board;

29 2. "Criteria" means those explicit and predetermined elements
30 that are used to assess or measure drug use on an ongoing basis to
31 determine if the use is appropriate, medically necessary, and not
32 likely to result in adverse medical outcomes;

1 3. "Authority" means the Oklahoma Health Care Authority;

2 4. "Drug-disease contraindication" means the prospect that the
3 therapeutic effect of a drug would be adversely altered by the
4 presence of another disease or condition;

5 5. "Drug interactions" means the prospect that two or more
6 drugs taken by a patient may lead to clinically significant toxicity
7 that is uncharacteristic of any one of the drugs present or that the
8 taking of which leads to interference with the effectiveness of one
9 or any of the drugs;

10 6. "Drug Utilization Review" or "DUR" means both retrospective
11 and prospective drug utilization review designed to educate
12 physicians and pharmacists and thereby ensure that prescriptions are
13 appropriate, medically necessary and not likely to have adverse
14 medical results;

15 7. "Overutilization" or "underutilization" means the use of a
16 drug in such quantities that the desired therapeutic goal is not
17 achieved;

18 8. "Prospective drug utilization review" means that part of a
19 drug utilization review program that occurs before a drug is
20 dispensed and that is designed to screen for potential drug therapy
21 problems based on explicit and predetermined criteria and standards.
22 Prospective drug utilization review screens for such problems as
23 therapeutic duplication, drug-disease contraindications, incorrect
24 or inappropriate drug dosage or duration of drug treatment, drug
25 allergy interactions, and clinical abuse or misuse; and

26 9. "Retrospective drug utilization review" means that part of
27 the drug utilization review program that assesses or measures drug
28 use based on an historical review of drug use data against
29 predetermined and explicit criteria and standards on an ongoing
30 basis with professional input. Retrospective drug utilization
31 review is the periodic examination of Medicaid drug pharmacy claims
32 data and other information sources to identify the frequency of

1 patterns of fraud, abuse, gross overuse, or inappropriate or
2 medically unnecessary care:

- 3 a. among physicians, pharmacists, and patients,
- 4 b. or associated with specific drugs.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 5030.3 of Title 63, unless there
7 is created a duplication in numbering, reads as follows:

8 A. The Medicaid Drug Utilization Review Board shall have the
9 power and duty to:

10 1. Advise and make recommendations regarding rules promulgated
11 by the Oklahoma Health Care Authority Board to enact the provisions
12 of this act;

13 2. Oversee the development, implementation and assessment of a
14 Medicaid retrospective and prospective drug utilization review
15 program, including making recommendations regarding contractual
16 agreements of the Oklahoma Health Care Authority with any entity
17 involved in processing and reviewing Medicaid drug profiles for the
18 drug utilization review program in accordance with the provisions of
19 this act;

20 3. Develop and apply the criteria and standards to be used in
21 retrospective and prospective drug utilization review. The criteria
22 and standards shall be based on the compendia and federal Food and
23 Drug Act approved labeling, and shall be developed with professional
24 input;

25 4. Provide a period for public comment on each meeting agenda.
26 As necessary, the Medicaid Drug Utilization Review Board shall
27 convene public hearings to solicit public comment regarding proposed
28 changes in the prior authorization program, and retrospective and
29 prospective drug utilization review processes;

30 5. Establish provisions to timely reassess and, as necessary,
31 revise the retrospective and prospective drug utilization review
32 process;

1 6. Make recommendations regarding the prior authorization of
2 prescription drugs pursuant to the provisions of Section 5 of this
3 act; and

4 7. Provide educational opportunities related to the medical
5 appropriateness of prescription drugs for members of the provider
6 community.

7 B. Any party aggrieved by a decision of the Oklahoma Health
8 Care Authority Board or the Administrator of the Oklahoma Health
9 Care Authority, pursuant to a recommendation of the Medicaid Drug
10 Utilization Review Board, shall be entitled to a certain, speedy,
11 adequate and complete administrative hearing before the Oklahoma
12 Health Care Authority Board pursuant to the provisions of the
13 Administrative Procedures Act.

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 5030.4 of Title 63, unless there
16 is created a duplication in numbering, reads as follows:

17 1. The Medicaid Drug Utilization Review Board shall develop and
18 recommend to the Oklahoma Health Care Authority Board a
19 retrospective and prospective drug utilization review program for
20 medical outpatient drugs to ensure that prescriptions are
21 appropriate, medically necessary, and not likely to result in
22 adverse medical outcomes.

