

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE JOINT
RESOLUTION 43

By: Monson and Dunlap of the
Senate

and

Phillips of the House

AS INTRODUCED

A Joint Resolution relating to permanent rules of the Oklahoma Health Care Authority Board; disapproving proposed permanent rule OAC 317:30-5-77.3 regarding product based prior authorization; directing distribution; and declaring an emergency.

WHEREAS, pursuant to the provisions of Sections 250.2 and 308 of Title 75 of the Oklahoma Statutes, the Legislature reserves the right to designate the method for rule promulgation, establish policy, determine that a rule is inconsistent with legislative intent and disapprove any rule or any portion thereof at any time; and

WHEREAS, pursuant to the provisions of Section 5007 of Title 63 of the Oklahoma Statutes, the Oklahoma Health Care Authority Board shall be responsible for promulgation of rules necessary to implement the provisions of the Oklahoma Health Care Authority Act, Section 5003 et seq. of Title 63 of the Oklahoma Statutes; and

WHEREAS, proposed permanent rule OAC 317:30-5-77.3 creates a process by which the Oklahoma Health Care Authority Board, upon recommendation of the Medicaid Drug Utilization Review Board, can include categories of drugs in the prior authorization program without subjecting such process to the provisions of the Administrative Procedures Act, as specified in paragraph 2 of

subsection B of Section 5030.5 of Title 63 of the Oklahoma Statutes;
and

WHEREAS, drug prior authorization programs, by ensuring that Medicaid participants receive the medications that are most therapeutic and cost effective, should optimize clinical and economic outcomes; and

WHEREAS, the selection of drug categories for inclusion in such prior authorization programs requires substantial analysis and oversight because effective management of chronic medical conditions is highly dependent upon access to the right drug therapies; and

WHEREAS, removal of the Legislature and the Governor from the review process related to placement of a drug category under the drug prior authorization process is not in the best interests of the public health and safety; and

WHEREAS, the Legislature recognizes that proposed permanent rule OAC 317:30-5-77.3, adopted by the Oklahoma Health Care Authority Board on March 14, 2002, and submitted to the Legislature for consideration on March 19, 2002, is inconsistent with legislative intent, exceeds the statutory authority of the Oklahoma Health Care Authority Board, violates state statute and violates the public policy of this state.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE 2ND SESSION OF THE 48TH OKLAHOMA LEGISLATURE:

SECTION 1. The Legislature hereby disapproves proposed permanent rule OAC 317:30-5-77.3.

SECTION 2. The Secretary of State is hereby directed to distribute copies of this resolution to the Governor, the Administrator of the Oklahoma Health Care Authority and the Editor of "The Oklahoma Register".

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this resolution shall take effect and be in full force from and after its passage and approval.

48-2-3275

CJ

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