23 2. The retrospective and prospective drug utilization review
24 program shall be operated under guidelines established by the
25 Medicaid Drug Utilization Review Board as follows:

26 a. The retrospective drug utilization review program
27 shall be based on guidelines established by the
28 Medicaid Drug Utilization Review Board using the
29 mechanized drug claims processing and information
30 retrieval system to analyze claims data in order to:
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- 1 (1) identify patterns of fraud, abuse, gross overuse
2 or underuse, and inappropriate or medically
3 unnecessary care,
- 4 (2) assess data on drug use against explicit
5 predetermined standards that are based on the
6 compendia and other sources for the purpose of
7 monitoring:
 - 8 (a) therapeutic appropriateness,
 - 9 (b) overutilization or underutilization,
 - 10 (c) appropriate use of generic drugs,
 - 11 (d) therapeutic duplication,
 - 12 (e) drug-disease contraindications
 - 13 (f) drug-drug interactions,
 - 14 (g) incorrect or inappropriate drug dosage,
 - 15 (h) duration of drug treatment, and
 - 16 (i) clinical abuse or misuse, and
- 17 (3) introduce remedial strategies in order to improve
18 the quality of care and to conserve program funds
19 or personal expenditures.

20 b. (1) The prospective drug utilization review program
21 shall be based on guidelines established by the
22 Medicaid Drug Utilization Review Board and shall
23 provide that, before a prescription is filled or
24 delivered, a review will be conducted by the
25 pharmacist at the point of sale to screen for
26 potential drug therapy problems resulting from:

- 27 (a) therapeutic duplication,
- 28 (b) drug-drug interactions,
- 29 (c) incorrect or inappropriate drug dosage or
30 duration of drug treatment,
- 31 (d) drug-allergy interactions, and
- 32 (e) clinical abuse or misuse.

1 (2) In conducting the prospective drug utilization
2 review, a pharmacist may not alter the prescribed
3 outpatient drug therapy without the consent of
4 the prescribing physician.

5 SECTION 5. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 5030.5 of Title 63, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Any drug prior authorization program approved or implemented
9 by the Medicaid Drug Utilization Review Board shall meet the
10 following conditions:

11 1. The Medicaid Drug Utilization Review Board shall provide
12 evidence that placing a drug or drug class on prior authorization
13 will not impede quality of patient care and that the drug or drug
14 class is subject to clinical abuse or misuse;

15 2. Any drug or drug class placed on prior authorization shall
16 be reconsidered no later than twelve (12) months after such
17 placement;

18 3. The program shall provide either telephone or fax approval
19 or denial within twenty-four (24) hours after receipt of the prior
20 authorization request; and

21 4. In an emergency situation, including a situation in which an
22 answer to a prior authorization request is unavailable, a seventy-
23 two-hour supply shall be dispensed, or, at the discretion of the
24 Medicaid Drug Utilization Review Board, a greater amount that will
25 assure a minimum effective duration of therapy for an acute
26 intervention.

27 B. In formulating its recommendations for placement of a drug
28 or drug class on prior authorization to the Oklahoma Health Care
29 Authority Board, the Medicaid Drug Utilization Review Board shall:

30 1. Consider the potential impact of any administrative delay on
31 patient care and the potential fiscal impact of such prior
32 authorization on pharmacy, physician, hospitalization and outpatient

1 costs. Any recommendation making a drug subject to placement on
2 prior authorization shall be accompanied by a statement of the cost
3 and clinical efficacy of such placement;

4 2. Provide a period for public comment on each meeting agenda.
5 Prior to making any recommendations, the Medicaid Drug Utilization
6 Review Board shall conduct public hearings regarding proposed
7 changes in the prior authorization program in accordance with the
8 provisions of the Oklahoma Open Meeting Act and the Administrative
9 Procedures Act; and

10 3. Review Oklahoma Medicaid specific data related to
11 utilization criterion standards as provided in subdivision a of
12 paragraph 2 of Section 4 of this act.

13 C. The Oklahoma Health Care Authority Board may accept or
14 reject the recommendations of the Medicaid Drug Utilization Review
15 Board in whole or in part, and may amend or add to such
16 recommendations.

17 SECTION 6. This act shall become effective July 1, 1999.

18 SECTION 7. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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